



ORDER

Fair Work Act 2009

s.318 - Application for an order relating to instruments covering new employer and transferring employees

Anglican Community Services T/A Anglicare
(AG2023/3212)

**THE PRESBYTERIAN AGED CARE, NSWNMA AND HSU NSW
ENTERPRISE AGREEMENT 2017-2020**
(ODN AG2017/6298) [AE427744]

Aged care industry

COMMISSIONER CRAWFORD

SYDNEY, 16 OCTOBER 2023

Application for an order relating to instruments covering new employer and transferring employees – orders made

In accordance with the decision [2023] FWC 2686 issued today, the Fair Work Commission, as it is currently constituted,

- [1] Notes the undertakings given by Anglican Community Services (**Applicant**), by email on 6 October 2023 to the effect that no transferring employee (as defined in section 311(2) of the Act) will suffer a reduction in their base rate of pay as a consequence of these orders being made.
- [2] Orders that from 1 November 2023,
 - a) pursuant to section 318(1)(a) of the *Fair Work Act 2009 (Act)*, the *Presbyterian Aged Care, NSWNMA and HSU Enterprise Agreement 2017 - 2020* will not cover the Applicant or any transferring employee (as defined in section 311(2) of the Act) who commenced employment with the Applicant on or after 1 November 2023 (**Transfer Date**); and
 - b) pursuant to section 318(1)(b) of the Act, the *Anglican Community Services Enterprise Agreement 2017 (Applicant Enterprise Agreement)* will cover any transferring employee (as defined in section 311(2) of the Act) who commenced employment with the Applicant on or after the Transfer Date in a classification covered by the Applicant Enterprise Agreement until the

Applicant Enterprise Agreement is terminated or replaced in accordance with the Act (as amended or replaced from time to time).



COMMISSIONER

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ATTACHMENT

TO: Fair Work Commission
80 William Street
SYDNEY NSW 2000

UNDERTAKING**AG2023/321 - Application by Anglican Community Services T/A Anglicare**

I am authorised to provide these undertakings on behalf of Anglican Community Services trading as Anglicare in support of its application in the Fair Work Commission pursuant to section 318 of the *Fair Work Act 2009* (Cth).

1. If the base rate of pay for a transferring employee classification in the *Anglican Community Services Enterprise Agreement 2017* is higher than the base rate of pay for the corresponding classification in the *Presbyterian Aged Care, NSWNMA and HSU Enterprise Agreement 2017 – 2020*, Anglican Community Services will pay the transferring employee the higher Anglican Community Services base rate of pay if the Fair Work Commission decides that the Anglican Community Services Enterprise Agreement should cover and apply to transferring Presbyterian Aged Care employees for so long as that Agreement continues to cover and apply to transferring employees.
2. If the base rate of pay for a transferring employee classification in the *Presbyterian Aged Care, NSWNMA and HSU Enterprise Agreement 2017 – 2020* is higher than the base rate of pay for the corresponding classification in the *Anglican Community Services Enterprise Agreement 2017*, Anglican Community Services will continue to pay the employee the higher Presbyterian Aged Care base rate of pay if the Fair Work Commission decides that the Anglican Community Services Enterprise Agreement should cover and apply to transferring Presbyterian Aged Care employees for so long as that Agreement continues to cover and apply to transferring employees.
3. Clause 29.9 of the *Anglican Community Services Enterprise Agreement 2017* will apply to transferring employees with at least 7 years of continuous service with Presbyterian Aged Care immediately prior to the transfer of employment for so long as that Agreement continues to cover and apply to transferring employees. The effect of this undertaking is that those full time and part time transferring employees will continue to accrue long service leave on the basis of 2.5 months of long service leave for each 5 years of continuous service after the initial 10 years of continuous service if the Fair Work Commission decides that the Anglican Community Services Enterprise Agreement should cover and apply to transferring Presbyterian Aged Care employees.
4. Transferring employees required to be “in-charge” for the purposes of clause 18.1 of the *Anglican Community Services Enterprise Agreement 2017*, will be paid an in-charge allowance of \$43.1525 instead of the in-charge allowance prescribed in the *Anglican Community Services Enterprise Agreement 2017* for so long as that Agreement continues to cover and apply to transferring employees.

Anglican Community Services understands it will be bound by these undertakings in the event the orders extending coverage and application of the *Anglican Community Services Enterprise Agreement 2017* to employees transferring employment from Presbyterian Aged Care Paddington as part of this application are made by the Commission.

Signed: 

Name: Yvette McDonald

Position: Chief People and Customer Officer

Date: 6 October 2023