

Form F46 Application to vary a modern award

Fair Work Act 2009, ss.157–160

This is an application to the Fair Work Commission to make a modern award or make a determination varying or revoking a modern award, in accordance with Part 2-3 of the [Fair Work Act 2009](#).

The Applicant



These are the details of the person who is making the application.

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	See legal name of business		
Surname			
Postal address	c/Norton White, Level 4, 66 Hunter Street		
Suburb	Sydney		
State or territory	NSW	Postcode	2000
Phone number	02 9230 9400	Fax number	02 9230 9446
Email address	ben.martin@nortonwhite.com		

If the Applicant is a company or organisation please also provide the following details

Legal name of business	AVIAIR PTY LTD
Trading name of business	
ABN/ACN	94 009 145 055
Contact person	Benjamin Martin

Does the Applicant need an interpreter?



If the Applicant requires an interpreter (other than a friend or family member) in order to participate in conciliation, a conference or hearing, the Fair Work Commission will provide an interpreter at no cost.

Yes—Specify language

No

Does the Applicant require any special assistance at the hearing or conference (e.g. a hearing loop)?

Yes— Please specify the assistance required

No

Does the Applicant have a representative?



A representative is a person or business who is representing the Applicant. This might be a lawyer, or a representative from a union or employer association. There is no requirement to have a representative.

Yes—Provide representative's details below

No

Applicant's representative



These are the details of the person or business who is representing the Applicant.

Name of person	Benjamin Martin		
Organisation	Norton White		
Postal address	Level 4, 66 Hunter Street		
Suburb	Sydney		
State or territory	NSW	Postcode	2000
Phone number	02 9230 9400	Fax number	02 9230 9499
Email address	ben.martin@nortonwhite.com		

1. Coverage

1.1 What is the name of the modern award to which the application relates?



Include the Award ID/ Code No. of the modern award

Air Pilots Award 2010 – MA000046

1.2 What industry is the employer in?

Aviation

2. Application

2.1 What are you seeking?

Specify which of the following you would like the Commission to make:

- a determination varying a modern award
 a modern award
 a determination revoking a modern award

2.2 What are the details of your application?

The RAAA proposes the following variation to clause 13 of the Exposure draft.

13. Training—classifications

13.1 This clause does not apply to employees engaged in aerial application operations.

13.2 Where **employment has commenced and the employer and not a regulatory body or otherwise** requires a pilot **to undertake additional training** to reach and maintain minimum qualifications for a particular aircraft type in accordance with this award, **other than the aircraft type for which the pilot was employed**, all facilities and other costs associated with attaining and maintaining those qualifications will be the responsibility of the employer.

13.3 Where a pilot fails to reach or maintain a standard required the pilot will receive further re-training and a subsequent check. The pilot may elect to have a different check captain on the second occasion.

13.4 Where a pilot fails the second check in clause 13.3, the pilot may, where practicable, be reclassified to the previous or a mutually agreed equivalent position.

13.5 Where employment commences under this award, the pilot's service required to be undertaken by the prospective employer, **and not a regulatory body or otherwise**, prior to commencing employment, during a training period will be recognised and any training required to be conducted, **by the prospective employer and not a regulatory body or otherwise**, at the **pilot's** cost will be reimbursed to the pilot.

13.6 **Nothing in this clause 13 prevents the pilot and employer entering into an individual return of service or training bond.**

Attach additional pages, if necessary.

2.3 What are the grounds being relied on?

Using numbered paragraphs, specify the grounds on which you are seeking the proposed variations.



You must outline how the proposed variation etc is necessary in order to achieve the modern awards objective as well as any additional requirements set out in the FW Act.

1. This application is made pursuant to section 160 of the *Fair Work Act 2009* (Cth). The application is to remove ambiguity or uncertainty and only seeks to clarify the clause's intended meaning. The amendments sought will not derogate from the modern awards objective.
2. The variations proposed:
 - a. clarify the intention and interpretation of the award provision;
 - b. promote social inclusion through increased workforce participation as it encourages employers to attract and retain employees;
 - c. promote flexible modern work practices and the efficient and productive performance of work as it encourages employers to introduce, maintain and improve employee-specific training programs for the benefit of employees as they progress with the employer;
 - d. maximise productivity for aircraft operators as it avoids disputation, and reduces employment costs (by increasing employee retention) and reducing the need to continuously train new pilots; and
 - e. encourage employment stability for pilots that contributes to employment growth and ultimately, the sustainability, performance and competitiveness of the national economy,and accordingly are necessary to achieve the modern awards objective.

Attach additional pages, if necessary.

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	Ben Martin
Date	16 January 2019
Capacity/Position	Solicitor



Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS