

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. The 'Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia' (**CEPU**) is the principal union representing electrical workers, plumbers and sprinkler fitters in Australia, representing well over sixty-thousand workers around the country.
2. The *Fair Work Legislation Amendment (Closing Loopholes) Act 2023* (Cth) (**Closing Loopholes Act**) received royal assent on 14 December 2023. It amends the *Fair Work Act 2009* (Cth) (**FW Act**) to make provisions for delegates rights and amends the FW Act to require modern awards to contain a term providing for delegates rights, and for the Fair Work Commission (the **Commission**) to vary existing modern awards to provide for this.
3. On 18 January 2024, Justice Hatcher, President of the Commission issued a statement¹ commencing the process of to vary all modern awards so that they include a delegates' rights term for workplace delegates so as to give effect to the Closing Loopholes Act.
4. The CEPU makes this submission in response to the requirement for the Commission to vary all modern awards to include a new delegates' rights term.



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¹ [2024] FWC 150

5. The CEPU has an interest in the following Awards:
- a) the Electrical, Electronic and Communications Contracting Award 2020 [MA000025] (**Electrical Award**);
 - b) the Electrical Power Industry Award 2020 [MA000088] (**Electrical Power Award**);
 - c) the Plumbing and Fire Sprinklers Award 2020 [MA000036] (**Plumbing Award**);
 - d) Building and Construction On-site General Award 2020 [MA000020] (**Construction Award**);
 - e) Manufacturing and Associated Industries and Occupations Award 2020 [MA000010] (**Manufacturing Award**);
 - f) Business Equipment Award [MA000021];
 - g) Sugar Industry Award [MA000087];
 - h) Black Coal Mining Industry Award [MA000001]; and
 - i) Mining Industry Award [MA000011].
6. The CEPU has had the opportunity to review the submissions of the ACTU and the ACTU's model delegates clause of today's date (**ACTU Submission**). The CEPU supports the ACTU's submission and endorses the ACTU's model delegate's right clause (**ACTU Clause**) with minor additions as detailed at **[8]** to **[12]** below.
7. The CEPU has had the opportunity to review the submission and model delegates clause advanced by the CFMEU (Construction and General Division) (**CFMEU CG**) filed today. As a Union with members engaged in works within the construction industry, the CEPU supports and adopts the submissions and model clause advanced by the CFMEU CG with respect to the Construction Award, as it reflects an industry wide practice for delegates in the construction industry.
8. The CEPU has also had the opportunity to review the submissions of the Australian Manufacturing Workers Union (**AMWU**) filed today and supports and endorses their submissions and proposed amendments with respect to the Manufacturing Award.

CEPU ADDITIONS TO THE ACTU CLAUSE:

9. CEPU delegates are employed in a variety of industries and site locations across Australia. For many of these workers, their site locations are in regional, rural and remote locations as well as in metropolitan areas with limited access to onsite facilities otherwise needed by delegates to carry out their duties.

10. Accordingly, with respect to the following awards:

- a) Electrical Award;
- b) Electrical Power Award; and
- c) Plumbing Award,

the CEPU seeks the following additions to the ACTU Clause:

11. Under the “Right to Use Facilities” of the ACTU Clause, in addition, a new subheading titled the “Right to Provide Facilities:”

“The Employer shall provide reasonable facilities for the Union Delegate to perform their duties and functions, including:

- a) a telephone;***
- b) an iPad or equivalent, equipped with mobile Internet access;***
- c) a table and chairs;***
- d) a filing cabinet;***
- e) air-conditioning/heating;***
- f) access to stationery and other administrative facilities, including use of a photocopier, facsimile, use of email (if available on site), following consultation between the Union Delegate and Site Management;***
- g) a private lockable area;***
- h) a suitable workplace location to conduct confidential discussions with union member/s and persons eligible to be union members (including free from monitoring, surveillance, or recording).***

12. With respect to the named Awards above at [10], in addition to the ACTU Clause, and that above at [11], the CEPU seeks the terms advanced by AMWU for the reasons outlined in the AMWU submissions.

CEPU LEGAL TEAM

1 March 2024