

# ACTUS WORKPLACE LAWYERS

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## **Importance of carefully drafting hours of work clauses in enterprise agreements**

Most enterprise agreements have been 'rolled over' numerous times, often without a careful review of whether any changes are required. Decisions are handed down regularly by the Fair Work Commission in settling disputes about the terms of enterprise agreements, and many of these decisions highlight inadequacies in the wording of key clauses. On many occasions there have been very costly implications for employers. Hours of work clauses in particular have been the subject of numerous disputes. A 10 August 2023 decision of Deputy President Anderson highlights one relatively common drafting problem in many enterprise agreements, i.e. a failure to clarify the interaction between hours of work clauses and shift work clauses.

In [\*United Workers' Union v Blowflex Mouldings Pty Ltd T/A Bega Dairy and Drinks \[2023\] FWC 1986\*](#), Anderson DP settled a dispute about whether or not the company was able to roster ordinary time shifts on Sundays. The hours of work clause restricted ordinary hours to Monday to Friday. A separate shiftwork clause contained no such restriction. Given that the hours of work clause did not state that it applied only to day workers, the Commission decided that the Monday to Friday restriction applied to shift workers (with the limited exception that a night shift could start before midnight on Sunday and extend into Monday morning, by agreement).

Actus Workplace Lawyers regularly reviews enterprise agreements for employers and provides advice on amendments that are required to ensure compliance with current legislative requirements and those that are desirable to reduce risks or to ensure adequate flexibility. Employers are wise to have the terms of their enterprise agreement reviewed before they commence negotiations over a new agreement.

For any enterprise bargaining advice or assistance, please contact Stephen Smith, Principal of Actus Workplace Lawyers on 0418 461 183 or Email: [stephen.smith@actuslawyers.com.au](mailto:stephen.smith@actuslawyers.com.au).