About the F37 application form

Suspension or termination of protected industrial action

Who can use this form

Use this form if you want to make an application to suspend or terminate protected industrial action and you are:

- a bargaining representative for the agreement,
- the Minister for Employment; or
- the Minister of a State or Territory affected by the action.

In the case of action threatening to cause significant harm to a third party, only an organisation, person or body directly affected by the action, the Minister for Employment, or the Minister of a State or Territory affected by the action may apply.

About suspension or termination of protected industrial action

The Fair Work Act 2009 (the FW Act) allows protected industrial action to be taken by employees or employers in certain circumstances. Protected industrial action can occur as part of bargaining for a proposed enterprise agreement.

The Fair Work Commission (Commission) may suspend or terminate industrial action even if it is protected in certain circumstances by making an order suspending or terminating protected industrial action.

The Commission may make an order suspending or terminating protected industrial action where it is causing or is threatening to cause, significant economic harm to the employer(s) and/or employees who would be covered by the agreement (s.423).

The Commission must make an order suspending or terminating protected industrial action when it has threatened, is threatening or would threaten to:

- endanger life, or personal safety or health, or the welfare of the population or part of it, or
- cause significant damage to the Australian economy or part of it (s.424).

The Commission must suspend protected industrial action to allow a cooling off period if the Commission is satisfied that the suspension is appropriate taking into account the range of matters specified in section 425(1) of the FW Act.

The Commission must also suspend protected industrial action when the industrial action is threatening to cause significant harm to a third party (s.426).

An order by the Commission suspending protected industrial action must specify the period for which the protected industrial action is suspended (suspension order).

Lodging your completed form

1. **Lodge** this application and any supporting documents with the Commission.

   You can lodge your application online using the Commission’s Online Lodgment Service (OLS) or by post, by fax or by email or in person at the Commission’s office in your State or Territory.
2. **Serve a copy of your application and any supporting documents** on each Respondent listed in the application as soon as practicable after lodging with the Commission. You can send this application and supporting documents in a number of ways, including by email or by express or registered post.

**Where to get help**

**Commission staff & resources**

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

- processes in the Commission
- 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](http://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 lawyer or union official) speaks or acts on your behalf in relation to your matter. There is no requirement for you to be represented when you appear at the Commission. You will need the permission of the Commission member dealing with your case if you wish to be represented by a lawyer or paid agent unless that person is:

- a bargaining representative, or
- employed by a union or employer organisation, a peak union or peak employer body, or
- one of your employees or officers (if you are an employer).

If you decide to represent yourself in proceedings you will need to make sure you are well prepared.

**Glossary of common terms**

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

**Party**—A party is a 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 for inclusion on the case file, and may disclose this 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 F37 Application for an order for suspension or termination of protected industrial action

Fair Work Act 2009—ss. 423–426

This is an application to the Fair Work Commission for an order for suspension or termination of protected industrial action in accordance with Part 3-3 of the Fair Work Act 2009.

The Applicant

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

<table>
<thead>
<tr>
<th>Title</th>
<th>[ ] Mr  [ ] Mrs  [ ] Ms  [ ] Other please specify:</th>
</tr>
</thead>
<tbody>
<tr>
<td>First name(s)</td>
<td></td>
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<tr>
<td>Surname</td>
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<tr>
<td>Postal address</td>
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<td>Suburb</td>
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<td>State or territory</td>
<td>Postcode</td>
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<td>Phone number</td>
<td>Fax number</td>
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<tr>
<td>Email address</td>
<td></td>
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</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Legal name of business</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Trading name of business</td>
<td></td>
</tr>
<tr>
<td>ABN/ACN</td>
<td></td>
</tr>
<tr>
<td>Contact person</td>
<td></td>
</tr>
</tbody>
</table>

Do you need an interpreter?

If you require 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

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

[ ] Yes—Please specify the assistance required
[ ] No
FAIR WORK COMMISSION
Form F37— Application for an order for suspension or termination of protected industrial action

Do you have a representative?

A representative is a person or business who is representing you. 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

Your representative

These are the details of the person or business that is representing you.

<table>
<thead>
<tr>
<th>Name of person</th>
<th>Organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Postal address</td>
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<td>Suburb</td>
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<td>State or territory</td>
<td>Postcode</td>
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<td>Phone number</td>
<td>Fax number</td>
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<tr>
<td>Email address</td>
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</tbody>
</table>

The Respondent

These are the details of the bargaining representative(s) against whom the application to suspend or terminate protected industrial action is sought. Attach additional pages, if necessary.

<table>
<thead>
<tr>
<th>Legal name of business</th>
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<tbody>
<tr>
<td>Trading name of business</td>
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<tr>
<td>ABN/ACN</td>
</tr>
<tr>
<td>Contact person</td>
</tr>
<tr>
<td>Title</td>
</tr>
<tr>
<td>[  ] Mr [  ] Mrs [  ] Ms [  ] Other please specify:</td>
</tr>
<tr>
<td>First name(s)</td>
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<td>State or territory</td>
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<tr>
<td>Phone number</td>
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<td>Email address</td>
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</tbody>
</table>
1. Preliminary

1.1 What industry is the employer in?

2. What orders are you seeking in relation to the protected industrial action?

[ ] the protected industrial action be terminated;

[ ] the protected industrial action be suspended for a period of [specify period]:

3. Is protected industrial action:

[ ] being engaged in; and/or,

[ ] threatened, impending or probable (applies where the application relates to endangering life, the personal safety or health or the welfare of the population or part of it see s.424)

[Specify by name or reference to a class who is taking and/or threatening to take protected industrial action.]

4. What is the basis for your application?

[ ] Protected industrial action is causing, or threatening to cause significant economic harm (see s.423)

[ ] Protected industrial action is endangering life, or personal safety, health or welfare of the population or part of it, or is causing significant damage to the Australian economy or an important part of it (see s.424)

[ ] A cooling off period is appropriate (see s. 425)

[ ] Protected industrial action is threatening to cause significant harm to a third party (see s.426)

4.1 Particulars

[Briefly describe the industrial action that is being engaged in or that is threatened, impending or probable (in which case, specify the basis upon which the Applicant contends that such action is threatened, impending or probable.)]
5. **What grounds are being relied on?**

5.1 Using numbered paragraphs, specify:

- the provision(s) of Division 6 of Part 3-3 of the Act upon which the Applicant relies; and

- by reference to those provision(s) in Division 6 of Part 3-3 of the Act briefly specify how the requirements of such provision(s) are satisfied.

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.

<table>
<thead>
<tr>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
</tr>
<tr>
<td>Date</td>
</tr>
<tr>
<td>Capacity/Position</td>
</tr>
</tbody>
</table>

Where this form is not being completed and signed by the Respondent, 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**