



MASTER BUILDERS
A U S T R A L I A

22 May 2024

Justice Hatcher
President
Fair Work Commission

via: Chambers.Hatcher.J@fwc.gov.au
Cc: Chambers.Asbury.VP@fwc.gov.au;
awards@fwc.gov.au

Dear President,

RE: AM2024/6 – VARIATION OF MODERN AWARDS TO INCLUDE A DELEGATES’ RIGHTS TERM

This correspondence is filed by Master Builders Australia (‘Master Builders’) with reference to the above matter and in response to paragraph [10] of the Statement¹ of 10 May 2024.

Master Builders’ comments address four key areas of the draft modern award delegates’ rights term (at **Attachment A** of the Statement) as outlined herein.

1. X.5 Right of representation

The introductory paragraph states:

‘A workplace delegate may represent the industrial interests of eligible employees in matters including, but not limited to:’

While the matters listed at (a)–(f) of this clause are consistent with the amended provisions of the Fair Work Act², the inclusion of the words *‘including but not limited to’* appear to broaden its scope and create unnecessary ambiguity.

To ensure consistency with the amending legislation and to avoid any confusion or dispute around the scope and application of the clause, Master Builders submits that X.5 should be amended to remove the words *‘including but not limited to:*’

2. X.6 Entitlement to reasonable communication

For the reasons outlined with respect to clause X.5 above, the scope of X.6(a) should be confined to only those matters provided for under the Act. We therefore submit the words *‘discussing membership of the delegate’s organisation with the employees and’* be deleted from this clause.

3. X.8 Entitlement to reasonable training

¹ [\[2024\] FWC 1214](#)

² Ref Part 7 of Schedule 1 of the [Fair Work Legislation Amendment \(Closing Loopholes\) Act 2023](#) and [Fair Work Legislation Amendment \(Closing Loopholes\) Bill 2023 - Replacement Supplementary Explanatory Memorandum](#)

Master Builders submits that the inclusion of the word 'ordinary' in Subsection (b) would provide clarity for Award users that the rate payable is the base rate and avoid any potential disputation as to the intent of this provision. An example as to how this could be achieved follows:

'A day of paid time during normal working hours is the number of ordinary hours the workplace delegate would normally be rostered or required to work on a day on which the delegate is absent from work to attend the training.'

4. Definitions to be included in clause 2 of each award

Master Builders notes that the definition of 'enterprise' has the meaning given by section 12 of the Act. Master Builders notes that the development of guidance to assist parties in understanding how the term 'enterprise' should be interpreted in context of this clause would be worthy of the Commission's consideration.

Yours sincerely,



MASTER BUILDERS AUSTRALIA

Rebecca Sostarko
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