

## Form F1 – Application (no specific form provided)

Fair Work Commission Rules 2013, subrule 8(3) and Schedule 1

This is an application to the Fair Work Commission.

### The Applicant

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	408 Brunswick Street		
Suburb	Fitzroy		
State or territory	VIC	Postcode	3065
Phone number	(03) 9419 8811	Fax number	
Email address	<a href="mailto:p.marshall@ufuvic.asn.au">p.marshall@ufuvic.asn.au</a>		

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

Legal name of business	United Firefighters' Union of Australia, Victoria Branch
Trading name of business	UFU
ABN/ACN	74 030 569 265
Contact person	PETER MARSHALL

**How would you prefer us to communicate with you?**

Email (you will need to make sure you check your email account regularly)

Post

**Does the Applicant have a representative?**

Yes – Provide representative's details below

No

**Applicant's representative**

Name of person	Tonia Sakkas		
Firm, union or company	Davies Lawyers		
Postal address	Suite 1, 249 Hampton Street		
Suburb	Hampton		
State or territory	VIC	Postcode	3188
Phone number	03 9597 0921	Fax number	
Email address	<a href="mailto:tonia@davieslawyers.com.au">tonia@davieslawyers.com.au</a>		

**Is the Applicant's representative a lawyer or paid agent?**

Yes

No

**The Respondent**

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	456 Albert Street		
Suburb	East Melbourne		
State or territory	VIC	Postcode	3002
Phone number	(03) 9662 2311	Fax number	(03) 9665 4244
Email address	<a href="mailto:Stacey.walker@frv.vic.gov.au">Stacey.walker@frv.vic.gov.au</a>		

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

Legal name of business	Fire Rescue Victoria
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Trading name of business	FRV
ABN/ACN	28 598 558 561
Contact person	Stacey Walker

## 1. The Application

**1.1 Please set out the provision(s) of the Fair Work Act 2009 (or any other relevant legislation) under which you are making this application.**

Sections 234, **Applications for intractable bargaining declarations**

## 2. Order or relief sought

**2.1 Please set out the order or relief sought.**

1. The Applicant requests that the Commission make an intractable bargaining declaration pursuant to section 235 of the *Fair Work Act 2009* in relation to the proposed Fire Rescue Victoria, United Firefighters Union Operational Staff Agreement 2022.

**2.2 Please set out grounds for the order or relief sought.**

*Background*

1. On 1 July 2020, Fire Rescue Victoria (**FRV**) commenced operation. On this date, all MFB staff transferred to FRV as did operational and other specified staff of the CFA.
2. The *Fire Rescue Victoria Operational Employees Interim Enterprise Agreement 2020* (**FRV Agreement**) is a transferrable instrument, varied by the Commission pursuant to s 320(2) of the FW Act on 26 August 2020.
3. In accordance with the FRV Agreement:
  - (a) Division A applies to former MFB operational employees and new employees of FRV employed to perform work that is or may be performed by an employee engaged in a classification or occupation referred to in Division A; and
  - (b) Division B applies to former CFA operational employees and new employees of FRV employed to perform work that is or may be performed by an employee engaged in a classification or occupation referred to in Division B.
4. The nominal expiry date of Division A was 1 July 2019.
5. The nominal expiry date of Division B was 30 September 2013.
6. Clause 5 of Division A and Clause 5 of Division B state:

*RENEGOTIATION*

*The employer shall commence negotiations on a new agreement nine months prior to the nominal expiry date of this agreement.*

*Negotiations will commence on a new agreement of the same scope as this Agreement. Any variations to the scope of bargaining or the proposed agreement will only be by agreement.*
7. The UFU is an employee organisation for the purpose of the FW Act. Members of the UFU will be covered by the proposed Operational Staff Agreement to replace the FRV Agreement.
8. After the commencement of the FRV Agreement (as varied), the UFU and FRV have discussed and negotiated a proposed Operational Staff Agreement to replace the FRV Agreement:
  - a. The UFU and FRV commenced discussions for a new Operational Staff Agreement in 2020. Between July 2020 and 26 April 2022, approximately 32 meetings were held.

- b. On 26 April 2022, the UFU commenced formal bargaining with FRV.  
Approximately 32 meetings were held between April 2022 and end of 2022, including meetings between UFU and FRV representatives alone.
  - c. A further 12 bargaining meetings were held between UFU and FRV representatives in 2023.
9. The proposed Operational Staff Agreement is reflected by “Revised Version 14” (**Attachment A**).
  10. The parties have agreed every matter other than the quantum increase to wages and allowances.
  11. The bargaining on the final outstanding matters is reflected in the Statement of Commissioner Wilson dated 3 February 2023 and a later Statement of Commissioner Wilson dated 19 June 2023 (**Attachment B**).
  12. On 10 March 2023, FRV put a wages offer to UFU. FRV later advised UFU that it sought to provide a different wages offer but was not authorised by the Victorian Government to do so.
  13. On 15 March 2023, UFU wrote to FRV conditionally accepting the wages offer. FRV verbally rejected the UFU’s proposal on 24 March 2023.
  14. On 2 May 2023, the Victorian Government issued a new Government Wages Policy. To date, and contrary to its previous commitments, there has been no revised wages offer put forward by FRV.

### 3. The employer

#### 3.1 What is the industry of the employer?

Firefighting

### 4. Industrial instrument(s)

#### 4.1 Please set out any modern award, agreement or other industrial instrument relevant to the application and their ID/Code number(s) if known.


*Fire Rescue Victoria Operational Employees Interim Enterprise Agreement 2020*

AE501845, PR720617

*Fire Rescue Victoria (Former CFA) Professional, Technical and Administrative Agreement 2016*

*Fire Fighting Industry Award 2020*

**Signature**

Signature	
Name	Tonia Sakkas, Davies lawyers
Date	28 July 2023