



STATEMENT

Fair Work Act 2009
Sched 1, cl.111C—FWC to vary certain modern awards

Variation of modern awards to include a right to disconnect term (AM2024/14)

JUSTICE HATCHER, PRESIDENT
VICE PRESIDENT ASBURY
DEPUTY PRESIDENT O'NEILL
COMMISSIONER MCKINNON

SYDNEY, 21 AUGUST 2025

Variation of modern awards to include a right to disconnect term – review of the right to disconnect term in all modern awards – to be conducted approximately 12 months after the terms effect – next steps

[1] In a decision issued on 23 August 2024, we determined to vary all modern awards to include a right to disconnect term in accordance with the requirement in clause 111C(2) of Schedule 1 to the *Fair Work Act 2009* (Cth) (FW Act).¹ Determinations varying all modern awards were issued together with that decision. The modern award terms took effect for all national system employers, apart from small business employers, and their employees on 26 August 2024, and will take effect for small business employers and their employees on 26 August 2025.

[2] In our decision, we foreshadowed that the Commission would undertake a review of the right to disconnect terms in modern awards approximately 12 months after the terms first took effect, giving the parties the opportunity to raise any practical difficulties which they perceive have arisen in the operation of the term, either generally or in particular industries or occupations.²

[3] We also confirmed that we did not intend to make guidelines concerning the right to disconnect at that time. We considered that the Commission would be in a better position to make guidelines once it had dealt with at least some disputes concerning the operation of the right, since this would allow it to have some understanding of the practical issues for which guidance may be required.³

[4] While the modern award terms have now been in operation for 12 months, the Commission has not as yet considered any test cases or resolved any significant disputes in accordance with the terms. Nor has the Commission been asked to deal with any test cases regarding the substantive right to disconnect provisions in the FW Act.

[5] In these circumstances, we invite submissions about the following matters:

1. Whether it is necessary to conduct a review of the model award term, either generally or in respect of specific awards, at this point in time, and if so, what aspects of it; and
2. Whether we should now make guidelines, noting the lack of any guiding case authority at this point.

Next steps

[6] Interested parties are to file any submissions concerning the questions outlined in [5], by **12:00 pm (AEST) on Friday, 3 October 2025**. Submissions should be sent to awards@fwc.gov.au.



PRESIDENT

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¹ [\[2024\] FWCFB 338](#).

² Ibid [7].

³ Ibid [8].