



# STATEMENT

*Fair Work Act 2009*

cl.95, Schedule 1 - FWC to vary certain modern awards

## **Variation of modern awards to include a delegates' right term** (AM2024/6)

VICE PRESIDENT ASBURY

BRISBANE, 17 SEPTEMBER 2025

*Variation of modern awards to include a delegates' rights term for workplace delegates – Fair Work Legislation Amendment (Closing Loopholes) Act 2023.*

[1] In a Statement issued on 28 June 2024, parties in AM2024/6 were informed that a majority of the Full Bench in that matter had decided to vary all modern awards to include a delegate's right term in accordance with the requirement in clause 95 of Schedule 1 to the *Fair Work Act 2009* (Cth) (FW Act).<sup>1</sup> Determinations varying all modern awards were issued together with that Statement. The term commenced operation and took effect from 1 July 2024. In 38 awards an additional subclause was included to deal with the interaction of the delegates' right term with other clauses of those awards.

[2] The term establishes rights and obligations of workplace delegates and their employers. Under section 350C(4) of the FW Act, the employer is taken to have afforded a workplace delegate the rights mentioned in section 350C(3) if the employer has complied with a delegate's rights term in a fair work instrument.

[3] All Members of the Full Bench agreed that the Commission would undertake a review of the delegates' right term after 12 months of operation of the term, to deal with any issues arising with respect to its operation generally or in relation to individual modern awards.<sup>2</sup>

[4] While the modern award terms have now been in operation for more than 12 months, the Commission has not yet considered any test cases or resolved any significant disputes in accordance with the terms.

[5] In these circumstances, we invite submissions about whether it is necessary to conduct a review of the model award term, either generally or in respect of specific awards, at this point in time, and if so, what aspects of it.

### **Next steps**

[6] Interested parties are to file any submissions concerning the questions outlined in [5], by **12:00 pm (AEST) on 27 October 2025**. Submissions should be sent to [awards@fwc.gov.au](mailto:awards@fwc.gov.au).



VICE PRESIDENT

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<sup>1</sup> [\[2024\] FWC 1699](#).

<sup>2</sup> Ibid, [4].