

Fair Work Act 2009
s.185—Enterprise agreement

GWA Group Limited
(AG2024/1272)

**GWA NSW DISTRIBUTION
ENTERPRISE AGREEMENT 2024**

**FAIR WORK COMMISSION
DECISION**

Storage services

DEPUTY PRESIDENT GRAYSON

SYDNEY, 10 MAY 2024

*Application for approval of the GWA NSW DISTRIBUTION ENTERPRISE AGREEMENT
2024*

Introduction

[1] GWA Group Limited (the Employer) has made an application for approval of an enterprise agreement known as the *GWA NSW Distribution Enterprise Agreement 2024* (the Agreement) pursuant to s.185 of the *Fair Work Act 2009* (the Act). The Agreement is a single enterprise agreement.

National Employment Standards (NES) precedence term

[2] Clause 30.10 provides that when an employee is taking personal or carer's leave, an employee is required to provide a medical certificate, statutory declaration or such other evidence to a standard "satisfactory to the Company, that the employee were unable to work because of injury or personal illness" [with emphasis added]. This appears to be more restrictive than s.107 of the Act, which provides that the standard of satisfaction required by personal or carer's leave evidence is that of "*a reasonable person*". Section 107(5) provides that an enterprise agreement may include terms relating to the kind of evidence that an employee must provide in order to be entitled to personal or carer's leave. As a result, the requirement within the clause that an employee provide a medical certificate, statutory declaration or such other evidence is permissible, but the standard of satisfaction according to the Employer may not be. Accordingly, this clause may be inconsistent with the National Employment Standards (NES) at s.107 of the Act.

[3] Clause 17.5 of the Agreement is silent as to the entitlement of an employee who has abandoned their employment to be paid notice of termination. Accordingly, this may be inconsistent with the NES at ss.117 to 123 of the Act.

[4] I note that in accordance with the NES precedence term in Clause 6.2 of the Agreement, these clauses will be read and interpreted in conjunction with the NES.

Section 190 Undertakings

[5] The employer provided written undertakings. A copy of the undertakings is attached in Annexure A. I am satisfied that the undertakings will not cause financial detriment to any employee covered by the Agreement and that the undertakings will not result in substantial changes to the Agreement. The undertakings are taken to be a term of the Agreement.

Section 186, 187, 188 and 190

[6] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

Section 183 Bargaining Representatives

[7] The United Workers' Union (UWU) being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it.

[8] In accordance with s.201(2), I note that the Agreement covers the UWU.

Approval

[9] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 17 May 2024. The nominal expiry date of the Agreement is 27 February 2027.



DEPUTY PRESIDENT

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ANNEXURE A

IN THE FAIR WORK COMMISSION

Matter No: AG2024/1272
Title of Matter: Application by GWA Group Limited
Section: s.185 – Application for approval of a single enterprise agreement
Subject: Application for approval of the *GWA NSW Distribution Enterprise Agreement 2024*

Applicant
GWA GROUP LIMITED

UNDERTAKING – Section 190

I, Kelly Stafford, Head of People & Performance, AU, have the authority given to me by GWA Group Limited (GWA) to give the following undertakings with respect to the *GWA NSW Distribution Enterprise Agreement 2024 (Agreement)*:

(1) GWA undertakes that an employee engaged as a Storeman – Level 2 is responsible for the following duties:

Storeman – Level 2 – Job Description	
1. Points of Entry	
a. Transition from Level 1 or external	
b. Proven and demonstrable skills including as appropriate, appropriate certification to the level required of this classification	
c. Has been appointed by the Company to take charge of a team of employees in an ongoing team	
d. Performs functions that, in the opinion of the Company, warrant appointment to this classification	
e. An employee appointed to this position is appointed on merit and skills, and may take in account the following factors:	
f. An aptitude statement at the discretion of the Company	
Work performance, experience, and attention to detail	
General knowledge, comprehension and practical application of company standards, including but not limited to occupational health and safety, procedures, employment & awards, agreements, conditions, work instructions, company policies, procedures and practices	
His sound knowledge of the distribution centre operation	
2. Skills: Duties and Initiative Tasks	
Implements quality control techniques at all procedures	
Ability to supervise team and provide direction and guidance to other employees including the ability to decide if the product of a third-party is acceptable	
Exercise discretion within the scope of this level of classification	
Working with management, suppliers and customers with respect to stock operations	
Is responsible to supervise and provide direction for the good order of work flow in an operating unit by:	
a. Devising and coordinating activities of other operators, and understanding the submission of other operators on an ongoing basis	
b. Receiving instructions and ensuring the work flow to employees	
c. Uncovering shortages of labour, or material, or equipment failures, and bringing any deficiencies to the Company for consideration	
Managing control requests including inventory control and being responsible for the preparation and reconciliation of regular reports or other movement documents, etc.	
Preparing and providing statistical data and performance reports to management	
Where a failure in training or behaviour occurs, develops and implements remedial programs to ensure the employee's training and behaviour is at the required standard	
In conjunction with higher supervisor or manager, plans annual leave rosters to ensure an appropriate coverage of work	
Ensures standard practices, policies, and procedures are adhered to	
Will, subject to the overall responsibility of higher supervisor or manager, initiate and become involved in applying the company's disciplinary process where an employee's behaviour or performance warrants such action	
Highly developed level of interpersonal and communication skills	
Education and Training	
The level of training required is at the Company's discretion and may include a relevant tertiary qualification, Australian Qualifications Framework level 4 qualification or better	
Notes:	
An employee at this level is subject to direction from a supervisor or manager	

(2) GWA undertakes that employees will be classified as either a Storeman – Level 1 as set out in Appendix A of the Agreement or a Storeman – Level 2 as set out in this Undertaking.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

For subsection 190(5) of the Act, an undertaking relating to an enterprise agreement must be signed by each employer who gives the undertaking.


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Signature


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Date