



DECISION

Fair Work Act 2009

s.185—Approval of enterprise agreement

McDonald's Australia Pty Ltd

(C2010/3643)

Shop, Distributive and Allied Employees' Association

(C2010/3668)

MCDONALD'S AUSTRALIA ENTERPRISE AGREEMENT 2009

Fast food industry

VICE PRESIDENT WATSON

SENIOR DEPUTY PRESIDENT KAUFMAN

COMMISSIONER RAFFAELLI

SYDNEY, 29 JUNE 2010

Approval of the McDonald's Australia Enterprise Agreement 2009.

[1] The following decision was issued on transcript on 22 June 2010 approving a single-enterprise agreement known as the *McDonald's Australia Enterprise Agreement 2009* (the Agreement):

“[W]e are also satisfied on the material provided to the Bench and the evidence lodged in this matter that the agreement combined with the undertakings provided today in exhibit W3 meets the requirements for approval under the Act and we give that approval under section 186 of the Act.”¹

[2] The undertakings provided are taken to be terms of the Agreement pursuant to s. 191. A copy of the amended undertakings is attached to this decision.

[3] The Shop, Distributive and Allied Employees' Association, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2), we note that the Agreement covers the organisation.

[4] In accordance with s.54 of the Act, the Agreement will operate from 29 June 2010. The nominal expiry date of the Agreement is 22 June 2013.

[5] Full reasons for our decision in the appeal in this matter will be issued in due course.

¹ Transcript of proceedings 22 June 2010 at PN538

VICE PRESIDENT WATSON

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**IN FAIR WORK AUSTRALIA
AT MELBOURNE
BEFORE THE FULL BENCH**

C2010/3643

IN THE MATTER OF THE FAIR WORK ACT 2009 (CTH)

**IN THE MATTER OF AN APPEAL PURSUANT TO S. 604 OF THE ACT
FROM THE DECISION OF McKENNA C ON AN APPLICATION PURSUANT TO S. 185 OF THE
ACT (AG2009/23475)**

**SCHEDULE OF UNDERTAKINGS
ON BEHALF OF McDONALD'S AUSTRALIA PTY LTD**

1 Undertakings Given in Original Proceedings

- 1.1 That the term 'spouse' in the agreement will be interpreted by McDonald's Australia Limited to include a de facto partner as defined by the Fair Work Act.
- 1.2 That the term 'standard rate' in the agreement means the rate of a level 2 employee.
- 1.3 That in clause 16.2 of the Agreement, an employee shall only be transferred to lower paid duties by reason of redundancy, where the employee whose job has become redundant, has accepted the offer for the lower paid duties.
- 1.4 That in reference to the wage increases provided for under the agreement, Level 1 employees in Tasmania in which their base weekly rate of pay as at 1 January 2010 is \$540.25:
 - (1) McDonald's undertakes to ensure that any applicable minimum base rate to these class of employees will be at least equal to the Federal Minimum Wages which is \$543.78; and
 - (2) McDonald's also undertakes that in the first increases under the agreement for Level 1 employees in Tasmania as at 1 July 2010, there will be no discount of \$5.00 removed to this class of employees.

2 Undertakings to be given on Appeal

- 2.1 That in reference to the wage rates provided under clause 18.1 of the Agreement, Level 1 employees in Tasmania and Queensland shall be entitled to a base weekly rate of pay as at 1 January 2010 of \$554.04.
- 2.2 That the junior rates for level 2 and 3 employees in Western Australia under clause 19 of the Agreement shall be:

Age	% of weekly wage
16 years of age and under	50
17 years of age	60
18 years of age	70
19 years of age	80

20 years of age	100
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- 2.3 That the words "All States except QLD and WA" in the table in clause 14.2 of the Agreement will be read as including the Australian Capital Territory and the Northern Territory.
- 2.4 That if an employer makes a payment in lieu of notice to an employee pursuant to s117(2)(b) of the Fair Work Act 2009 then the employer will count the notice period for the purposes of calculating the employee's period of service for the purposes of any applicable long service leave legislation.
- 2.5 That clause 16 of the Agreement will be read so that:
- (1) Employees in South Australia, Northern Territory, Australian Capital Territory and Victoria at the time of the Agreement being made and whose employment is terminated due to redundancy on account of the introduction of, or the proposed introduction, of automation or other technological changes in the industry in relation to which the employer is engaged will be entitled to 3 months notice of termination.
 - (2) Employees in Queensland who are employed at the time of the Agreement being made, and who have with the following years of continuous service and whose employment is made redundant will receive the following amount of severance pay instead of any severance pay entitlement under the NES:

Period of continuous service	Severance Pay
10 years and less than 11 years	14 weeks pay
11 years and less than 12 years	15 weeks pay
12 years and less than 13 years	16 weeks pay

- 2.6 That clause 20.2 of the Agreement shall be read as "An employee who is required to work overtime after 6.30pm on any one day **or for more than 1 hour on any one day without being notified on the previous day or earlier**, shall be given a meal allowance of **\$11.60** or provided with a suitable meal at no cost to the employee."
- 2.7 That clause 20.5 of the Agreement will be read as containing the following additional text "Employees in Western Australia and Queensland will be paid a laundry allowance as follows:

State/Territory	Laundry Allowance		
Level 1-3 employees in WA	Casual Employees	Part Time Employees	Full time Employees
	\$0.40 per shift	\$1.80 per week	\$2.15 per week

Levels 1-3 employees in QLD	Casual Employees	Part Time Employees	Full Time Employees
	\$0.45 per shift	\$0.45 per shift	\$2.25 per week

- 2.8 That employees in Western Australia will not be required to commence work before the first means of public transport (i.e. ordinary bus, train or other regular public transport) is available.
- 2.9 That clause 20.7 of the Agreement will be read as applying also to level 3 employees.
- 2.10 That clause 20.8 of the Agreement will be read as applying to level 3 employees in the ACT.
- 2.11 That clause 30.1.1.4 will be read as "**A full time or part time** employee is entitled to **3** days of **paid** compassionate leave **and a casual employee is entitled to 3 days of unpaid compassionate leave** for each occasion (a permissible occasion) when a member of the employee's immediate family, or a member of the employee's household:
- (a) contracts or develops a personal illness that poses a serious threat to his or her life; or
 - (b) sustains a personal injury that poses a serious threat to his or her life; or
 - (c) dies."
- 2.12 That clause 31.7 of the Agreement will be read such that it includes employees in SA and NT.