

# ACTUS WORKPLACE LAWYERS

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## **Delegates' rights term for modern awards**

Over the coming days the Fair Work Commission will issue the delegates rights term for modern awards. Over the past few months, the Commission has received submissions from employer groups and unions about the term and conducted consultations. It also issued a [draft term](#) in May.

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

Enterprise agreements that are voted upon and approved by employees on or after 1 July 2024 must include a delegates rights' term. For enterprise agreements that are currently being negotiated, it is important for employers to be aware of this requirement.

The delegates' rights term in an enterprise agreement must be no less favourable than the delegates' rights term in the relevant modern award.

The delegates rights term in modern awards is likely to contain more detail than the relevant provisions (ss 350A and 350C) that were inserted into the Fair Work Act in December 2023.

A 'workplace delegate' is defined in s 350C 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.

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](mailto:stephen.smith@actuslawyers.com.au).