

66M Disputes about the operation of this Division

Application of this section

- (1) This section applies to a dispute between an employer and employee about the operation of this Division.
- (2) However, this section does not apply in relation to the dispute if any of the following includes a term that provides a procedure for dealing with the dispute:
 - (a) a fair work instrument that applies to the employee;
 - (b) the employee's contract of employment;
 - (c) another written agreement between the employer and employee.

Note: Modern awards and enterprise agreements must include a term that provides a procedure for settling disputes in relation to the National Employment Standards (see paragraph 146(b) and subsection 186(6)).

Resolving disputes

- (3) In the first instance, the parties to the dispute must attempt to resolve the dispute at the workplace level, by discussions between the parties.

FWC may deal with disputes

- (4) If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the dispute to the FWC.
- (5) If a dispute is referred under subsection (4):
 - (a) the FWC must deal with the dispute; and
 - (b) if the parties notify the FWC that they agree to the FWC arbitrating the dispute—the FWC may deal with the dispute by arbitration.

Note: For the purposes of paragraph (a), the FWC may deal with the dispute as it considers appropriate, including by mediation, conciliation, making a recommendation or expressing an opinion (see subsection 595(2)).

Representatives

- (6) The employer or employee to the dispute may appoint a person or industrial association to provide the employer or employee (as the case may be) with support or representation for the purposes of resolving, or the FWC dealing with, the dispute.

Note: A person may be represented by a lawyer or paid agent in a matter before the FWC only with the permission of the FWC (see section 596).