

ACTUS WORKPLACE LAWYERS

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Delegates rights terms – Important implications for bargaining

The Fair Work Act has been amended to give new rights to workplace delegates. These new rights will have important implications for both modern awards and enterprise bargaining.

A **workplace delegate** is defined as a person appointed or elected, in accordance with the rules of a union, to be a delegate or representative for members of the union who work in a particular enterprise.

A workplace delegate is entitled to represent the industrial interests of members of their union, and any other persons eligible to be members. However, there is no obligation on an employee to be represented by a workplace delegate.

A workplace delegate is entitled to:

- Reasonable communication with members of their union, and any other persons eligible to be a member, in relation to their industrial interests; and
- For the purpose of representing those interests:
 - reasonable access to the workplace and workplace facilities where the enterprise is being carried on; and
 - reasonable access to paid time, during normal working hours, for the purposes of related training.

The employer of a workplace delegate is taken to have afforded the workplace delegate the above rights if the employer has complied with the delegates' rights term in the enterprise agreement or modern award that applies to the workplace delegate.

All modern awards must contain a delegates' rights term by 30 June 2024.

Enterprise agreements voted upon and approved by employees before 1 July 2024 do not need to include a delegates' rights term. However, from 1 July 2024, enterprise agreements must include a delegates rights' term. The delegates' rights term in an enterprise agreement must be no less favourable than the delegates' rights term in the relevant modern award.

It is already apparent that the rights of union delegates will be a key topic in enterprise bargaining negotiations, where unions are involved.

For further advice or assistance with any enterprise bargaining issues, please contact **Stephen Smith**, Principal of Actus Workplace Lawyers on 0418 461 183 or Email: stephen.smith@actuslawyers.com.au.