

TELSTRA EBA UPDATE: NEW TELSTRA AGREEMENT



Dear members,

This week the Telstra Enterprise Agreement 2019- 2021 was approved by the Fair Work Commission.

Background

As you will recall, the new Telstra EBA was voted on in December 2019 with 65% voting 'yes' to support the agreement. The agreement was then provided to the Fair Work Commission for approval.

Why did it take so long?

The FWC's processing times can be lengthy and unfortunately there is not much we can do to influence this. The FWC can only approve an agreement once it is satisfied of a number of criteria. For example, that the agreement passes the better of overall test (BOOT) when compared to the Award, that it was genuinely agreed to by employees and that it does not exclude national employment standards provisions, to name a few. It can take some time to properly address these issues and we support the thorough approach taken by the FWC. In its deliberations, the FWC asked Telstra to clarify the operation of certain clauses which extended the process. It also resulted in Telstra offering, and the FWC accepting, 14 undertakings to form part of the agreement which clarify how particular clauses will operate. A copy of the agreement, including the undertakings, can be found here <https://www.fwc.gov.au/documents/documents/agreements/fwa/ae508275.pdf>.

When does the new Agreement kick off?

The FWC approved the Agreement on 11 June 2020, and the Agreement will operate from 18 June 2020. The nominal expiry date of the Agreement is 30 September 2021. This means, negotiations for a subsequent EBA can be expected to begin in just under a year's time.

When will we see a pay rise?

You will recall that 1.5% was paid to employees on 1 October 2019. There will now be a top up payment of 0.3%, which will be back paid to 1 October 2019. This will be paid to all employees equally, not via the pay pool for Job Family employees.

A 2% increase will become payable from 1 October 2020. Job Family employees with a rating 3 or above will receive a guaranteed minimum of 1% and increases will apply to allowances.

Remind me what Clause 47 is about (formerly Clause 45)

Clause 47 deals with transfer of employment and retention of employment terms of conditions.

It will not apply to all surplus situations – only those that occur due to work transferring from Telstra to a Subsidiary.

Where this occurs, the employee undertaking the transferring work may have Clause 47 apply to them – resulting in an opportunity to 'follow' the transferring work in employment with the *Subsidiary*. Telstra's obligation to pay retrenchment benefits can only be displaced if the offer to move to a Subsidiary is a "suitable" offer. A suitable offer is a written offer of employment with a *Subsidiary of Telstra*:

1. To perform the same or substantially the same work;
2. On terms and conditions considered on an overall basis, no less favourable than the conditions held at *Telstra*;
3. That provides 15 days paid personal leave each year (pro-rata for part time employees);
4. that provides your ordinary hours of work will be no more than an average of 36¼ hours each week;
5. That recognises service with *Telstra*;
6. That provides for the continued eligibility for membership of the defined benefits superannuation fund for employees who are existing members; and
7. that provides that your retrenchment benefits will be calculated:
 - i. In accordance with the scale in section 10 if your job with the *Subsidiary* is made redundant and you are retrenched; and
 - ii. by reference to your *Fixed Remuneration* at *Telstra* at the time the offer is made, or the fixed remuneration at the time you are retrenched by the *Subsidiary*, whichever is higher.

If any of the above are not part of the offer to move to the *Subsidiary*, the offer is not deemed "suitable" and the provisions of Clause 47 will not apply.

Furthermore, a guarantee on entitlements must be provided by Telstra for transferring employees – meaning if the Subsidiary, for any reason, was unable to pay transferring employees' entitlements, Telstra would be legally responsible for paying any entitlements owed to those employees.

Should you require any further information or have feedback to share, please contact your State Branch Official on 08 8443 7389 or enquiries@cwu-sant.asn.au.

Yours faithfully,

Nick Townsend
BRANCH SECRETARY

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