



MASTER BUILDERS
A U S T R A L I A

16 January 2026

Justice Hatcher, President
Vice President Gibian
Commissioner Matheson

By email: awards@fwc.gov.au

Variation of delegates' rights term in modern awards (AM2025/28)

Master Builders Australia (Master Builders) refers to the statement issued by the Fair Work Commission (Commission) on 23 December 2025¹ (Statement) in the *Variation of delegates' rights term in modern awards AM2025/28*.

This correspondence responds to paragraph 15 of the Statement.

Overall, Master Builders accepts that the approach taken by the Commission set out in Attachment C reflects the Full Court² decision of 17 December 2025. We do however wish to raise one matter with respect to clause XX.8.

The change of 'eligible employee' to 'eligible worker' within the context of clause XX.8 may have consequences for the calculation of the number of workplace delegates that can undertake paid training.

Within the context of the building and construction industry and particularly on large building sites the change may have the effect that it increases the number of 'eligible workers' on a site, thereby increasing the number of delegates entitled to employer paid training. This can be contrasted with the prior XX.8(a) that provided one workplace delegate an entitlement to paid training per 50 employees of the employer.

¹ [2025] FWCFB 293

² *Construction, Forestry and Maritime Employees Union v Australian Industry Group* [2025] FCAFC 187

In addition, the provision now uses the terms 'employer' and 'eligible worker' which may give rise to some inconsistency i.e. an eligible worker may not have an employment relationship with an 'employer'.

To clarify Master Builders submits that the words 'who are employees of the employer' be added to the end of XX.8(a). This phrase may also need to be added after 'eligible worker' in XX.8(b).

Master Builders is open to discussions regarding how the provision might be improved to prevent any unintended consequences.

Kind regards



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