The Parliament of the Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As passed by both Houses

Fair Work Amendment (Respect for Emergency Services Volunteers) Bill 2016

No. , 2016

A Bill for an Act to amend the Fair Work Act 2009, and for related purposes

## 1 Short title 1 2 Commencement 1 3 Schedules 2 Schedule 1—Amendments 3 Fair Work Act 2009 3

1 2	A Bill for an Act to amend the Fair Work Act 2009, and for related purposes		
3	The Parliament of Australia enacts:		
4	1 Short title		
5 6	This Act is the Fair Work Amendment (Respect for Emergency Services Volunteers) Act 2016.		
7	2 Commencement		
8	(1) Each provision of this Act specified in column 1 of the table		
9	commences, or is taken to have commenced, in accordance with		
10	column 2 of the table. Any other statement in column 2 has effect		
11	according to its terms.		

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	f The day after this Act receives the Roya Assent.	1
No	te: This table relates only to the provisions of enacted. It will not be amended to deal wit this Act.	<i>C</i> ,
In	ny information in column 3 of the table is formation may be inserted in this column, ay be edited, in any published version of the	or information in it
3 Schedules		
Le	gislation that is specified in a Schedule to	this Act is amended or

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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

So	chedule 1	—Amendments
Fa	uir Work Act	2009
1	Section 12	
	Insert:	
		ated emergency management body: see tions 195A(4) and (5).
	•	ionable emergency management term of an enterprise nent: see section 195A.
		<i>eer</i> of a designated emergency management body: see tion 195A(6).
2	At the end of	subsection 29(2)
	Add:	
	Note:	In addition, a term of an enterprise agreement could be an unlawful term and of no effect if it requires or permits a designated emergency management body to act other than in accordance with a State or Territory law and this affects or could affect the body's volunteers (see paragraphs 194(baa), 195A(1)(d) and 253(1)(b)).
3	After paragra	aph 194(b)
	Insert:	
	(baa) a	in objectionable emergency management term; or
4	At the end of	Subdivision D of Division 4 of Part 2-4
	Add:	
195	5A Meaning o	of objectionable emergency management term
	Object	ionable emergency management term
	(1) A term	of an enterprise agreement is an <i>objectionable emergency</i>
		gement term if an employer covered by the agreement is a
	_	ated emergency management body and the term has, or is
	likely 1	to have, the effect of:

1 2	(a) restricting or limiting the body's ability to do any of the following:
3	(i) engage or deploy its volunteers;
4	(ii) provide support or equipment to those volunteers;
5	(iii) manage its relationship with, or work with, any
6	recognised emergency management body in relation to
7	those volunteers;
8	(iv) otherwise manage its operations in relation to those
9	volunteers; or
10	(b) requiring the body to consult, or reach agreement with, any
11	other person or body before taking any action for the
12	purposes of doing anything mentioned in subparagraph (a)(i).
13	(ii), (iii) or (iv); or
14	(c) restricting or limiting the body's ability to recognise, value,
15	respect or promote the contribution of its volunteers to the
16	well-being and safety of the community; or
17	(d) requiring or permitting the body to act other than in
18	accordance with a law of a State or Territory, so far as the
19	law confers or imposes on the body a power, function or duty
20	that affects or could affect its volunteers.
21	(2) However, a term of an enterprise agreement is not an objectionable
22	emergency management term if:
23	(a) both of the following apply:
24	(i) the term provides for the matters required by
25	subsections 205(1) and (1A) (which deal with terms
26	about consultation in enterprise agreements);
27	(ii) the term does not provide for any other matter that has,
28	or is likely to have, the effect referred to in
29	paragraph (1)(a), (b), (c) or (d) of this section; or
30	(b) the term is the model consultation term.
31	(3) Paragraphs (1)(a), (b), (c) and (d) do not limit each other.
32	Meaning of designated emergency management body
33	(4) A body is a designated emergency management body if:
34	(a) either:

1 2	(i) the body is, or is a part of, a fire-fighting body or a State Emergency Service of a State or Territory (however
3	described); or
4	(ii) the body is a recognised emergency management body
5	that is prescribed by the regulations for the purposes of
6	this subparagraph; and
7	(b) the body is, or is a part of a body that is, established for a
8	public purpose by or under a law of the Commonwealth, a
9	State or a Territory.
10	(5) However, a body is not a designated emergency management
11	body if the body is, or is a part of a body that is, prescribed by the
12	regulations for the purposes of this subsection.
13	Meaning of volunteer of a designated emergency management
14	body
15	(6) A person is a <i>volunteer</i> of a designated emergency management
16	body if:
17	(a) the person engages in activities with the body on a voluntary
18	basis (whether or not the person directly or indirectly takes or
19	agrees to take an honorarium, gratuity or similar payment
20	wholly or partly for engaging in the activity); and
21	(b) the person is a member of, or has a member-like association
22	with, the body.
23	Limited application of subsection (1) for certain terms
24	(7) If:
25	(a) a term of an enterprise agreement deals to any extent with the
26	following matters relating to provision of essential services
27	or to situations of emergency:
28	(i) directions to perform work (including to perform work
29	at a particular time or place, or in a particular way);
30	(ii) directions not to perform work (including not to perform
31	work at a particular time or place, or in a particular
32	way); and
33	(b) the application of subsection (1) in relation to the term would
34	(apart from this subsection) be beyond the Commonwealth's

1 2	legislative power to the extent that the term deals with those matters;
3	then subsection (1) does not apply in relation to the term to that extent.
5 6	Note: See paragraph (1) of the definition of <i>excluded subject matter</i> in subsections 30A(1) and 30K(1).
7	5 Subsection 205(2)
8	After "a consultation term,", insert "or if the consultation term is an objectionable emergency management term,".
10	6 After section 254
11	Insert:
12	254A Entitlement for volunteer bodies to make submissions
13 14	<ul><li>(1) A body covered by subsection (2) is entitled to make a submission for consideration in relation to a matter before the FWC if:</li><li>(a) the matter arises under this Part; and</li></ul>
15 16 17	<ul><li>(a) the matter arises under this rait, and</li><li>(b) the matter affects, or could affect, the volunteers of a designated emergency management body.</li></ul>
18	(2) The bodies are as follows:
19	(a) a body corporate that:
20 21 22	(i) has a history of representing the interests of the designated emergency management body's volunteers; and
23 24	<ul><li>(ii) is not prescribed by the regulations for the purposes of this subparagraph;</li></ul>
25 26	(b) any other body that is prescribed by the regulations for the purposes of this paragraph.
27 28	(3) Subsection (1) applies whether or not the FWC holds a hearing in relation to the matter.
29	7 Section 258 (paragraph relating to Division 7)
30	Repeal the paragraph, substitute:

	Division 7 deals with other matters relating to workplace determinations.
8 After s	ection 281
Inse	ert:
281AA E	ntitlement for volunteer bodies to make submissions
(1)	A body covered by subsection (2) is entitled to make a submission for consideration in relation to a matter before the FWC if:
	(a) the matter arises under this Part; and
	<ul><li>(b) the matter affects, or could affect, the volunteers of a designated emergency management body.</li></ul>
(2)	The bodies are as follows:
	(a) a body corporate that:
	(i) has a history of representing the interests of the
	designated emergency management body's volunteers; and
	<ul><li>(ii) is not prescribed by the regulations for the purposes of this subparagraph;</li></ul>
	(b) any other body that is prescribed by the regulations for the purposes of this paragraph.
(3)	Subsection (1) applies whether or not the FWC holds a hearing in relation to the matter.
9 In the a	appropriate position in Schedule 1
Inse	ert:
Part 3–	-Amendments made by the Fair Work Amendment (Respect for Emergency Services Volunteers) Act 2016
13 Definit	tions
	In this Part:

1		amended Act means this Act as amended by the Fair Work
2		Amendment (Respect for Emergency Services Volunteers) Act
3		2016.
4		commencement means the commencement of this Part.
5	14 Applica	ation of amendments—objectionable emergency
6		management terms
7		Application of amendments
8	(1)	The amended Act applies, after commencement, in relation to
9	(-)	enterprise agreements approved, and workplace determinations
10		made, before or after commencement.
11	(2)	Sections 254A and 281AA of the amended Act apply in relation to
12		a matter that is before the FWC on or after commencement, even if
13		the matter was before the FWC before commencement.
14		Enterprise agreements approved before commencement—
15		preservation of terms in accordance with amended Act
16	(3)	If an enterprise agreement approved before commencement
17		includes an objectionable emergency management term, a term of
18		the agreement has effect after commencement to the extent that:
19		(a) the term can have effect in accordance with the amended Act
20		and
21		(b) it would not exceed the Commonwealth's legislative power
22		for the term so to have effect.
23		