



Form F23C application form

Application for the Commission to vary an enterprise agreement to resolve an uncertainty or difficulty about the definition of casual employee or casual conversion rights

The Form F23C is an application for the Fair Work Commission to vary an enterprise agreement to:

- resolve an uncertainty or difficulty concerning the agreement and the definition of casual employee (in s.15A of the [Fair Work Act 2009](#)) **or**
- resolve an uncertainty or difficulty concerning the agreement and the casual conversion provisions (in Division 4A of Part 2-2 of the [Fair Work Act 2009](#)) **or**
- make the agreement operate effectively with s.15A or Division 4A of Part 2-2 of the [Fair Work Act 2009](#).

The Commission can vary an enterprise agreement retrospectively.

For information about the process to vary an enterprise agreement see the [Vary an agreement](#) page on the Commission's website.

When to use this form

Use this form if:

- you are an **employer, employee or employee organisation** covered by an enterprise agreement that was made before 27 March 2021 (or you are completing this form for such an employer, employee or employee organisation) **and**
- you want the Commission to vary the agreement to resolve an uncertainty or difficulty concerning the agreement and the definition of casual employee or the casual conversion provisions in the [Fair Work Act 2009](#), or to make the agreement operate effectively with that definition or those provisions

Lodging and serving your completed form

1. **Lodge your application** and any supporting documents by post, fax, email, or in person at the [Commission office](#) in your state or territory.
2. **Serve a copy** of this application and any supporting documentation on each employer **and** each employee organisation that is covered by the enterprise agreement as soon as practicable after the application is lodged with the Commission.

Throughout this form



This icon appears throughout the form. It indicates information to help you answer questions on the form.

There is more helpful information in the **Information sheet** at the end of this form.

Form F23C – Application for the Commission to vary an enterprise agreement to resolve an uncertainty or difficulty about the definition of casual employee or casual conversion rights

[Fair Work Act 2009](#), clause 45 in Part 10 of Schedule 1.

This is an application under clause 45 in Part 10 of Schedule 1 of the [Fair Work Act 2009](#) for the Fair Work Commission to make a determination varying an enterprise agreement to:

- resolve an uncertainty or difficulty concerning the agreement and the definition of casual employee in s.15A (including the circumstances in which employees are to be employed as casual employees under the agreement) **or**
- resolve an uncertainty or difficulty concerning the agreement and the casual conversion provisions in Division 4A of Part 2-2 of the [Fair Work Act 2009](#) **or**
- make the agreement operate effectively with s.15A or Division 4A of Part 2-2 of the [Fair Work Act 2009](#).

This Form cannot be used to apply for a variation of an enterprise agreement if the agreement was made on or after 27 March 2021.

The Applicant (you)



This is information about you. You should provide a telephone number. It is important that we can contact you so that we can deal with your application.

I am an employer covered by the agreement

Legal name			
ACN/ABN			
Trading name or registered business name			
Name of person we can contact			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

[] I am an employee covered by the agreement

Name			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

[] I am an employee organisation (union) covered by the agreement

Legal name			
ACN/ABN			
Trading name or registered business name			
Name of person we can contact			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

Are you aware of any other application that has been lodged or dealt with by the Commission that is identical, similar or related to this application?

Yes

No

If you answered **Yes** – tell us the name of the enterprise agreement that was referred to in that application.

--

Do you need an interpreter?



If you need an interpreter (other than a friend or family member) to help you in a conference or hearing, we can organise one for you. The service is free. You can find out more about [help for non-English speakers](#) on our website.

Yes – what language?

No

Do you need any special assistance at a hearing or conference (eg, do you have hearing difficulties)?



If you answer yes, we will contact you before a hearing or conference to see if there is anything we can reasonably do to help you.

Yes – what do you need?

No

Do you have a representative?



A **representative** is a person or organisation that is representing you. This might be a lawyer or paid agent, a union, or a family member or friend. You do not need to have a representative.

Yes – tell us below about your representative

No

Your representative



These are the details of the person or organisation that is representing you (if any). If you don't have a representative, write N/A.

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

Is your representative a lawyer or paid agent?



A lawyer is a person who is admitted to the legal profession by a Supreme Court of a State or Territory. A paid agent is an agent who charges or receives a fee to represent you in this case.

[] Yes

[] No

1. The agreement

1.1 What is the name of the agreement that you would like the Commission to vary?



Write the name exactly as it appears in the title of the agreement and include the Agreement ID/Code Number if known.

This Form cannot be used to apply for a variation of an enterprise agreement if the agreement was made on or after 27 March 2021.

--

2. The employer(s)

2.1 How many employers are covered by the agreement?

Number of employers:	
-----------------------------	--

2.2 What is the industry of the employer or employers covered by the agreement?

--

2.3 Who are the employers covered by the agreement?



Provide the details of all employers covered by the agreement.

If you (the Applicant) are an employer covered by the agreement, you don't need to re-enter your details below, but you need to provide the details of any other employers covered by the agreement.

Legal name of employer	
ACN/ABN	

Trading name or registered business name			
Name of person we can contact			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

Attach additional pages if necessary

2.4 Are any of the employers covered by the agreement as a result of a transfer of business?



See ss.310 to 313 of the [Fair Work Act 2009](#) for when the transfer of business from one employer to another means the new employer is covered by an enterprise agreement.

Yes

No

If you answered **Yes** – Provide the details below:

--

3. Employee organisations

3.1 Are any employee organisations (unions) covered by the agreement?

Yes

No

If you answered **Yes** – Provide the details of all employee organisation(s).

Legal name of employee organisation			
ACN/ABN			
Trading name or registered business name			

Form F23C – Application for the Commission to vary an enterprise agreement to resolve an uncertainty or difficulty about the definition of casual employee or casual conversion rights

Name of person we can contact			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

Attach additional pages if necessary.

4. What variation are you seeking?



Using numbered paragraphs, tell us **how** and **why** you would like the Commission to vary the enterprise agreement.

For example, does the agreement:

- define casual employee in a way that is inconsistent (or might be inconsistent) with the definition in s.15A of the [Fair Work Act 2009](#)?
- limit the circumstances in which employees are to be employed as casuals?
- contain a right for a casual employee to request conversion to full-time or part-time employment that is inconsistent (or might be inconsistent) with an employer's obligation to offer conversion or an employee's right to request conversion under Division 4A of Part 2-2 of the [Fair Work Act 2009](#)?

Is there a way the agreement can be varied so that it operates effectively with:

- the definition of casual employee in s.15A of the [Fair Work Act 2009](#) or
- the casual conversion provisions in Division 4A of Part 2-2 of the [Fair Work Act 2009](#)?

Note that the Commission can vary an enterprise agreement retrospectively.

Attach additional pages if necessary.

5. List all clauses of the agreement that deal with the definition of casual employee and/or the conversion of casual employees to full-time or part-time employment

Attach additional pages if necessary

Signature



If you can use an electronic signature, please insert it below beside 'Signature'. If do not have an electronic signature, you can type your name beside 'Signature'. You will also need to fill in your name again beside 'Name' and fill in the date.

You can leave the 'Capacity/Position' blank if you are the Applicant. If you are signing on behalf of the Applicant, include your role in the **Capacity/Position** section.

Signature	
Name	
Date	
Capacity/Position	

PLEASE KEEP A COPY OF THIS FORM FOR YOUR OWN RECORDS

Information sheet

Where to get help

Commission staff & resources

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

- 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.

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 your behalf, or assists you in certain other ways. There is no requirement to be represented at the Commission.

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

Generally, you must:

- give notice to the Commission about your representation 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 you wish to have a lawyer or paid agent represent you at a conference or a hearing.

Apart from representing you at a conference or hearing, your lawyer or paid agent can represent you without permission, unless the Commission decides otherwise. For example, the lawyer or paid agent can prepare and lodge written applications, responses and submissions, and communicate in writing with the Commission and other parties.

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

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 - the person or organisation that is making an application.

Lawyer – 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, an agent (other than a bargaining representative) who charges or receives a fee to represent a party in the matter.

Party – a person or organisation involved in a matter or case that is brought to the Commission.

Privacy

The Commission collects the information (including personal information) provided to it in this form for inclusion on the case file, and will disclose this information to the other parties to this matter. The Commission may also disclose this information 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 information sheet and keep it for future reference – it contains useful information