

**Attachment A: Right to disconnect term for the *Business Equipment Award 2020***

**12A. Employee right to disconnect**

**12A.1** Clause 12A provides for the exercise of an employee’s right to disconnect under section 333M of the Act.

NOTE:

- (a) Section 333M provides that, unless it is unreasonable to do so, an employee may refuse to monitor, read or respond to contact, or attempted contact, from:
  - (1) their employer outside of the employee’s working hours,
  - (2) a third party if the contact or attempted contact relates to their work and is outside of the employee’s working hours.
- (b) Section 333M(3) lists matters that must be taken into account in determining whether an employee’s refusal is unreasonable.
- (c) Section 333M(5) provides that an employee’s refusal will be unreasonable if the contact or attempted contact is required under a law of the Commonwealth, a State or a Territory.
- (d) Section 333N provides for the resolution of disputes about whether an employee’s refusal is unreasonable and about the operation of section 333M.
- (e) The general protections in Part 3-1 of the Act prohibit an employer taking adverse action against an employee because of the employee’s right to disconnect under section 333M of the Act.

**12A.2** Clause 12A applies from the following dates:

- (a) 26 August 2024—for employers that are not small business employers on this date and their employees.
- (b) 26 August 2025—for employers that are small business employers on 26 August 2024 and their employees.

**12A.3** An employer must not directly or indirectly prevent an employee from exercising their right to disconnect under the Act.

**12A.4** Clause 12A.3 does not prevent an employer from requiring an employee to monitor, read or respond to contact, or attempted contact, from the employer outside of the employee’s working hours where:

- (a) the employee is being paid the stand-by allowance under clause 20.5; and
- (b) the employer’s contact is to notify the employee that they are required to attend or perform work or give other notice about the stand-by.

**12A.5** Clause 12A.3 does not prevent an employer from contacting, or attempting to contact, an employee outside of the employee’s working hours in circumstances including to notify them of:

- (a) an emergency roster change under clause 12.3(a)(iii); or
- (b) a recall to work under clause 20.4.

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