



About the F81 application form

Application to extend the default period for a zombie agreement

About zombie agreements

'Zombie agreement' is the name given to certain agreements made before the *Fair Work Act 2009* commenced (or fully commenced) and that continue to operate. They could be:

- Agreement-based transitional instruments
- Division 2B State employment agreements, or
- Enterprise agreements made under the Fair Work Act during the bridging period (1 July 2009 to 31 December 2009).

A zombie agreement will terminate (sunset) at the end of 6 December 2023 after a **default period** of 12 months beginning on 7 December 2022, unless the Fair Work Commission has extended the default period.

Before a zombie agreement terminates, an application can be made to the Commission to extend the default period by no more than 4 years. If the Commission extends the default period, the zombie agreement will terminate on the date specified in the Commission's decision.

Generally, the Commission must extend the default period if satisfied:

- it is reasonable in the circumstances to do so, **or**
- it is otherwise appropriate in the circumstances to extend the default period and one of the following applies:
 - bargaining is occurring for a new enterprise agreement that would cover the employee or group of employees covered by the zombie agreement (or substantially the same group), **or**
 - the employee or employees would be better off overall if the zombie agreement continued to apply to them than if the relevant modern award applied.

For more information on zombie agreements see the [Sunsetting of zombie agreements](#) pages on the Commission's website.

Who can use this form

Use this form if you want to make an application to the Commission to extend the default period for a zombie agreement.

You can make an application if you are:

- an employer covered by the zombie agreement, or
- an employee covered by the zombie agreement, or
- an industrial association entitled to represent employee(s) covered by the zombie agreement.

Lodgment of your completed form

1. **Lodge your application** and any supporting documents with the Commission. **You must include a copy of the zombie agreement with your application.**
2. You can lodge your application by post, fax or email, or in person to the [Commission office](#) in your state or territory.
3. **As soon as practicable** after this application is lodged with the Commission, **serve a copy** of this application:
 - if the application relates to an individual agreement, you must serve the other party covered by the agreement
 - if the application relates to a collective agreement, you must serve each employer covered by the agreement and each industrial association entitled to represent employee/s covered by the agreement

Where to get help

Commission staff & resources

Commission staff cannot provide legal advice. However, staff can give you information on:

- Commission processes
- how to make an application to the Commission
- how to fill out forms
- where to find useful documents such as legislation and decisions
- other organisations that may be able to assist you.

The Commission's website www.fwc.gov.au also contains a range of information that may assist.

Throughout this form



This icon appears throughout the form. It indicates information to help you answer the question following.

Legal or other representation

Representation is where another person (such as a family member or friend, lawyer or paid agent, or an employee of a union or employer organisation) speaks or acts on a person's behalf, or assists a person in certain other ways in relation to a matter before the Commission. There is no requirement to be represented at the Commission.

There are some restrictions on representation by a lawyer or paid agent.

Generally, a person must give notice to the Commission (by lodging a Form F53 – Notice that a person: (a) has a lawyer or paid agent; or (b) will seek permission for a lawyer or paid agent to participate in a conference or hearing) and seek permission from the Commission Member dealing with the matter if they wish to have a lawyer or paid agent represent them by participating in a conference or a hearing.

Apart from participating in a conference or hearing, a person's lawyer or paid agent can represent them without permission, unless the Commission decides otherwise. For example, the lawyer or paid

agent can prepare and lodge written applications, responses and submissions with the Commission, and communicate in writing with the Commission and other parties to the matter on the person's behalf.

The requirement to give notice and seek permission for a lawyer or paid agent to participate in a conference or hearing, does not apply if the lawyer or paid agent is:

- an employee or officer of the person or
- a bargaining representative that is representing the person or
- an employee or officer of an employee or employer organisation, or an association of employers or a peak council, that is representing the person.

Rule 12(2) of the [Fair Work Commission Rules 2013](#) sets out further exceptions to the requirement to give notice and seek permission.

For more information about representation by lawyers and paid agents, see section 596 of the [Fair Work Act 2009](#), rules 11, 12 and 12A of the [Fair Work Commission Rules 2013](#) and the Commission's [practice note on representation by lawyers and paid agents](#).

Glossary of common terms

Applicant – This is the person or organisation that is making an application.

Lawyer – This is a person who is admitted to the legal profession by a Supreme Court of a state or territory.

Paid agent – In relation to a matter before the Commission, this is an agent (other than a bargaining representative) who charges or receives a fee to represent a person in the matter.

Party – A party is an Applicant, a Respondent or another person or organisation involved in a matter or case that is brought to the Commission.

Respondent – The person or business responding to an application made by an applicant.

Service – Serving a document means giving a copy of the document to a person or organisation, usually to the other party to the matter. You can serve a document in a number of ways, including by email, fax, express or registered post, or in person. Parts 7 and 8 of the [Fair Work Commission Rules 2013](#) deal with service.

Privacy

The Commission collects the information (including personal information) provided to it in this form in order to deal with the application to extend the default period for a zombie agreement. The information will be included on the case file, and the Commission may disclose the information to the other parties to this matter and to other persons. For more details of the Commission's collection, use and disclosure of this information, please see the [Privacy notice](#) for this form, or ask for a hard copy to be provided to you.



Remove this cover sheet and keep it for future reference – it contains useful information

Form F81 – Application to extend the default period for a zombie agreement

[Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009](#), item 20A of Schedule 3, item 26A of Schedule 3A and item 30 of Schedule 7

[Fair Work Commission Rules 2013](#), Schedule 1

This is an application to the Fair Work Commission to extend the default period for a zombie agreement.

The Applicant



These are the details of the person or organisation making the application.

Legal name of Applicant			
Applicant's ACN (if a company)			
Applicant's trading name or registered business name (if applicable)			
Applicant's ABN (if applicable)			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

What is the Applicant?

- An employer covered by the zombie agreement
- An employee covered by the zombie agreement
- An industrial association entitled to represent the employee(s) covered by the zombie agreement

Does the Applicant have a representative?



A representative is a person or organisation who is representing the Applicant. There is no requirement to have a representative.

Yes – Provide representative’s details below

No – Go to question 1

Applicant’s representative



These are the details of the person or organisation who is representing the Applicant (if any).

Name of person			
Firm, organisation or company			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

Is the representative a lawyer or paid agent?

Yes

No

1. The agreement

1.1 What is the name of the zombie agreement?



Write the name exactly as it appears in the title clause of the agreement.

If you can, include: the agreement ID/code number and the date the agreement was approved.

You must attach a copy of the zombie agreement to your application.

1.2 What type of agreement is the zombie agreement?



See [Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009](#), Schedule 3, Schedule 3A and Schedule 7.

- A collective agreement (an agreement between employer(s) and a group of employees)
- An individual agreement (an agreement between an employer and an employee)

2. The application

2.1 Which application is being made?

- application to extend the default period for an agreement-based transitional instrument (see item 20A(4) of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*)
- application to extend the default period for a Division 2B State employment agreement (see item 26A(4) of Schedule 3A to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*)
- application to extend the default period for an enterprise agreement made during the bridging period (see item 30(4) of Schedule 7 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*)

2.2 Are you aware of any previous applications to extend the default period for the zombie agreement?

- Yes – Go to Q2.3
- No – Go to Q2.4

2.3 Please provide details of all previous applications you are aware of that have been made to the Commission to extend the default period for the zombie agreement.



If you can, include: the date of the application/s, the matter number of the application/s, the date of the Commission's decision/s, the name of the Commission Member who dealt with the application/s and the result of the application/s.

2.4 What date is the zombie agreement currently due to terminate (sunset)?



This will be the end of 6 December 2023 unless the Commission has previously extended the default period for the zombie agreement.

2.5 What date do you want the default period for the zombie agreement extended to?



If the Commission decides to extend the default period to this day, the zombie agreement will terminate (sunset) at the end of this day.

2.6 Why should the Commission extend the default period for the zombie agreement to the date you have given?



See [Fair Work \(Transitional Provisions and Consequential Amendments\) Act 2009](#), item 20A of Schedule 3, item 26 of Schedule 3A or item 30 of Schedule 7.

Generally, the Commission must extend the default period if satisfied:

- it is reasonable in the circumstances to do so, or
- it is otherwise appropriate in the circumstances to extend the default period and one of the following applies:
 - bargaining is occurring for a new enterprise agreement that would cover the employee or group of employees covered by the zombie agreement (or substantially the same group), or
 - the employee or employees would be better off overall if the zombie agreement continued to apply to them than if the relevant modern award applied.

3. Employer(s) covered by the agreement

3.1 Please provide details of the employer(s) covered by the zombie agreement:

Legal name of employer			
Employer's ACN (if a company)			
Employer's trading name or registered business name (if applicable)			
Employer's ABN			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

Attach additional pages if necessary

3.2 What is the industry of the employer(s) covered by the zombie agreement?

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4. Employee organisation(s) covered by the agreement

4.1 Please provide details of the employee organisation(s) (if any) covered by the zombie agreement:

Name of employee organisation			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	

Phone number		Fax number	
Email address			

Attach additional pages if necessary



Only answer section 5 if you are applying to extend the default period for an individual zombie agreement **AND** you are not the employee covered by the agreement.

5. Employee covered by an individual zombie agreement

5.1 Please provide details of the employee covered by the individual zombie agreement:

Title	[<input type="checkbox"/>] Mr [<input type="checkbox"/>] Mrs [<input type="checkbox"/>] Ms [<input type="checkbox"/>] Other please specify:		
First name(s)			
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	
Name	
Date	
Capacity/Position	



If you are not the Applicant and are completing and signing this form on the Applicant's behalf, include an explanation of your authority to do so in the **Capacity/Position** section above.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS