

Australian Industry Group

Delegates' Rights Term

Submission
(AM2024/6)

4 March 2024



AM2024/6 DELEGATES' RIGHTS TERM

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10. The proposed amendments to Part 7 of the FW Act will ensure that awards include a delegates rights' term that is consistent with the modern awards objective.

11. The proposed amendments will ensure that awards include a delegates rights' term that is consistent with the modern awards objective.

12. The proposed amendments will ensure that awards include a delegates rights' term that is consistent with the modern awards objective.

13. The proposed amendments to Part 7 of the FW Act will ensure that awards include terms that it is required to include, only to the extent necessary to achieve the modern awards objective' in awards.

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Part 7—Workplace delegates' rights

Amendments to the Fair Work Act 2009

18. The proposed amendments to Part 7 of the FW Act will ensure that awards include terms that it is required to include, only to the extent necessary to achieve the modern awards objective' in awards.

¹ The proposed amendments to Part 7 of the FW Act will ensure that awards include terms that it is required to include, only to the extent necessary to achieve the modern awards objective' in awards.

It would not infringe on a workers' right to choose or create any obligation on a worker. It would not infringe on a workers' right to choose or create any obligation on a worker. It would not infringe on a workers' right to choose or create any obligation on a worker.

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Subsection 350C(4) would provide that where an employer complies with a delegates' right to choose or create any obligation on a worker. It would not infringe on a workers' right to choose or create any obligation on a worker.

345 The Commission's Statement of Recommended Practice on Delegates' Rights

The Commission's Statement of Recommended Practice on Delegates' Rights is set out below.

- A new definition of delegates' rights term has been inserted at s 12 of the FW Act. The definition provides that a delegates' rights term means a term in a fair award that relates to the exercise of delegates' rights. The definition also provides that a delegates' rights term must provide at least for the exercise of those rights.
- A new s 149E requires that a modern award must include a delegates' rights term. The new s 149E requires that a modern award must include a delegates' rights term that relates to the exercise of delegates' rights. The new s 149E also requires that a modern award must include a delegates' rights term that provides at least for the exercise of those rights. If a modern award does not include a delegates' rights term, the award is not a modern award.

The Commission's Statement of Recommended Practice on Delegates' Rights is set out below. The Commission's Statement of Recommended Practice on Delegates' Rights is set out below. The Commission's Statement of Recommended Practice on Delegates' Rights is set out below. The Commission's Statement of Recommended Practice on Delegates' Rights is set out below. The Commission's Statement of Recommended Practice on Delegates' Rights is set out below.

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346 Protection

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347 Meaning of engaging in industrial activity

The Commission's Statement of Recommended Practice on Delegates' Rights is set out below.

(a) An employee appointed shop steward in the shop or department in which he is employed shall, upon notification thereof to his employer, be recognised as the accredited representative of the Union to which he belongs. An accredited shop steward shall be allowed the necessary time during working hours to interview the employer or his representative on matters affecting employees whom he represents.

(b) Subject to the prior approval of the employer an accredited shop steward shall be allowed at a place designated by the employer a reasonable period of time during working hours to interview a duly accredited Union official of the Union to which he belongs on legitimate union business.

3.2 The 1996-98 award simplification process

During the 1996-98 award simplification process, the Workplace Relations Act 1996 (WR Act) introduced a 20 'allowable award matters' list which removed shop stewards' clauses from awards.

Shop stewards' clauses were removed from awards during the 1996-98 award simplification process. The WR Act introduced a list of 20 'allowable award matters' which removed shop stewards' clauses from awards. This process was completed by the end of 1998.

Under the Workplace Relations Act 1996, the Australian Industrial Relations Commission (AIRC) was responsible for the award simplification process. The AIRC removed shop stewards' clauses from awards during the 1996-98 award simplification process. The [Pr...](#)

⁴ Section 89A of the WR Act.

⁵ For example, sections 346 and 347 of the FW Act protect delegates and past delegates from adverse action being taken against them: because they are or were an officer or member of a union (s 346(a)); because they are engaging, have engaged, or propose to engage in any industrial activity that is lawful (s 346(b) and s 347(a) and (b)); or because they are not engaging, have not engaged, and are not proposing to engage in any unlawful industrial activity (s 346(c) and s 347 (c) to (g)). Heavy civil penalties apply for employers and others who take adverse action against delegates in breach of ss 346 and 347 of the Act.

3.2.1 The award covers the work of the employees of the employer in the industry of the employer. The award covers the work of the employees of the employer in the industry of the employer. The award covers the work of the employees of the employer in the industry of the employer.

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3.2.1(c) The award covers the work of the employees of the employer in the industry of the employer. The award covers the work of the employees of the employer in the industry of the employer. The award covers the work of the employees of the employer in the industry of the employer.

3.3 The 2008-09 award modernisation process

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... r... d... r... d...
... *Priority Stage Award Modernisation Decision*

Dispute resolution

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[46] M... d... d... d... d... d...
r... r... d... d... d...
... R...
D...
d... d... d... d... d...
...

D... r... r... r... r... r...
Attachment B of the Commission’s Statement of 18 January 2024.

4. KEY OBSERVATIONS ABOUT THE CURRENT LEGISLATIVE PROVISIONS AND THE COMMISSION’S TASK

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d... r... d...
r... r... r...

First... r... r... r... r...
r... r... r... r... r...
r... r... r... r... r...

Second... r... r... r... r...
r... r... r... r... r...

⁴ [Award Modernisation](#) ...

... the new delegates' right ...

... Sixth ...

Specific issue to be addressed in the clause

... Commission's task ...

... the new delegates' rights term for all modern awards. ... 'reasonable access' and 'reasonable communication'

... the new delegates' rights term should not ...

Delegates should be known to an employer

Under the provisions relating to delegates' rights and consistent with the 'workplace delegate' is defined as 'a person appointed or elected, in accordance with the rules of an employee organisation, to be a delegate or representative (however described) for members of the organisation who work in a particular enterprise'.

Consistent with the bona fide exercise of the delegates' rights, the Grantee may, in the exercise of its powers, appoint or elect a person to be a delegate or representative for members of the organisation who work in a particular enterprise. The person appointed or elected must be a member of the organisation who works in a particular enterprise. The person appointed or elected must be a person who is eligible to be a member of the organisation. The person appointed or elected must be a person who is not a director or officer of the organisation. The person appointed or elected must be a person who is not a member of the organisation who works in a particular enterprise.

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Guidance as to the entitlement to 'represent the industrial interests'

The workplace delegate is entitled to represent the industrial interests of those members, and any other persons eligible to be such members, including in disputes with their employer'.

The workplace delegate is 'entitled to represent the industrial interests' in the exercise of its powers, including in disputes with their employer'.

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1000 The Commission is required to consider the likely impact of the new delegates' right term on business, including on productivity, and the Commission is required to consider the interests of the employees of the company and the interests of the company as a whole.

1000 Under the proposed new system, the Commission is required to consider the interests of the employees of the company and the interests of the company as a whole. The Commission is required to consider the interests of the employees of the company and the interests of the company as a whole.

the new delegates' right term should not be interpreted as a requirement for the employer to provide a new delegate with a right term that is more favourable than the right term that the delegate would have had if the employer had not exercised its right to appoint a new delegate.

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Practical measures to ensure the clause operates appropriately, fairly and without undue disruption to an employer's operations

The new delegates' right term should not be interpreted as a requirement for the employer to provide a new delegate with a right term that is more favourable than the right term that the delegate would have had if the employer had not exercised its right to appoint a new delegate.

Equally, the new delegates' right term should not operate in a way to undermine the employer's obligation to provide a new delegate with a right term that is more favourable than the right term that the delegate would have had if the employer had not exercised its right to appoint a new delegate.

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... the new delegates' right term to give some guidance to the parties about ...

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Guidance as to what is reasonable

... the new delegates' right term to give some guidance to the parties about ...

... the new delegates' right term to give some guidance to the parties about ...

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10. The Group further states that the respondent's failure to provide the respondent with the opportunity to be heard in relation to the respondent's proposed disciplinary action is a breach of the respondent's implied duty of procedural fairness. The respondent's failure to provide the respondent with the opportunity to be heard is a breach of the respondent's implied duty of procedural fairness. The respondent's failure to provide the respondent with the opportunity to be heard is a breach of the respondent's implied duty of procedural fairness.

11. The respondent's failure to provide the respondent with the opportunity to be heard is a breach of the respondent's implied duty of procedural fairness. The respondent's failure to provide the respondent with the opportunity to be heard is a breach of the respondent's implied duty of procedural fairness.

12. Whether the union delegate's attendance at the related training has been a breach of the respondent's implied duty of procedural fairness is a matter that is not before the Commission. The respondent's failure to provide the respondent with the opportunity to be heard is a breach of the respondent's implied duty of procedural fairness.

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10.1 An employer must ensure that any monitoring or surveillance of an employee's use of the employer's IT systems is conducted in a manner that is consistent with the employee's reasonable expectation of privacy. This includes ensuring that any monitoring or surveillance is necessary for the employer's legitimate business purposes and is conducted in a proportionate manner. The employer must also ensure that any monitoring or surveillance is conducted in a manner that is consistent with the employee's reasonable expectation of privacy.

10.2 Reasonable communication is defined as 'reasonable communication' which is communication that occurs in a manner which is contrary to an employer's IT policies and procedures. This includes communication that occurs via the employer's IT systems, the internet and other electronic communication systems. The employer must ensure that any communication that is conducted in a manner which is contrary to an employer's IT policies and procedures is conducted in a manner that is consistent with the employee's reasonable expectation of privacy. This includes ensuring that any communication is necessary for the employer's legitimate business purposes and is conducted in a proportionate manner.

10.3 The employer must ensure that any communication that is conducted in a manner which is contrary to an employer's IT policies and procedures is conducted in a manner that is consistent with the employee's reasonable expectation of privacy.

10.4 The employer must ensure that any communication that is conducted in a manner which is contrary to an employer's IT policies and procedures is conducted in a manner that is consistent with the employee's reasonable expectation of privacy. This includes ensuring that any communication is necessary for the employer's legitimate business purposes and is conducted in a proportionate manner.

10.5 The employer must ensure that any communication that is conducted in a manner which is contrary to an employer's IT policies and procedures is conducted in a manner that is consistent with the employee's reasonable expectation of privacy. This includes ensuring that any communication is necessary for the employer's legitimate business purposes and is conducted in a proportionate manner.

