



About the F9 application form

Application for the Commission to deal with an unlawful termination dispute

About unlawful termination

Section 773 of the [Fair Work Act 2009](#) allows certain employees (see below) or an industrial association entitled to represent the industrial interests of such an employee to lodge an application to deal with an unlawful termination dispute where:

- the employer has terminated the employee's employment, and
- the employee alleges that their employment was terminated for one or more unlawful reasons (for example disability, temporary absence from work because of illness, trade union membership, etc) (s.772).

Unlawful termination claims can be made by:

- employees who are not in the national system, or
- national system employees who are not entitled to make a general protections application (see, for example, *McIntyre v Special Broadcasting Services Corporation T/A SBS Corporation* [2015] FWC 6768), or
- industrial associations entitled to represent the industrial interests of such employees.

The Fair Work Commission (Commission) will try to assist the parties to resolve the dispute by mediation or conciliation. If the Commission is satisfied that all reasonable attempts to resolve the dispute are likely to be unsuccessful, a certificate will be issued. Once the certificate is issued, the parties can notify the Commission using the Form F9B if they agree to the dispute being arbitrated. Alternatively, the Applicant can make an application to a court to deal with the matter.

For more information about unlawful terminations and eligibility to make an application, see the Commission's [unlawful termination guide](#).

Who can use this form

Use this form if:

- you were an employee who was not in the national system or was not entitled to make a general protections application and
- your employment was terminated and
- you believe that your employment was terminated for one or more unlawful reasons.

You should also use this form if you are an industrial association making an application to deal with an unlawful termination dispute on behalf of an employee who has been dismissed.

If you are not able to make an unlawful termination application you may be eligible to make an application to the Commission to deal with a general protections dispute involving dismissal. Refer to

the [General Protections Benchbook](#) for more information about who is covered by the national system and the differences between unlawful termination and general protections dismissal laws.

There are provisions in the [Fair Work Act 2009](#) that are designed to prevent multiple claims being lodged for the same dismissal (see subdivision B of Division 3 of Part 6-1). For more information about the different types of dismissal claims and which one may be applicable to your circumstances, see [Termination of employment](#) on the Commission's website.

Lodging your completed form

1. **Lodge your application**, along with any accompanying documents, with the Commission within **21 calendar days** after your employment was terminated. You can lodge your application online using the Commission's [Online Lodgment Service \(OLS\)](#) or by post, fax or email, or in person at the [Commission's office](#) in your state or territory.

Note: The Commission will provide a copy of your application and any other documents you lodge with the application (except the Fee Waiver form, where relevant) to the employer.

2. **Pay your application fee** when you lodge your application. The current application fee is available on the [Lodge an application](#) page on the Commission's website www.fwc.gov.au.

If payment of the fee will cause you financial hardship, you can apply to have the fee waived. You must apply to have the fee waived at the same time as you lodge your application. [Download the waiver form](#) from the Commission's website.

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 complete the form.

Legal or other representation

Representation is where another person (such as a lawyer or paid agent, union official, family member or friend) speaks or acts on your behalf, or assists you in certain other ways in relation to your matter. There is no requirement for you to be represented at the Commission.

You will need permission from the Commission Member dealing with your matter if you wish to be represented by a lawyer or paid agent at a conference or a hearing, unless the lawyer or paid agent is

an employee or officer of a union or a peak union body that is representing you. If you want to seek permission, you must lodge a Form F53 – Notice that a person: (a) has a lawyer or paid agent; or (b) will seek permission for lawyer or paid agent to participate in a conference or hearing.

You do not need permission to have a lawyer or paid agent prepare and lodge this application with the Commission.

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.

Jurisdictional objection – This is a type of objection a Respondent can raise to an application. A Respondent can make this kind of objection if they think that the Commission, for a technical or legal reason, cannot hear the matter.

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, 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, Respondent or another person or organisation involved in a matter or case that is brought to the Commission.

Respondent – The person or organisation 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 unlawful termination application. 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 F9 – Application for the Commission to deal with an unlawful termination dispute

[Fair Work Act 2009](#), s. 773, Fair Work Commission Rules 2013, rule 45

This is an application to the Fair Work Commission (Commission) to deal with an unlawful termination dispute under Part 6-4 of the [Fair Work Act 2009](#).



These are the details of the person whose employment has been terminated.

The Applicant (you)

| | | | |
|---------------------------|---|--|--|
| 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 | | |
| Mobile number | | | |
| Email address | | | |

Note: If you provide a mobile number the Commission may send reminders to you via SMS.

If the Applicant is an industrial association, also provide the following information



If the Applicant is an industrial association, note that “you” in this form refers to the employee whose industrial interests the Applicant is entitled to represent.

| | |
|----------------------------|--|
| Name of association | |
| Contact person | |
| Phone number | |
| Email address | |

How would you prefer us to communicate with you?

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

Do you need an interpreter?



If you have trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help for non-English speakers](#) on our website.

- Yes – Specify language
- No

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

- Yes – Please specify the assistance required
- No

Do you have a representative?



A representative is a person or organisation who is representing the Applicant. This might be a lawyer or paid agent, a union or a family member or friend. 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 organisation who is representing you (if any).

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

Is your representative a lawyer or paid agent?

- Yes
- No

The Respondent (the employer)



These are the details of the employer that terminated your employment.

You should provide the legal name of the employer. The legal name is not the trading name or business name of the employer. The employer will usually be a person or a company (with a name ending in Pty Ltd or Ltd), or in some instances a partnership, an incorporated association, or a public sector employer. Your pay slips, PAYG payment summary, appointment letter or employment contract should give the legal name of the employer.

Note that the Commission will send a copy of your application to the contact person you name below.

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

1. Preliminary

1.1 What industry is the employer in?

2. Unlawful termination

2.1 On what date were you notified that your employment was being terminated?

2.2 What date did the termination of your employment take effect?

2.3 Are you making this application within 21 calendar days after your employment was terminated?

Yes

No

If you answered No – Explain the reason for the delay, including any steps you have taken to dispute the dismissal or any other reason you think the Commission should take into account in considering whether to accept your application out of time.

2.4 Section 723 of the Fair Work Act 2009 provides that a person must not make an unlawful termination application in relation to conduct if the person is able to make a general protections court application in relation to the conduct (see Division 8 of Part 3-1). Do you consider that you are not entitled to make a general protections court application?

Yes

No

2.5 Have you made another claim to the Commission or to any other organisation regarding your termination (eg a general protections application involving dismissal)?

Yes

No

If you answered **Yes** – Provide the details of where that claim was made and the remedy or remedies you sought.

3. Alleged unlawful reason(s)

3.1 What reasons (if any) did the employer give for terminating your employment?



Using numbered paragraphs, specify the reason(s), if any, given by the employer for terminating your employment. Attach any letter of termination and/or separation certificate given to you by the employer. Note that the Commission will send copies of any documents you provide to the employer. Attach extra pages if necessary.

3.2 Which unlawful reason(s) set out in the Fair Work Act 2009 was/were the basis for the employer terminating your employment?



An unlawful termination application should only be made if the employer terminated your employment for one or more of the unlawful reasons found in section 772 of the [Fair Work Act 2009](#) listed below

Temporary absence due to illness or injury

- Temporary absence from work because of illness or injury (as defined in the Fair Work Regulations 2009)

Trade union membership or participation in trade union activities

- Trade union membership
- Participation in trade union activities outside working hours or, with the employer's consent, during working hours
- Non-membership of a trade union
- Seeking office as a representative of employees
- Acting or having acted in the capacity of a representative of employees

Filing a complaint or participating in proceedings

- The filing of a complaint against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities
- The participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities

Discrimination

- Race
- Colour
- Sex
- Sexual orientation
- Age
- Physical or mental disability
- Marital status
- Family or carer's responsibilities
- Pregnancy
- Religion
- Political opinion
- National extraction or social origin
- Absence from work during maternity leave or other parental leave

Temporary absence due to voluntary emergency management activity

- Temporary absence from work for the purpose of engaging in a voluntary emergency management activity, where the absence is reasonable having regard to all the circumstances

4. Remedy**4.1 What outcome are you seeking by lodging this application?**

Attach extra pages if necessary.

Disclosure of information

The Commission will provide a copy of this application and any attachments to the other parties in this matter. This includes:

- the employer
- any legal representatives.

Consent to contact by researchers

The Commission undertakes research with participants in unlawful termination matters to ensure a high quality process. Some research may be undertaken by external providers on behalf of the Commission.

Do you consent to the contact details provided on page 1 of this form being provided to an external provider of research services for the sole purpose of inviting you to participate in research?

Yes

No

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 | |
| Capacity/ Position | |
| Date | |

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

Application fee

Your name:

The current application fee is available on the [Lodge an application](#) page on the Fair Work Commission's (Commission's) website www.fwc.gov.au.

The *Fair Work Act 2009* requires a fee to be paid on lodgment of this application with the Commission. Where applicable, any refund of the application fee will be forwarded by cheque to you at the address provided on this application form.

Financial hardship

If paying the fee will cause you financial hardship, you can apply to have the fee waived. If you are applying to have the fee waived you must complete and lodge the Fee Waiver form at the same time as you lodge your application. Note that the Commission will not forward a copy of the Fee Waiver form to the employer. Download the [Fee waiver form](#) from the Commission's website.

Payment options

I have completed the Fee Waiver form and have attached it to my application.

I am paying by cash – Cash payments can only be made in person at one of the Fair Work Commission offices. Payment should be made at the same time as the application is lodged.

I have attached a cheque or money order to this application – Cheques and money orders should be made payable to the Collector of Public Monies, FWC. Please note that the cheque or money order must be for the exact amount of the application fee, if it is not it may cause the processing of your application to be delayed.

I am paying by credit card – Please see below:

If paying by credit card, please provide the payer details below and a Commission officer will contact the payer by telephone within 3 business days from the date of lodgment.

Payer details

Who is making the payment?

You

Your representative

Other – Please complete the details below

| | | | |
|---|--|---------------|--|
| Full name of payer | | | |
| Postal address | | | |
| Phone number | | Email address | |
| PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS | | | |