



Fact sheet – Delegates’ Rights

Delegates’ Rights – Information for Parliamentarians and staff

The proposed EA includes a delegates’ rights term that codifies the new rights of workplace delegates provided under recent changes to the Fair Work Act 2009 (FW Act).

General information on delegates’ rights is provided below and further guidance has also been published by the Fair Work Ombudsman and Fair Work Commission and is accessible via the following links:

- [Workplace delegates’ rights - Fair Work Ombudsman Fact Sheet](#)
- [Delegates’ rights terms in enterprise Agreements – Fair Work Commission](#)
- [FWC Statement: Variation of modern awards to include a delegates’ rights term](#)

These rights are different to the ‘right of entry’ for union officials. Further information on right of entry is available in the [Right of entry – Fair Work Ombudsman Fact Sheet](#).

The Delegates’ Rights term in the proposed EA

Key definitions used in the delegates’ rights term include:

- **‘Workplace delegate’** *a person elected in accordance with the rules of an employee organisation (i.e., a union) to represent members of the union who work at a particular enterprise.*
- **‘Enterprise’** *a business, activity, project or undertaking.*
- **‘Eligible employee’** *an employee of the Commonwealth, who are either members of the union or are entitled to be members of the union in accordance with the union’s rules.*

The term in the proposed EA provides that a **workplace delegate**:

- **may represent eligible employees in relation to:**
 - consultation about a major workplace change or changes to rosters or hours of work;
 - resolution of individual or collective grievances or disputes;
 - performance management and disciplinary processes;
 - enterprise bargaining (where the delegate is an appointed bargaining representative); and
 - any process or procedure under the proposed EA or a policy in which employees are entitled to be represented and concerns the employees’ industrial interests.
- **is entitled to ‘reasonable communication’ with ‘eligible employees’:**
 - for the purpose of representing their industrial interests (as outlined above) (including discussing membership with the delegate’s union); and
 - can occur during working hours or work breaks, or before the start or after the end of work.
- **must be afforded reasonable access to the workplace (being a private, accessible room to hold discussions that is fit for purpose) and workplace facilities unless:**
 - the workplace does not have the facility;
 - the Commonwealth does not have access to the facility or enterprise; or
 - it is impractical to provide access to or use of the facility at the time or in the manner it is sought due to operational requirements.
- **has access of paid time during normal working hours for delegate training.**