

## Representation Rights

### Delegates' Rights

1. Congress reaffirms its commitment to the 'Charter of Delegates' Rights' and urges affiliates to include the charter in collective bargaining. In addition to pursuing the rights contained in the Charter, Congress firmly believes there must be a strengthening of legislative rights afforded to union delegates to ensure they can properly take up their role in providing representation to employees, as provided for in the objects of the Act. Union Delegates are critical to building and maintaining co-operative workplace relations and their capacity to do so should not be limited to workplaces where their rights have been secured through bargaining.
2. Congress therefore calls on the Government to provide legislative recognition and rights to Union Delegates including:
  - a) A right to represent their union, its members and persons eligible to be members of that union;
  - b) Rights for a delegate to have discussions with their union, its members, and persons eligible to become its members;
  - c) Rights to ask persons who are eligible to be members of the union to join the union;
  - d) Rights to ask an employee or official of the union to attend the workplace;
  - e) Recognition of a delegate's role in bargaining and a right to fully participate in bargaining with their union without interference from their employer;
  - f) Rights for delegates to hold discussions of a reasonable duration in paid work time, where those discussions involve addressing eligible members at inductions or, representing members in grievances, or it is otherwise necessary that the discussion occur at the workplace;
  - g) Rights for delegates to have private and confidential discussions with members and eligible members and their union that cannot be monitored or restricted by the employer;
  - h) The right to make reasonable use of the employer's facilities and equipment at the workplace, including information technology to communicate with members and eligible members;

- i) The right to hold discussions in a room that is appropriate for the discussion sought;
- j) Obligations on employers to recognise and deal with delegates in good faith, facilitate discussions between a delegate and those they represent and consult delegates when considering any economic, technological or structural changes in the workplace;
- k) Prohibitions on employers misleading employees about delegates' rights, hindering or obstructing delegates exercising their rights, inducing a delegate not to exercise their rights or dealing directly with an employee represented by a delegate in a particular matter (e.g. a dispute or grievance);
- l) Special paid leave rights for delegates to enable them to attend training in workplace relations, dispute resolution or trade union related matters.

## Right of Entry

3. Congress reaffirms its view that right of entry provisions of the Act:
  - a) Must facilitate entry and discussions with workers where the workers choose to congregate, such as their lunch room;
  - b) Must provide a right of entry to common areas of facilities used to accommodate workers, such as accommodation camps for remote workplaces;
  - c) Must not restrict employees' access to advice, information and union representation at work;
  - d) The requirement for 24 hours' notice for access to worksite restricts employees ability to access their information and representation from their union, as such the notice requirement must be amended;
  - e) Must prevent employers from requiring, directly or indirectly, that workers seek permission or identify themselves to the employer before accessing a union official who is on the premises;
  - f) Must ensure that any discussions between workers and unions are not subject to any form of surveillance; and
  - g) Must ensure that unions have a right to enter and inspect records relating to suspected contraventions affecting former, as well as current, workers.
4. Further, and more fundamentally, the basis and emphasis of the statutory right of entry scheme must be expanded from being a legal right to enter premises to being a legal right to access workers on those premises. For example, given that the right of union officials upon entry to hold discussions with members and eligible members is limited to meal and break times, Congress considers that the right of entry provisions in the Act must ensure that discussions can occur where workers are having their breaks.

5. Finally, to overcome restrictions placed around bargaining about right of entry by Fair Work Australia, the Act must be clear that industrial parties are free to bargain about right of entry arrangements as it suits their situation. Congress considers that allowing parties to freely bargain about right of entry will result in better rights for union officials to enter workplaces where employers acknowledge the benefit of union involvement and strong delegate structures in their workplace and improve the role of unions in representing their members in the pursuit of cooperative and productive workplace relations.

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