



***Fair Work Legislation
Amendment (Closing
Loopholes) Bill 2023***

SEPTEMBER, 2023

ETU Submission to the Senate Standing
Committee on Education and Employment

29 September 2023

About the ETU

The ETU is a division of the Communications, Electrical and Plumbing Union (CEPU).¹ The ETU is the principal union for electrical and electrotechnology tradespeople and apprentices in Australia, representing over 60,000 workers around the country. The CEPU represents over 100,000 workers nationally, making us amongst the largest trade unions in Australia.

The ETU's membership has significant concentrations in the resources, construction and power industries, although it is spread throughout the economy including the manufacturing, tourism, entertainment, business equipment and defence support industries.

A typical ETU member is a highly skilled electrotechnology worker who has completed at least a four-year apprenticeship and is subject to ongoing training, certification, licensing and development requirements.

The ETU's members will be critical to resourcing Australia's energy transition. As we move towards rebuilding our electrical grid, replacing electricity generation with new renewable sources, and electrifying homes, businesses, transport, and heavy industry, ETU members will be there every step of the way installing, operating, and maintaining the infrastructure for Australia's new energy future. It is crucial for Australia's economic and environmental survival in this second industrial revolution that we grow and develop a skilled electrical workforce by ensuring that the new energy economy is providing attractive, fulfilling, secure and safe work. Without addressing the systematic flaws in our labour relations system that the Closing the Loopholes Bill seeks to remedy; it is unlikely that we will be able to generate and maintain the tens of thousands of quality electrical jobs needed to meet the challenges ahead.

Acknowledgement

In the spirit of reconciliation, the ETU acknowledges the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all First Nations peoples today.

The ETU welcomes the opportunity to provide feedback to the Senate Standing Committees on Education and Employment's review of the *Fair Work Legislation Amendment (Closing Loopholes) Bill 2023*.

¹ The CEPU is a registered organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth).

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Overview

Workplaces and employment relationships and the protections that they require are ever evolving, influenced by technological advances as well as fluctuating social and economic factors. It is therefore imperative that the legal framework that regulates employment and industrial relations adapts and addresses such changes.

The cost-of-living crisis has had a significant impact on the needs of workers and workplaces. In the 3 years to June 2023, inflation rose by 16.9%² whilst wages only rose 8.2% economy-wide³. Real wages have fallen back to where they were in 2009 during the Global Financial Crisis and have not risen in any Quarter since mid-2020. This crisis is causing our members and their families real hardship – from the escalating cost of petrol required to get to and from work, to the need to obtain secure employment in order to qualify for a mortgage or rental property. It is therefore imperative that law reform, such as that provided for by Bill, be enacted to support working Australians through this crisis.

In the 14 years since the *Fair Work Act 2009* (Cth) (**FW Act**) was first enacted, it has become clear that some provisions have created unintended loopholes which have been taken advantage of by opportunistic employers at the expense of both working Australians as well as well-intentioned employers that choose not to take advantage of their workers. It is imperative that such loopholes are closed (as provided for by the Bill) to protect hard working Australians and employers that choose to do the right thing by their workers.

With respect to the position of the Australian Council of Trade Union (**ACTU**), the ETU wholeheartedly supports and adopts its submission to this review.

² Australian Bureau of Statistics, Consumer Price Index, Australia June 2023

³ Australian Bureau of Statistics, Wage Price Index, Australia June 2023

Our separate submission is made to briefly expand on the aspects of the Bill that would have the greatest impact on ETU members. In doing so, the ETU seeks to tell some of our members' stories to demonstrate why the Bill is needed. In addition, the ETU makes recommendations to improve the Bill to better support workers and workplaces.

The aspects of the Bill which this submission will focus on are:

- closing the labour hire loophole;
- casual employment; and
- workplace delegates' rights.

Closing the labour hire loophole

Labour hire has a legitimate place in industry, but instead of labour hire being used to fill short-term unavoidable gaps in a workforce, it has become its own category of employment. Over the last decade, the number of Australians employed by labour hire service providers has risen 35%⁴. Despite 81% of these workers working full-time, 84% did not have paid leave entitlements and 57% earned less than \$40,000 annually. This is in the context of labour hire providers raking in annual revenues in the order of \$30-40billion, and driving higher corporate profits for those companies that use them to drive down labour costs.

In the context of the electrical industry, a decade ago casual employment was anomalous, now in some subsectors it is de rigeur. This historical rarity of casualisation was due both to industry culture *and* the mandatory requirement for casual conversion and same job, same pay under the predecessor instruments to the Electrical, Electronic and Communications Contracting Award. With the Award Modernisation having wiped away these protections, and the subsequent weaponisation of labour hire and casualisation by employers, there has been an explosion in the use of both. This has led to no discernible improvement on productivity, but has driven down wages and conditions whilst also undermining training opportunities.

The principle reason for the dramatic increase in the use of labour hire is it renders enterprise agreements irrelevant: it is simply the corporate avoidance of FW Act obligations. Instead of directly hiring an employee who would be covered by such an agreement, an employer can instead come to a commercial arrangement with a labour hire company to provide it with a labour hire worker on inferior terms and conditions. In fact, some employers have even gone so far as setting up labour hire companies within their corporate group to engage workers who are outside the reach of their enterprise agreements to work for them on lesser terms and conditions. The result is that you will often have workers working alongside one another performing the same or similar work and yet technically employed by different entities and therefore on vastly different terms and conditions. Alternatively, there are cases where an employer has outsourced its entire workforce in order to avoid the coverage of its enterprise agreement. Both practices not only undermine the FW Act's enterprise bargaining regime but also create a new category of insecure and effectively second-class employment.

Bargaining with labour hire providers under the FW Act is like trying to catch smoke. The Act restricts bargaining, in practice, to individual companies. Subsidiaries and related bodies corporate can, but are typically not, captured by enterprise bargaining. With labour hire, the workforce is entirely fungible,

⁴ Australian Bureau of Statistics, Labour hire workers, Australia June 2023

able to be ramped up and down at and passed between different corporate entities at virtually no notice. Further, even when agreements are struck – there is no impediment to the host employer simply cycling through to a different labour hire provider *whilst retaining the same workforce*. The labour hire employees may not even change their shirts, it will just be a different ABN on their payslip.

Case Study: Oliver – Not Knowing Who Even Employs You

Oliver is an ETU member with two decades of experience as a licensed electrician in the electrical industry. After spending just 3 years working in large-scale renewable energy generation construction projects, Oliver had to get out. On one project Oliver was engaged by a labour hire company as is the normal and only employment method Oliver experienced during his 3 years in the sector. After commencing on site on a particular project, he noticed issues with his payslips. On closer inspection it was revealed that over the course of a three-week period, Oliver discovered he had been transferred across three separate labour hire companies without his knowledge or permission. Each payslip showed he was being paid by a different ABN and employer name. After googling the different names, he discovered each company was a different and distinct labour hire company. When Oliver raised it with the site manager, he was advised someone would get back to him. Later that day he was told he was no longer required on site and to pack up his tools and go home.

Labour hire employment is inherently insecure because it is contingent upon the commercial relationship between the labour hire company and host company continuing. As a consequence, labour hire companies overwhelmingly tend to employ their employees as casuals. This means that the vast majority of labour hire employees do not have access to sick and annual leave entitlements or guaranteed hours of work, hindering such employees' ability to withstand the cost-of-living crisis.

In addition, labour hire arrangements undermine the security and wages of the direct hire employees whom they work alongside. Direct hire employees live in fear that their job will be the next one to be outsourced, which leads to them being fearful about speaking up about health and safety and other issues in the workplace and hesitant to seek to improve their own terms and conditions, including their wages. This contributes to slow wage growth and handicaps workers abilities to deal with the cost-of-living crisis. The erosion of job security, and by extension bargaining power, wages, and conditions, makes it difficult to entice employees to work in industries with high rates of labour hire, such as the construction of the renewable energy infrastructure, which will be critical to ensuring Australia's energy transition

The Bill seeks to overcome these injustices and inequalities by closing the existing loophole and ensuring that opportunistic employers are no longer able to avoid complying with their enterprise agreement by engaging labour hire workers. This will increase the security of employment and wages in industries where labour hire is currently utilised, thereby creating greater protections for workers facing increasing cost-of-living pressures. It will also equalise the playing field for more ethical employers that choose not to exploit the loophole.

Case study: BlueScope

BlueScope is a leading steel supplier and manufacturer for the building and construction industries, based at Port Kembla in the Illawarra region of New South Wales. BlueScope recorded a profit of \$1billion in 2022-23, following a \$2.8billion profit the year prior. BlueScope has an enterprise agreement in place and directly employs workers who are covered by it. However, to supplement its internal labour force, BlueScope has a practice of engaging additional labour via a number of different providers. The result is that workers working alongside one another and performing the same or similar

work will have different employers and be paid a variety of different rates below those set by BlueScope's enterprise agreement, including apprentices being paid award rates. By engaging labour from a variety of different sources, those sources are required to compete with one another which leads to those businesses paying lower wages to keep their costs down.

Case Study: Peter – Secure work in renewables vs fossil-fuels

Peter is an ETU member with over 40 years of experience as a licensed electrician in the electrical industry, recently spending 5 years working in large-scale renewable energy generation construction projects through labour hire providers. Peter has experienced some of the worst safety, wages and working conditions of his career, driven by labour hire and contractor arrangements and a culture of 'if you don't like it, leave'. He is angry that labour hire providers deliberately recruit visa workers from overseas to solar projects without first seeking local labour or offering local training opportunities, completely failing to give young Australians the opportunity to work on Australian projects and train the next generation of electrical apprentices who will be central to achieving the energy transition.

After five years of insecure employment, Peter finally secured a permanent position constructing the Tallawarra B gas-fired power station expansion. Same work, same timeframe, same challenge in that these projects have a clear end date, the difference is one is prepared to offer job security for the duration of the project. Renewable energy companies largely don't.

A number of the ETU's members employed as labour hire workers currently get the benefit of "jump up clauses" contained in their host's enterprise agreement. Jump up clauses generally require (without limitation) that, where the host employer engages external labour, those workers must be paid at least the same rates of pay as those contained in the enterprise agreement. In other words, jump up clauses operate similarly to the Bill's proposed provisions. The benefits that our members derive from jump up clauses demonstrate the positive impact that the Bill's labour hire provisions will have for labour hire employees that do not currently get the benefit of these kinds of clauses⁵ For good employers, who already ensure labour hire workers are engaged on terms and conditions no less favourable than direct hires, the Bill will simply level the playing field and stop the race to the bottom.

Removing the exemption for apprentices and trainees

Apprentices are particularly vulnerable to falling victim to the labour hire model. The vast majority of the ETU's apprentice members are employed by Group Training Organisations (**GTOs**). GTOs employ apprentices and then place such apprentices in the workplace of a host company for the duration, or part, of their apprenticeship. In fact, it is common for apprentices to be moved between several host companies throughout their apprenticeship. Where a host company has an enterprise agreement in place, the apprentice does not get the benefit of it since they are not directly employed by the host employer (unless the enterprise agreement contains an appropriate jump-up clause).

Under many awards, including the Electrical, Electronic and Communications Contracting Award, apprentices are paid below the minimum wage. It is therefore unsurprising that electrical apprentices and their families are struggling to meet the costs of living, leading to low completion rates. An Essential survey of electrical apprentices in 2022 found that 1 in 5 apprentices had considered quitting due to low wages or being unable to keep up with the cost of living.⁶ The same survey also found that

⁵ Case studies demonstrating the benefits of jump up clauses are set out in the section below regarding removing the exemption for apprentices and trainees.

⁶ Essential Media, *Apprentices Survey (Final Report)*, Electrical Trades Union (August 2022)

only 33% of apprentices being paid the award wage were able to afford bare necessities like food, petrol, and housing. As a result, many ETU apprentices (particularly those who are living out of home and/or have caring responsibilities) find themselves having to work additional jobs to earn a living wage. Working multiple jobs and long hours creates health and safety risks in all the affected workplaces. Further, many young people are discouraged from joining the trade due to the low wages on offer during their apprenticeship.

On current completion rates, 42% of electrical apprentices drop out. With an estimated shortfall of tens of thousands of electricians necessary to deliver our energy transition, we simply cannot afford to keep wasting this massive human potential.

Notwithstanding the financial pressures and vulnerabilities facing apprentices, the Bill's provisions propose to exclude them from obtaining the benefit of its labour hire provisions. The ETU recommends that this exclusion be removed to reduce the financial burdens that electrical apprentices face and thereby lift completion rates so that that Australia will have the workforce required to achieve its transition to renewables. If the exclusion is not removed, this will encourage the use of labour hire apprentices (which is already widespread, particularly in the renewables industry) and discourage the negotiation of apprentice classification and jump up clauses in enterprise agreements. The difference that the Bill's provisions would make to apprentices if the trainee/apprentice exemption is removed can be demonstrated by the benefits experienced by apprentice who currently get the advantage of jump up clauses.

Case study: Female mature aged apprentice

A female mature-aged apprentice ETU member employed by a GTO in NSW has only been paid award rates even where her host company has an enterprise agreement because the agreement does not contain a jump up clause. The Enterprise Agreement rate of pay for a tradesperson are nearly double the Award rate. Instead of receiving a percentage of the tradesperson's she is working with rates of pay, she is paid a percentage of the Award. As a result, she has been forced to work an additional two jobs to make ends meet.

Case study: Ryan - 22-year-old 4th year apprentice

Ryan is a 22-year old 4th year ETU apprentice member employed by a GTO in Queensland. Ryan was recently hosted at one of Queensland's Government Business Enterprises (GBEs) wiring monitoring equipment for renewable energy generation projects. The GBE's enterprise agreement has a jump up clause that means he's paid the apprentice rates contained in the agreement. During previous placements, like most apprentices, he did not get the benefit of jump up clauses.

"The work is really good and the jump in pay has been unreal. It just gives you that sense of financial freedom that no apprentice really has. You go out and you only make a couple hundred bucks a week after tax, less than minimum wage for years, to then go into something that's very well paid and it just changes everything. All the apprentices and even the tradies I work with seem to enjoy their work more and want to put in, everything's safer, everything's done well, people are happy."

Case study: Alex - 20-year-old 1st year apprentice

Alex is a 22-year-old 1st year ETU apprentice member employed by a GTO in Queensland. He started his apprenticeship being hosted by a domestic solar installer for 6 months where he did not get the benefit of a jump up clause. He was later placed at Gatton Prison where he got the benefit of a jump up clause in the prison's enterprise agreement.

“I had to move to Brisbane and was living away from home for the first time, paying \$300 per week in rent and covering all my own fuel which was sometimes up to \$200 per week with work travel, despite only being paid as little as \$500-600 per week sometimes. I never had much money left over to pay for food and living expenses and it got pretty tough. It really affected my mental health and to be honest, if I had to stick it out there for the full four years, I’m not sure if I would have made it to the end of my apprenticeship. Moving hosts and getting the benefit of a jump up clause meant that I went from earning around \$500 per week to sometimes up to \$1800 per week with the high levels of overtime we were working. This was a lifesaver. I didn’t have to constantly think about how I was going to pay my rent anymore and it was no longer a massive burden. Even with the cost of living going up I could actually save money for the first time.”

Case study: Jarrod – 20-year-old 4th year apprentice

Jarrod is a 20-year-old 4th year ETU apprentice member employed by a GTO in QLD. He spent the first 3 years of his apprenticeship getting the benefit of jump-up clauses and therefore being paid the rates contained in his host’s enterprise agreement. However, he has spent the last 4 months at a new host and is now being paid award rates.

“At my first placement, I got awesome pay. It was so good, I could live, I could go out with mates, take the missus out and buy her nice things, buy presents for my family at Christmas, actually live with freedom. I feel like the morale in the workplace was much higher too and people actually wanted to be there. At my new host, I’ve been doing overtime every week and still am not earning nearly as much. The work is much further away so I am spending more on petrol too. I don’t have nowhere near enough money to live with the same level of freedom I had been before. I’ve gone from starting to save up to buy a house to living week-to-week and eating into my savings. They’re still a good group of lads to work with, just shit pay!”

Streamlining provisions for extension and variation of orders

While seeking to close the existing labour hire loophole, the Bill’s provisions as presently drafted open up a new loophole. This is because labour hire arrangement orders must name and apply to a single labour hire provider. As such, a host could avoid a labour hire arrangement order simply by changing its labour hire provider. In those circumstances, as presently drafted, it would be a cumbersome process to apply for a new labour hire arrangement order which names and applies to the new provider. Further, it may serve to *incentivise* even more precarious arrangements, encourage employers to actively cycle through providers to avoid the obligation. Accordingly, the Bill’s provisions could be strengthened by streamlining the process for the extension and variation of regulated labour hire arrangement orders. Doing so, would also make the process more efficient where a host engages labour hire from multiple providers, which is a common occurrence.

Permitting applications to be heard together

Additionally, the Bill’s provisions could be strengthened by expressly permitting applications for regulated labour hire arrangement orders to be heard together in appropriate circumstances. For example, where an enterprise or workplace involves a number of hosts or providers which are related entities, or where labour hire is widespread in a particular industry.

Casual employment

Casual work was originally designed as a means of facilitating flexible working arrangements for those required to work irregular or unpredictable hours with no firm commitment that future work would be available over the long-term. Recently, it has evolved away from this and towards a means for employers to avoid offering long-term job security, workplace protections, and paid leave entitlements. More than half of casual workers in Australia report working the same hours each week, with a similar proportion also reporting being in the same casual role for over a year.

ETU members report causal conditions being used as a weapon by employers, particularly in large-scale renewable energy construction projects, to prevent workers from raising concerns about poor pay, substandard working conditions, and workplace health and safety. The approach is simple, if employees raise concerns or request a conversion to permanent work, they can expect for their shifts to stop being assigned almost overnight. Proponents of casual work will often cite the 25% casual loading when arguing casual workers are no worse off than their permanent colleagues, this argument fails to account for the pervasive effect on workers' willingness to exercise collective bargaining power for better wages that such threats incur.

The Bill's provisions regarding casual employment are a welcome change that will hopefully restore some security and fairness to the lives of workers across the nation. Under these changes, workers who believe they are misclassified as casuals can notify their employer and request to become a permanent employee. Whilst there is no affirmative responsibility for employers to accept such requests, the proposed avenues for employees to dispute this through the Fair Work Commission appear fair and reasonable.

New provisions prohibiting the misrepresentation of non-casual employment as casual, and dismissal in order to engage a person as casual are also a promising step towards stamping out the bad-faith employer behaviour that has led us to this point in the first place.

Case Study: Murray - labour hire electrician on large-scale solar projects

Murray is an ETU member with decades of experience across different sectors in the electrical industry. He has spent the last 6 years building Australia's future power generation assets, mostly large-scale solar construction projects, under labour hire providers. Despite working on these projects for many months at a time, doing the same hours every day, week in, week out Murray has never once had permanent employment. It is well understood on these projects that if you ask for casual conversion to permanent you get the sack, usually that same day.

Murray's experience is that these projects are riddled with health and safety issues, poor wages and conditions, and often flooded with backpackers seeking a visa extension. He has told us that he wants to see the laws changed so that these companies can no longer get away with undercutting wages, conditions and safety standards and that they start meeting their obligation to train the next generation of apprentices.

Workplace delegates' rights

Delegates are volunteers who are chosen by their colleagues to be their representative. Once elected, they take on the responsibility of looking out for their workmates on the job. They become the mouthpiece for their colleagues within the workplace.

Strong delegates make safer, more productive and more harmonious workplaces. They reduce the incidence and severity of workplace issues by acting as a conduit between management and rank-and-file workers. This means less reliance on taxpayer funded community legal centres and the Fair Work Ombudsman. It also means that the Fair Work Commission and courts are not unnecessarily clogged with matters that could have been resolved at the workplace level.

The Bill provides distinct rights for delegates elected under union rules. These rights include the right to represent members' industrial interests, to communicate with members and prospective members in relation to their industrial interests, and to reasonable access to the workplace and delegate training.

Delegates are not experts in employment and industrial law or workplace processes, and yet their roles require specialised skills and subject-matter knowledge. As such, they need additional training, support, and resources to ensure they operate effectively. Such training leads to better outcomes for the workplace. When workers are listened to, better decisions are made and job satisfaction and retention are increased, which benefits employers. Many employers already support delegates being trained but many do not. By creating a right to such training, the Bill's provisions will enable delegates to fulfil their roles.

The Bill's also provide certain protections for delegates. Delegates can be targeted and undermined by bad-faith employers who seek to intimidate, mislead, and undermine them as they carry out their responsibilities.

Case Study: David Nesbitt – Delegate at United Lifts Services

David was a delegate at United Lifts Services where he worked as an electrician. In his capacity as delegate, he raised a number of concerns with his employer including regarding workplace safety and entitlements provided for by their enterprise agreement. His employer sought expressions of interest for voluntary redundancy. However, four hours before the deadline for employees to respond to the expression of interest, his employer notified him that his role was being made redundant. The ETU brought proceedings against his employer for breach of the general protections provisions of the FW Act.⁷ The Court found that David was specifically selected for redundancy, including by deliberately marking him down in the matrix used in an attempt to justify his redundancy, because of the complaints he had made. Accordingly, his employer had breached the FW Act by selecting him for redundancy. Given that the FW Act does not currently provide specific protections for delegates, the union was required to rely on the general protections available where an employee makes a complaint regarding their employment. Nonetheless, it is an example of a delegate being victimised because of them carrying out their role. Given that delegates' roles extend beyond making complaints, it is essential that they be provided with stronger protections than those currently available in the FW Act.

Without affirmative rights and protections for workplace delegates enshrined in legislation, delegates will only have rights and protections if they are provided for by way of a delegate's rights clause in an

⁷ *Australian Manufacturing Workers Union v United Lift Services Pty Ltd* [2013] FedCFamC2G 275

enterprise agreement. This is not an option for delegates in workplaces that do not have enterprise agreements in place. Further, it is often difficult for employees to successfully negotiate delegate's rights clauses during enterprise bargaining. If the Bill's provisions are not enacted, it will mean that employers can continue to play off workers' demands for fair improvements in wages and conditions against those for improved workplace delegate rights.

Case Study: Simon - Electrical Contractor in NSW

Simon is an electrician and ETU workplace delegate with an electrical contractor used by several major private and state-owned corporations in NSW. In recent enterprise bargaining negotiations, Simon's employer refused to include any delegate's clauses or even have the word "union" anywhere in their Enterprise Agreement. ETU members ultimately had to engage in protected industrial action to advance their claims for wage increases and income protection but were unable to successfully secure any rights for workplace delegates to access delegate training or on-site resources. Despite being a duly elected delegate, Simon still has no right to delegate's training, allowances, or resourcing.

Case Study: Rhys – Workplace delegate at an agricultural processing company

Rhys is an ETU delegate at a major producer of agricultural products in NSW. He was subjected to pressure and intimidation from his employer to discourage him from engaging in union activities at work. Actions taken against Rhys included the delayed payments of various entitlements. Fortunately, the company's enterprise had a delegate's rights clause and Rhys had the wherewithal to dispute these actions such that he was ultimately paid correctly. The brazenness of this employer to attempt to apply undue pressure in such a manner, even with an Agreement containing delegate clauses in place, highlights the need for stronger legislation to protect delegates who don't get the benefit of such clauses.

Case Study: Renewable storage in Victoria getting it right

Construction firm UGL demonstrated that it is possible to balance the fair treatment of workers and still deliver quality work on time and on budget with Geelong's Big Battery project. The project engaged a diverse workforce, offered upskilling and apprenticeship opportunities, met union demands for strong wages and conditions, ensured that 'top up' contractors for peak construction came from local businesses with similar union agreements, and afforded strong rights to elected delegates on site. Delegates on the project were not only afforded strong rights, but were able to freely exercise them, contributing to a more productive, safe, and fair workplace environment for all employees. The ability for delegates to do their job and be listened to by employers meant that any issues were resolved quickly and workers were able to focus their efforts on completing the project on time and to a high standard.

Mirroring the scope of the general protections provisions

While recognising the progress made by the Bill's provisions protecting delegates rights, they do not mirror the Act's general protections provisions. This is because the delegates' rights protections arguably only apply to action actually taken and not action that is planned but not yet taken. We therefore propose that the scope of the delegates' rights protections should be expanded to include "threatening and organising" the actions covered by proposed ss 350A(1) and 350B(1), which would mirror s 342(2).

Implementing the International Labour Organisation (ILO) Convention 135

Convention 135 of the ILO, which has been ratified by Australia, provides stronger rights and protections for delegates than those provided for by the Bill. Accordingly, the ETU recommends that the Bill be strengthened by enacting a new Division in Part 3-1 General Protections which provides for:

- A right for employees to be represented by a delegate in the workplace.
- An entitlement for delegates to paid leave beyond training.
- A right for delegates to engage in discussions with workers and other union officers during work time.
- An explicit right for delegates to use an employer's facilities to communicate with members and their union.
- A right for employees to attend union meetings.
- The ability for the FWC to resolve disputes, including by arbitration, over delegates' rights.

Recommendations

Labour hire provisions

The ETU recommends that the labour hire provisions should be strengthened by:

1. removing the trainee exemption;
2. streamlining provisions for extension and variation of regulated labour hire arrangement orders to deal with the consecutive and/or multiple engagement of suppliers by hosts; and
3. expressly permitting applications for regulated labour hire arrangement orders to be heard together in appropriate circumstances.

Delegates' rights

The ETU recommends that the delegates' rights provisions should be strengthened by:

4. mirroring the scope of the general protections provisions.