

[2024] FWCFB 360 [Note: A copy of the zombie agreement to which this decision relates ([AG838501](#)) is available on our website.]



DECISION

Fair Work (Transitional Provisions and Consequential Amendments) Act 2009
Sch. 3, Item 20A(4) - Application to extend default period for agreement-based transitional instruments

Sleeper Pty Ltd T/A Oporto Melbourne Central
(AG2024/1999)

SLEEPER PTY LIMITED - CERTIFIED AGREEMENT 2004 -2007

Fast food industry

DEPUTY PRESIDENT WRIGHT
DEPUTY PRESIDENT ROBERTS
DEPUTY PRESIDENT SLEVIN

SYDNEY, 29 AUGUST 2024

Application to extend the default period for the Sleeper Pty Limited - Certified Agreement 2004 -2007

[1] Pursuant to subitem 20A(4) of Sch 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth), Sleeper Pty Ltd T/A Oporto Melbourne Central applied to extend the default period for the *Sleeper Pty Limited Certified Agreement 2004 - 2007* (the 2004 Agreement).

[2] An earlier application seeking to extend the default period of the Agreement was granted extending it to 6 June 2024¹. The Applicant sought a further extension to allow a replacement agreement to be finalised. The extension sought was until 6 December 2024.

[3] The Applicant later explained an application for approval of that agreement was dismissed. We note the application was dismissed because it was not lodged within 14 days of the agreement being made and concerns that it was not genuinely agreed to by employees.²

[4] The Applicant has decided to no longer seek a replacement agreement and no longer presses its application to extend the 2004 Agreement.

[5] In circumstances where the Applicant no longer intends to negotiate a replacement agreement or pursue the application to extend the default period for the 2004 Agreement, it is neither appropriate to extend the Agreement under item 20A(6)(a) nor reasonable to do so under subitem 20A(6)(b) and the application is dismissed.

[6] As our decision is made after the Agreement was to terminate in accordance with the first extended default period, we must extend the default period to the day of this decision or specify a day that is not more than 14 days after the date of this decision.

[7] We have decided that to enable the Applicant to make the necessary administrative arrangements to give effect to the sunsetting of the Agreement, the default period is extended until 12 September 2024. The Agreement is published, in accordance with subitem 20A(10A), on the Fair Work Commission's website.



DEPUTY PRESIDENT

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¹ [\[2024\] FWCFB 149](#)

² [\[2024\] FWC 2132](#)