

IN THE FAIR WORK COMMISSION

Fair Work Act 2009 cl.95, Schedule 1– FWC To Vary Certain Modern Awards

Matter No: (AM2024/6)

VARIATION OF MODERN AWARDS TO INCLUDE A DELEGATES' RIGHTS TERM (AM2024/6)

Submission of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU)

1. On 10 May 2024, the President, Justice Hatcher, issued a Statement¹ on the draft delegates' rights term (the **Draft Term**) developed by the Fair Work Commission (the **Commission**) following the consultation process undertaken by the Full Bench.
2. Attachment A to the Statement set out the Draft Term and invited interested parties to file submissions concerning the Draft Term by Friday 17 May 2024. The ACTU, along with other unions, were granted an extension until Wednesday 22 May 2024 to file submissions.
3. The Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia' (**CEPU**) makes this submission in response to the Draft Term.
4. The CEPU has had the opportunity to review the submissions of the ACTU of today's date (**ACTU Submission**). The CEPU supports and adopts the ACTU's submission and its draft delegates' term.

Additional Issues:

5. In addition to the submissions of the ACTU, the CEPU has concerns about the interaction of the Delegates' Term with



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¹ [\[2024\] FWC 1214](#)

other award terms. In particular, there is uncertainty regarding the operation of the delegates' term in relation to clauses such as paid dispute resolution training leave. For example:

- a. clause 30.1 of the Electrical Power Award 2020, provides an eligible employee representative must be granted, up to 5 days' training leave with pay to attend courses. An eligible employee representative is defined as a shop steward, a delegate, or an employee representative duly elected or appointed by the employees.
 - b. clause 39.10 of the Building and Construction General On-site Award 2020, provides an eligible employee representative for up to 5 days' paid leave per year to undertake training. An eligible employee representative is defined as an employee who is a shop steward, a delegate, or an employee representative duly elected or appointed by the employees in an enterprise or workplace or part of an enterprise or workplace.
 - c. clause 44.1 of the Manufacturing and Associated Industries and Occupations Award 2020, provides an eligible employee representative to up to 5 days' paid leave per year to undertake training. An eligible employee representative is defined as a shop steward, a delegate, or an employee representative duly elected or appointed by the employees in an enterprise or workplace.
6. The CEPU submits that it should be made clear in the Draft Term, that it does not operate to disturb or override existing award entitlements.
 7. Accordingly, we propose adopting the following note, which is also proposed in the ACTU Submissions, into the Draft Term:

NOTE: clause X.8 operates concurrently and does not override any existing entitlement to paid dispute resolution training leave as provided in clause XX – Dispute Resolution of this Award.

CEPU LEGAL TEAM

22 May 2024