

Fair Work Act 2009 (Cth)

DELEGATIONS OF POWERS AND FUNCTIONS

I, Sandra Parker, the Fair Work Ombudsman appointed under section 687 of the *Fair Work Act 2009 (Cth)* (**FW Act**):

- revoke all previous delegations made by the Fair Work Ombudsman under the FW Act; and
- pursuant to section 683 of the FW Act, delegate the powers and functions specified in column A of the table to the staff members of the Office of the Fair Work Ombudsman holding, occupying, or performing from time to time the duties of a position identified in column B of the following table:

COLUMN A - Power/Function	COLUMN B - Delegate(s)
UNCLAIMED MONEY	
Determine that a person is entitled to an amount payable in accordance with subsection 559(3) of the FW Act	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Finance, Assurance and Business Services • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education
Pay an amount of unclaimed money to a person in accordance with subsection 559(3) of the FW Act and associated interest, if payable in accordance with subsection 559(3A) of the FW Act	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Finance, Assurance and Business Services • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education
REPRESENTATION	
Determine in accordance with subsection 682(1)(f) of the FW Act that representation of an employee or outworker who is a party to proceedings in a court or a matter before the Fair Work Commission, under the FW Act or a fair work instrument, will promote compliance with the FW Act or the fair work instrument	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel

APPOINTMENT OF FAIR WORK INSPECTORS	
Appoint members of the staff of the Office of the Fair Work Ombudsman as Fair Work Inspectors in accordance with subsection 700(1) of the FW Act and to remove or suspend the appointment of a Fair Work Inspector (in accordance with subsection 33(4) of the <i>Acts Interpretation Act 1901</i> (Cth).	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel
Be satisfied that a person is of 'good character' for the purposes of appointing that person to be a Fair Work Inspector in accordance with subsection 700(2) of the FW Act	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel
Issue an identity card in the prescribed form to a Fair Work Inspector in accordance with subsection 702(1) of the FW Act	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel
ACCOMPANY FAIR WORK INSPECTORS	
Determine that a person may accompany an Fair Work Inspector onto premises to assist the Fair Work Inspector in accordance with subsection 710(1) of the FW Act	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Executive Level 2 employees in Compliance and Enforcement or Proactive Compliance
FWO NOTICES	
Form a belief on reasonable grounds and apply in writing to a nominated AAT presidential member for the issue of a FWO notice under subsection 712AA(1) of the FW Act, including: <ul style="list-style-type: none"> • making an affidavit under subsection 712AA(5) of the FW Act to accompany a written application for a FWO notice; • receiving a request for further information from a nominated AAT presidential member under subsection 712AA(6) of the FW Act in relation to an application for a FWO notice; and • giving further information in writing to a nominated AAT presidential member under subsection 712AA(7) of the FW Act 	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education
Give a FWO notice under subsection 712AD(1) of the FW Act to the person in relation to whom it is issued	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education

<p>Give notice to a person of a time later than the time specified in a FWO notice given to a person in accordance with subsection 712AD(3) or 712AD(4) of the FW Act</p>	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education
<p>Notify the Commonwealth Ombudsman of the issue of a FWO notice under subsection 712E(1) of the FW Act, and give a copy of the FWO notice, affidavit that accompanied the application for the FWO notice, and any other information in relation to the FWO notice that was given to the nominated AAT presidential member who issued the notice in accordance with section 712AB of the FW Act</p>	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel
<p>Notify the Commonwealth Ombudsman under subsection 712E(2) of the FW Act of any notice given to a person of a time later than the time specified in a FWO notice in accordance with subsection 712AD(3) or subsection 712AD(4) of the FW Act</p>	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel
<p>Give the Commonwealth Ombudsman under subsection 712F(1) of the FW Act a report, video recording and transcript of an examination of a person conducted under subsection 712AA(2)(c) of the FW Act</p>	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel
<p>ENFORCEABLE UNDERTAKINGS</p>	
<p>Form a reasonable belief that a person has contravened a civil remedy provision in accordance with subsection 715(1) of the FW Act for the purposes of accepting an enforceable undertaking under subsection 715(2) of the FW Act</p>	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel
<p>Accept a written undertaking in accordance with subsection 715(2) of the FW Act</p>	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Chief Counsel • Executive Director - Compliance and Enforcement (for matters concerning underpayments of less than \$200,000) • Executive Director - Proactive Compliance and Education (for matters concerning underpayments of less than \$200,000)

<p>Provide consent to a person to withdraw or vary an undertaking in accordance with subsection 715(3) of the FW Act</p>	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Chief Counsel • Executive Director - Compliance and Enforcement (for matters concerning underpayments of less than \$200,000) • Executive Director - Proactive Compliance and Education (for matters concerning underpayments of less than \$200,000)
<p>Consider that a person who has given an undertaking has contravened any of its terms in accordance with subsection 715(6) of the FW Act</p>	<ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Chief Counsel • Executive Director - Compliance and Enforcement (for matters concerning underpayments of less than \$200,000) • Executive Director - Proactive Compliance and Education (for matters concerning underpayments of less than \$200,000)
<p>DISCLOSING INFORMATION</p>	
<p>Form a reasonable belief that it is necessary or appropriate for information, other than information obtained under a FWO notice issued pursuant to section 712AB of the FW Act, to be disclosed, and disclose, or authorise the disclosure of, the information in accordance with subsection 718(2) of the FW Act</p>	<ul style="list-style-type: none"> • Subject to the third direction below, members of staff engaged at Executive Level 1 or above
<p>Form a reasonable belief that it is necessary or appropriate for information, other than information obtained under a FWO notice issued pursuant to section 712AB of the FW Act, to be disclosed to the Minister, and disclose, or authorise the disclosure of, the information in accordance with subsection 718(3) of the FW Act</p>	<ul style="list-style-type: none"> • Members of staff engaged at the Senior Executive Service level • Executive Level 2, Director - Policy • Executive Level 2, Director - Media
<p>Form a reasonable belief that it is necessary or appropriate for information, other than information obtained under a FWO notice issued pursuant to section 712AB of the FW Act, to be disclosed to the Department and disclose, or authorise the disclosure of, the information in accordance with subsection 718(4) of the FW Act</p>	<ul style="list-style-type: none"> • Members of staff engaged at the Senior Executive Service level • Executive Level 2, Director - Policy • Executive Level 2, Director - Media
<p>Form a reasonable belief that it is necessary or appropriate for information obtained under a FWO notice issued pursuant to section 712AB of the FW Act to be disclosed, and disclose, or authorise the disclosure of, the information in accordance with subsection 718(2) of the FW Act</p>	<p>Subject to the fourth direction below:</p> <ul style="list-style-type: none"> • Deputy Fair Work Ombudsman - Operations • Deputy Fair Work Ombudsman - Corporate • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Chief Counsel

<p>Form a reasonable belief that it is necessary or appropriate for information obtained under a FWO notice issued pursuant to section 712AB of the FW Act to be disclosed and disclose, or authorise the disclosure of, the information:</p> <ul style="list-style-type: none"> • to the Minister in accordance with subsection 718(3) of the FW Act; or • to the Department in accordance with subsection 718(4) of the FW Act 	<ul style="list-style-type: none"> • Members of staff engaged as a Deputy Fair Work Ombudsman • Executive Director - Compliance and Enforcement • Executive Director - Proactive Compliance and Education • Executive Director - Policy, Analysis and Reporting • Chief Counsel
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Directions

In accordance with subsection 683(2) of the FW Act, in performing functions or exercising powers under a delegation, the delegate must comply with directions I make from time to time.

I direct that:

1. the Deputy Fair Work Ombudsman - Corporate is to keep and maintain a register of all Fair Work Inspectors appointed under subsection 700(1) of the FW Act;
2. the Deputy Fair Work Ombudsman - Operations, Deputy Fair Work Ombudsman - Corporate and members of the Senior Executive Service in the Operations Group are to maintain arrangements that ensure identity cards issued under subsection 702(1) of the FW Act are returned on expiry of an appointment or on termination of employment of a person appointed as a Fair Work Inspector;
3. a delegate performing functions or exercising powers under subsection 718(2) of the FW Act in relation to a document or record produced under subsection 709(d) or subsection 712(1) of the FW Act must consider the effect of the use/derivative use indemnity in subsection 713(2) of the FW Act in forming a reasonable belief that it is necessary or appropriate to disclose, or authorise the disclosure of, the information for a purpose in subsection 718(2) of the FW Act; and
4. a delegate performing functions or exercising powers under subsection 718(2) of the FW Act in relation to information given, a document or record produced or answers given pursuant to a FWO notice, in forming a reasonable belief that it is necessary or appropriate to disclose, or authorise the disclosure of, the information for a purpose in subsection 718(2) of the FW Act, must consider the effect of the protection from liability in section 712D and the use indemnity in subsection 713(3) of the FW Act.

This instrument takes effect on and from the date of signing.

Dated: 1 October 2018



Sandra Parker PSM
Fair Work Ombudsman