



Australian Road Transport
Industrial Organisation

ABN: 63 734 697 902

AUSTRALIAN ROAD TRANSPORT INDUSTRIAL ORGANISATION

Respect, Respond and Represent

New delegates rights clause inserted into awards

09 JULY 2024

On 1 July 2024, a [new clause](#) was inserted into all 155 modern awards providing union workplace delegates specific rights in the workplace.

The new clause (or something more favourable) will also need to be included in any enterprise agreement going forward.

Where an award has an existing entitlement that is more favourable than the new clause, that entitlement will be preserved and applied instead. For example, some awards provide for five days of dispute resolution training leave each year as compared to the model clause's five initial days and then one day each subsequent year.

What does the new clause cover?

The new clause allows workplace delegates, who have provided notice to the employer of their appointment or election as a workplace delegate¹ (**delegates**), the right to:

1. represent employees who are eligible for membership with the delegate's organisation (**eligible employees**);
2. communicate with eligible employees;
3. access the workplace and its facilities; and
4. access paid training time.

1. Representation

Workplace delegates can now represent the industrial interests of eligible employees who wish to be represented in matters including:

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- consultation about major changes, changes to rosters and changes to hours of work;
- resolution of disputes;
- disciplinary processes;
- enterprise bargaining (where appointed as a bargaining representative or assisting the delegate's organisation); and
- any other procedures within an award, enterprise agreement or policy where employees can have industrial interests represented.

2. Reasonable communication

Delegates can communicate with eligible employees to represent their interests (including discussing membership) during work hours, work breaks, and before and after work.

3. Access to workplace and workplace facilities

Employers are required to provide delegates with access to or use of the below:

- a private room for discussions;
- a noticeboard (physical or electronic);
- means of communication ordinarily used by the employer and eligible employees (e.g. email);
- secure document storage (e.g. lockable filing cabinet); and
- office facilities and equipment (including printing, scanning, and photocopying).

There are certain circumstances where employers will not be required to provide the above, specifically where:

- the employer does not have the relevant facility;
- it would be impractical to provide access to the facility (due to operational requirements); or
- the employer does not have access to the facility and is not able to obtain access after reasonable steps.

4. Reasonable access to training

Employers (other than small business employers²) are required to provide delegates with access to up to five days of paid training time during normal working hours for initial training and one day each year thereafter. The paid training time is for delegates to attend training related to the representation of industrial interests.

Other technical requirements are included in the clause including that:

- training must be related to the representation of the industrial interests of eligible employees;
- each year there must only be one delegate accessing the training per 50 eligible employees;
- time will be paid as per the delegate's ordinarily rostered hours on that day;
- the delegate must provide at least five weeks' notice of the training (unless a shorter time is agreed upon with the employer);
- the delegate must provide an outline of the training on the employer's request;
- employers must not unreasonably approve the paid leave request;
- the employer must advise the delegate on whether the paid training time is approved at least two weeks in advance of the training; and
- the delegate must provide evidence of attendance at the training to the employer within seven days of attending.

Next steps

Practically, the next steps for employers should include:

- arranging for relevant facilities to be available to delegates;
- arranging training for relevant managers and supervisors on the application of the clause;



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- arranging necessary HR and payroll processes for the provision of delegate training leave; and
- including the clause or something more favourable in any enterprise agreement under negotiation.

The term will be reviewed after 12 months to deal with any issues that arise.

With Thanks to Rigby Cooke - [\(03\) 9321 7888](tel:0393217888) – Workplace Relations