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## SUBMISSION TO THE FAIR WORK COMMISSION

### Response to Proposed Award Changes - Workplace Delegate Rights

Submitted by: Council of Small Business Organisations Australia (COSBOA)

Date: 14 January 2026

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### About COSBOA

The Council of Small Business Organisations Australia (COSBOA) is the national peak body for small business in Australia, representing the interests of small businesses across all industry sectors through our member organisations.

Small businesses, represent 96.6% of all Australian businesses, 43.8% of private sector employment, and 34.7% of private sector value-added to the economy. They are the backbone of the economy, employing most workers and driving innovation and growth.

Regulations that treat small businesses as if they have the same capabilities and resources as large corporations are fundamentally unjust and economically damaging. Our role is to advocate for policies that enable small businesses to start, survive, and thrive while contributing to economic growth, innovation, and community wellbeing.

### Executive Summary

COSBOA offers in principle support to the Fair Work Commission's proposed changes to workplace delegate provisions across all modern awards.

We submit the following in respect to key items as follows: -

- 1. Applying changes to all awards** COSBOA supports updating all modern awards at once to creates consistency and avoid confusion.
- 2. Backdating to 1 July 2024** COSBOA has concerns that employers could potentially be found to have breached rules that have changed retrospectively, however we understand this date is legally required by the Court's decision.
- 3. Changes to "eligible employees" definition** Whilst our preference is to keep the existing term around "eligible employees" we accept the proposed change to "eligible workers" reflects the Court's decision.
- 4. Definition of "workplace delegate"** We recommend a simple referencing of the Fair Work Act definition rather than reproducing separately it each Award.

**6. Balancing delegate rights with employee duties** COSBOA supports retaining language that reminds all stakeholders that workplace delegates remain employees with duties and obligations to the employer.

**7. No delays in the approval of Enterprise Agreements** COSBOA submits that any current application for an Enterprise Agreement approval before the Commission ought not to be delayed due to this issue alone.

## Conclusion

Small business face particular challenges in meeting changing obligations under the Fair Work Act as they lack the expert industrial relations assistance that larger corporations have resources to access.

COSBOA supports a limited and simplified approach to this proposed change.

**Yours sincerely,**



**Matthew Addison**  
**Chair**

Council of Small Business Organisations Australia (COSBOA)