



About the Form F17B declaration

Employer's declaration in support of an application for approval of a single-enterprise agreement (other than a greenfields agreement) – notification time on or after 6 June 2023

When to use this form

Enterprise agreements are agreements made at the enterprise level that contain terms and conditions of employment.

The Fair Work Commission (the Commission) assesses and approves enterprise agreements (agreements). It can also assist in the process of making agreements and can deal with disputes arising under an agreement. Before the Commission can approve an agreement, it must be satisfied that the agreement meets the requirements for approval set out in the [Fair Work Act 2009](#), including that the employees will be 'better off overall' under the agreement than they would be if the relevant award applied.

This form provides information to assist the Commission to determine whether to approve an enterprise agreement.

Giving false or misleading information is a serious offence.

A person who knowingly gives false or misleading information or knowingly produces a false or misleading document in support of an application for approval of an enterprise agreement is guilty of an offence, the punishment for which is imprisonment for up to 12 months – see s.137.1 and s.137.2 of the *Criminal Code*.

This form can be used if:

- a Form [F16 – Application for approval of an enterprise agreement \(other than a greenfields agreement\)](#) has been or is being lodged with the Commission
- the agreement is single-enterprise agreement (other than a greenfields agreement), and
- the notification time for the agreement was **on or after 6 June 2023**.

If the notification time for an enterprise agreement (other than a greenfields agreement) is **before 6 June 2023**, you will need to complete Form F17A.

If the agreement is a multi-enterprise agreement (other than a greenfields agreement) with a notification time **on or after 6 June 2023**, you will need to complete Form F17C.

When is the notification time?

The notification time is when bargaining for the enterprise agreement started. Changes were made to the *Fair Work Act 2009* in relation to bargaining on 6 June 2023. Bargaining starts when:

- the employer agrees to bargain, or initiates bargaining, for the agreement
- the employer receives a request to bargain under s.173(2A) of the Fair Work Act in relation to the agreement
- a majority support determination in relation to the agreement comes into operation
- a scope order in relation to the agreement comes into operation
- a supported bargaining authorisation or single interest employer authorisation in relation to the agreement that specifies the employer comes into operation (from 6 June 2023 only), or
- a low-paid authorisation in relation to the agreement that specifies the employer comes into operation (before 6 June 2023 only).

Who can use this form

Use this form if you are an employer that is covered by the agreement (or an officer or authorised employee completing this form for an employer).

What is covered in this form

Part 1 – Details of the employer, employees and the agreement

Part 2 – The better off overall test and National Employment Standards

Part 2.1 – The better off overall test

Part 2.2 – The National Employment Standards

Part 3 – Pre-approval steps

Part 3.1 – Notification time

Part 3.2 – Giving notice of employee representational rights

Part 3.3 – Providing employees with a reasonable opportunity to consider the agreement

Part 3.4 – Explaining the terms of the agreement

Part 3.5 – Providing employees with a reasonable opportunity to vote on the agreement in a free and informed manner

Part 3.6 – Sufficient interest and sufficiently representative

Part 3.7 – Voting on the agreement

What you may need when completing this form

When completing this form, you will be required to provide information about the agreement and the steps taken before it was approved. To assist you in answering these questions, it would be useful to have available:

- a copy of any material provided to employees about the agreement, such as explanatory material and a copy of the notice of employee representational rights (NERR)
- records of the dates and steps that were taken during the bargaining process, such as details provided to employees about when and how the vote was to occur
- a copy of the agreement
- a copy of the relevant modern award/s for comparison with the agreement.

How to lodge and serve your completed form

1. **Within 14 calendar days** after the agreement is made, you must lodge with the Commission:

- This declaration **and**
- A copy of the notice of employee representational rights (NERR) (see question 19) **and**
- Copies of any materials used to explain to employees the terms of the agreement and the effect of those terms (see question 22) **and**
- Copies of any materials used to ensure the explanation was provided in an appropriate manner taking into account the particular circumstances and needs of the relevant employees (see question 24) **and**
- Copies of any materials provided to employees to notify them of the time and place at which the vote was to occur and the voting method to be used (see question 25) **and**
- A correctly signed copy of the agreement, including:
 - Employer signature, with full name, address and an explanation of their authority to sign the agreement
 - Employee or employee representative signature with full name, address and an explanation of their authority to sign the agreement

If you are lodging this form at the same time as the Form F16, you can use the Commission's [Online Lodgment Service](#). Alternatively, you can lodge the form by post, fax, email or in person at the Commission office in your state or territory, either at the same time as the Form F16 or separately.

Each employer that will be covered by the agreement must notify employees who will be covered by the agreement that an application has been made to the Commission for approval of the agreement. Notification should be made through the usual means that are adopted by the employer for communicating with employees.

2. As soon as practicable after this declaration is lodged with the Commission, you must serve a copy of this declaration on:
 - each other employer that is covered by the agreement **and**
 - each employee organisation that was a bargaining representative **and**
 - any employee bargaining representative of whom you are aware.

What happens next

After you have lodged your completed form, the Commission will undertake an assessment of the agreement on the information and material provided. For more information, please refer to the [approval process](#) in the Commission's Enterprise Agreements Benchbook.

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 to indicate an important action.



This icon appears throughout the form where information has been included to help you complete the form.

You will find further useful information in the Information Sheet at the end of this form.

Form F17B – Employer’s declaration in support of an application for approval of a single-enterprise agreement (other than a greenfields agreement) – notification time on or after 6 June 2023

[Fair Work Act 2009](#), s.185; [Fair Work Commission Rules 2024](#), rules 32, 36 and Schedule 1.

This is a declaration in support of an application to the Fair Work Commission for approval of an enterprise agreement under Part 2-4 of the [Fair Work Act 2009](#).

I,	
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[insert name of person making the declaration]

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[insert postal address of person making the declaration]

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[insert suburb]

[insert state or territory]

[insert postcode]

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[insert occupation of person making the declaration]

declare that:

Part 1 – Details of the employer, employees and the agreement

In this section, you will need to provide preliminary details about the agreement, and the employer and employees covered by the agreement.

1 What is the name of the employer?

Legal name of employer	
Employer’s ACN (if a company)	
Employer’s trading name or registered business name (if applicable)	
Employer’s ABN	

2 What is the name of the agreement?



Write the name exactly as it appears in the title clause of the agreement.

3 What is the primary activity of the employer?



For example educational facility, plumbing contractor, steel fabricator, etc.

4 Does the agreement cover all the employees of the employer?



See s.186(3) and s.186(3A) of the [Fair Work Act 2009](#). The Commission must be satisfied that the group of employees covered by the agreement was fairly chosen.

Yes

No

If you answered **No** – What group of employees is covered by the agreement and what group of employees is not covered? Explain why you think the Commission should be satisfied that the group covered was fairly chosen. If relevant, describe how the group of employees covered is geographically, operationally or organisationally distinct.

5 Tick the relevant boxes for the states or territories this agreement will be operating in.



The information provided in response to questions 5 and 6 is necessary for the Commission to assess whether the employer took all reasonable steps to ensure that the terms of the agreement, and the effect of those terms, were explained to the relevant employees and the explanation was provided in an appropriate manner taking into account the particular circumstances and needs of the relevant employees.

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In addition, this information is collected to comply with the statutory reporting obligations in section 653 of the [Fair Work Act 2009](#) and to be provided to the Attorney-General’s Department for inclusion in the Department’s Workplace Agreements Database.

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia
- An external territory

6 Of the employees covered by this agreement, how many employees are in the following demographic groups?

Demographic group	Number of employees
Female	
Non-English speaking background	
Aboriginal or Torres Strait Islander	
Disabled	
Part-time	
Casual	
Under 21 years of age	
Over 45 years of age	

7 List the full name(s) of all collective agreement(s) that currently apply to any employees covered by this agreement.



Provide any identifying information about the current collective agreement(s) that you can, such as the ID number, date approved or matter number.

Part 2 – The better off overall test and National Employment Standards

This section requires you to answer questions about how the enterprise agreement compares to the modern award/s that cover the employer and employees covered by the agreement, and how the agreement interacts with the National Employment Standards in the Fair Work Act 2009.

This is important for the Commission to be able to determine whether or not your agreement satisfies the legislative requirements for approval.

Please attach any supporting material you wish to include in your application.

Part 2.1 – The better off overall test

See s.186(2)(d) and s.193 of the [Fair Work Act 2009](#).



The *better off overall test* requires the Commission to be satisfied, as at the time the application for approval of the agreement by the Commission was made, that each award covered employee, and each reasonably foreseeable employee would be better off overall under the agreement than under the relevant modern award.

8 List the modern award(s), if any, that cover the employer and any of the employees covered by the agreement.



You should include the MA number for each award. You can find the MA number on the [modern awards list](#) page on the Commission’s website.

9 Match all the employee classifications in the agreement to the classifications in the modern award(s) listed in your answer to question 8.

For each modern award, use the following table to identify how the classifications in the agreement correspond to the classifications in the modern award. Please ensure that all classification descriptions and rates contained in the agreement are compared to the equivalent classification descriptions and rates in the relevant modern award(s). Please include any trainee, apprentice or junior classifications.

Name of modern award:	
Classification in agreement	Corresponding classification in modern award

Attach additional tables if there is more than one modern award.

Improvements and reductions



Your answers to questions 10-14 (inclusive) should indicate whether all or only some of the employees are affected and, if only some employees are affected, identify the groups of employees affected. Include relevant clause numbers.

You may provide a consolidated response to questions 10–14 in a separate attachment.

10 Does the agreement contain any terms or conditions of employment that are more beneficial than equivalent terms and conditions in the modern award(s) listed in your answer to question 8?

Yes

No

If you answered **Yes** – List the terms and conditions of the agreement that are **more beneficial** than equivalent terms and conditions in the modern award(s).

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11 Does the agreement provide any entitlements that the modern award(s) listed in your answer to question 8 do not provide?

Yes

No

If you answered **Yes** – List the entitlements provided by the agreement that are **not provided** by the modern award(s).

12 Does the agreement contain any terms or conditions of employment that are less beneficial than equivalent terms and conditions in the modern award(s) listed in your answer to question 8?

Yes

No

If you answered **Yes** – List the terms and conditions of the agreement that are **less beneficial** than equivalent terms and conditions in the modern award(s).

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13 Does the agreement omit any entitlements that the modern award(s) listed in your answer to question 8 provide?

Yes

No

If you answered **Yes** – List the entitlements provided by the modern award(s) that are **omitted** by the agreement.

14 Does the agreement contain any terms or conditions of employment different to those under the modern award(s) listed in your answer to question 8, which you have not already identified in your answers to questions 10 to 13?

Yes

No

If you answered **Yes** – List these terms and conditions.

15 Is the employer of the view that the agreement passes the better off overall test?

See s.193A(3) of the [Fair Work Act 2009](#). The Commission must give consideration to any views relating to whether the agreement passes the better off overall test that have been expressed by:



- the employer or employers that are covered by the agreement
- the award covered employees for the agreement, and
- a bargaining representative for the agreement.

Yes

No

Referring to your answers to questions 8 to 14, explain why the employer is of the view the agreement does or does not pass the better off overall test.



Only answer question 16 if the employer is of the view that the agreement does not pass the better off overall test.

16 If the employer is of the view that the agreement does not pass the better off overall test, are there exceptional circumstances the Commission should consider when deciding whether approving the agreement would not be contrary to the public interest?



See s.189 of the [Fair Work Act 2009](#) sets out when the Commission may approve an enterprise agreement that does not pass the better off overall test.

Yes

No

If you answered **Yes** – Explain what the exceptional circumstances are:

Part 2.2 – The National Employment Standards



See Part 2-2 and s.186(2)(c) of the [Fair Work Act 2009](#).

The National Employment Standards are minimum employment entitlements that have to be provided to all employees. Agreements cannot exclude or provide for conditions that are less than the National Employment Standards.

17 List all clauses of the agreement that deal with the matters contained in the National Employment Standards (NES) and whether they exclude or provide a less beneficial entitlement when compared with the NES

National Employment Standard	Agreement clause(s)	Does this clause exclude or provide a less beneficial entitlement when compared to the NES?
Maximum weekly hours		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Requests for flexible working arrangements		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Casual employment		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Parental leave and related entitlements		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Annual leave		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Personal/carer's leave		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Compassionate leave		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Family and domestic violence leave		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

National Employment Standard	Agreement clause(s)	Does this clause exclude or provide a less beneficial entitlement when compared to the NES?
Community service leave		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Long service leave		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Public holidays		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Superannuation contributions		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Notice of termination		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Redundancy pay		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
Fair Work Information Statement and Casual Employment Information Statement		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

If you answered **Yes** in relation to any of the entitlements, you may include an explanation below.

Part 3 – Pre-approval steps

In this section, you will be required to provide details to help the Commission determine whether the agreement has been genuinely agreed to by the employees covered by the agreement.

Section 188(1) of the [Fair Work Act 2009](#) requires the Commission to take into account the [Statement of Principles on Genuine Agreement](#) in determining whether it is satisfied that an agreement has been genuinely agreed to by the employees covered by the agreement. Sections 188(2), (4), (4A) and (6) set out other requirements that must be met.

Part 3.1 – Notification time

18 What was the notification time for the agreement?



See section 173(2) of the [Fair Work Act 2009](#). The notification time for a single-enterprise agreement is the date when:

- the employer agrees to bargain, or initiates bargaining, for the agreement
- the employer receives a request to bargain under section 173(2A) in relation to the agreement
- a majority support determination in relation to the agreement comes into operation, or
- a scope order in relation to the agreement comes into operation.

Notification time	Date:
	Further details
<p>If the employer received a request to bargain under section 173(2A), please provide further details:</p> <ul style="list-style-type: none"> • whether the proposed agreement will replace an earlier single-enterprise agreement (the <i>earlier agreement</i>) that has passed its nominal expiry date; • the nominal expiry date of the <i>earlier agreement</i>; • whether the making of the <i>earlier agreement</i> caused a single interest employer authorisation to cease to operate; • whether the proposed agreement will cover the same, or substantially the same, group of employees as the <i>earlier agreement</i>. 	
<p>If the Commission issued a scope order or a majority support determination in relation to the agreement, please provide the date of the order and the print number (PR)</p>	

Part 3.2 – Giving notice of employee representational rights

19 What steps did the employer take to give the notice of employee representational rights to each employee who will be covered by the agreement and is employed at the notification time for the agreement?



See section 173 of the [Fair Work Act 2009](#) and the prescribed notice of employee representational rights in Schedule 2.1 of the [Fair Work Regulations 2009](#). The employer must take all reasonable steps to give the prescribed notice to each employee who will be covered by the agreement and is employed at the notification time for the agreement. The employer must give the prescribed notice as soon as practicable, and not later than 14 days, after the notification time.

Also see paragraph 2 of the Statement of Principles on Genuine Agreement.



You must lodge a copy of the notice given to employees with this form.

Describe each step taken and state the date on which it was taken.
If multiple notices were provided, explain why.

Date(s)	Steps

20 What was the last date that a notice of employee representational rights was given to an employee who will be covered by the agreement and is employed at the notification time for the agreement? How was it provided?

Date last notice given	How notice was provided

Part 3.3 – Providing employees with a reasonable opportunity to consider the agreement



The Commission must take into account paragraph 4 of the Statement of Principles on Genuine Agreement. Paragraph 4 says that the employer should provide employees with a reasonable opportunity to consider a proposed enterprise agreement before voting on it, so that the employees can vote in an informed manner.

21.1 Did the employer provide employees entitled to vote on the agreement with copies of the agreement and incorporated materials in accordance with paragraph 5 of the Statement of Principles on Genuine Agreement?



Paragraph 5 of the Statement of Principles on Genuine Agreement says that the employer will be taken to satisfy paragraph 4 if, a reasonable time period before the start of the voting on the proposed agreement, the employer provides to employees who are entitled to vote on the agreement:

- a full copy of the agreement, and
- a full copy of any other material incorporated by reference in the agreement.

Yes – Go to question 21.2

No – Explain below how the employer provided employees with a reasonable opportunity to consider the agreement before voting on it, so that the employees could vote in an informed manner. Then go to question 22.

21.2 Describe the steps the employer took so that, a reasonable time period before the start of the voting on the agreement, the employer provided to employees who were entitled to vote on the agreement:

- a. a full copy of the agreement, and**
- b. a full copy of any other material incorporated by reference in the agreement.**



See paragraphs 5 to 7 of the Statement of Principles on Genuine Agreement. Paragraph 6 of the Statement of Principles on Genuine Agreement says what a ‘reasonable time period’ includes, and paragraph 7 says how the copies may be provided to employees.

Describe each step taken and state the date on which it was taken.

Date(s)	Steps taken to provide to employees entitled to vote on the agreement a full copy of the agreement and of any other material incorporated by reference in the agreement

List the other material incorporated by reference in the agreement (if any).

Part 3.4 – Explaining the terms of the agreement

22 What steps were taken by the employer to explain the terms of the agreement, what was explained and how was the effect of those terms explained to the employees?

See section 180(5)(a) of the [Fair Work Act 2009](#). The employer must take all reasonable steps to ensure the terms of the agreement, and the effect of those terms, are explained to the employees employed at the time who will be covered by the agreement.

The Commission must also take into account paragraphs 8 to 14 of the Statement of Principles on Genuine Agreement. Paragraph 8 says that taking all reasonable steps to explain the terms of the agreement, and the effect of those terms, should include at a minimum explaining to employees how the proposed agreement will alter their existing minimum entitlements and other terms and conditions of employment.



Paragraphs 8 and 9 also give guidance on what should be explained. Paragraphs 12 and 13 say how employees may be provided with the explanation.

Describe the steps taken to explain to the employees the terms of the agreement and the effect of those terms. For example, describe how the information was given in meetings, by email or post, and by other means. Write down the date on which each step was taken.

Also lodge copies of any materials that were used to explain the agreement to the employees.

Include details of what was explained to the employees. Do not simply state that the terms of the agreement were explained to employees.

Date(s)	Steps taken	Explanation given

23 When the employer explained the terms of the agreement and the effect of those terms to the employees, did the employer compare the agreement to any of the following instruments?



See section 180(5)(a) of the [Fair Work Act 2009](#) and paragraph 8 of the Statement of Principles on Genuine Agreement.

(tick all that apply and provide further information):

- any enterprise agreement that currently applies. Please specify which agreement/s:

- the modern award/s. Please specify which award/s:

or

- none of the above. Please explain why the employer did not compare the agreement to any of the above instruments:

24 When the employer explained the terms of the agreement and the effect of those terms to the employees, what was done to take into account the particular circumstances and needs of the employees?

See section 180(5)(b) of the [Fair Work Act 2009](#). The employer must take all reasonable steps to ensure that the explanation is provided in an appropriate manner. Section 180(6) of the [Fair Work Act 2009](#) provides as examples of the kinds of employees whose circumstances and needs are to be taken into account, employees from culturally and linguistically diverse backgrounds, young employees and employees who didn’t have a bargaining representative.

The Commission must also take into account paragraph 14 of the Statement of Principles on Genuine Agreement.



Identify the relevant group of employees addressed and their particular circumstances (for example employees from culturally and linguistically diverse backgrounds or young employees). Describe the steps you took to accommodate their circumstances. Write down the date on which each step was taken.

Also lodge copies of any materials that were used to ensure the explanation to employees was provided in an appropriate manner (if not lodged in response to question 22).

Do not simply state that the employer took reasonable steps to ensure the explanation was provided in an appropriate manner.

Date of step	Step taken	Relevant group of employees addressed

Part 3.5 – Providing employees with a reasonable opportunity to vote on the agreement in a free and informed manner



The Commission must take into account paragraphs 15 and 16 of the Statement of Principles on Genuine Agreement. Paragraph 15 says that employees should be given a reasonable opportunity to vote on a proposed agreement in a free and informed manner.

25 Describe the steps that were taken to inform employees entitled to vote of:

- a. the time and place for the vote, and**
- b. the voting method.**

Paragraph 16 of the Statement of Principles on Genuine Agreement says that employees should be informed of the time, place and method for the vote:

- at least 7 full calendar days before the day on which voting starts, or
- by such other reasonable time before the day on which voting starts as is agreed with one or more employee organisation(s) acting as bargaining representative(s) for a significant proportion of the employees to be covered by the agreement.



Describe how employees were informed about the time and place for the vote and the voting method. For example, describe information given during meetings, by email or post, and on noticeboards. Include the date each of these steps was taken.

Also lodge copies of any materials that were provided to employees to notify them about the vote.

Do not simply state that the relevant employees were notified by the specified time.

Date(s)	Steps taken and information given to employees about time and place for vote and voting method

26.1 Describe the voting process for the agreement

Paragraph 15 of the Statement of Principles on Genuine Agreement also says that giving employees a reasonable opportunity to vote on a proposed agreement in a free and informed manner should include:



- a voting process that ensures the vote of each employee is not disclosed to or ascertainable by the employer, and
- a method and period of voting that provides all employees entitled to vote with a fair and reasonable opportunity to cast a vote.

Describe the voting process used and the method and period of the vote, and explain how all employees entitled to vote were provided with a fair and reasonable opportunity to cast a vote.

26.2 Describe any further steps taken to give employees a reasonable opportunity to vote on the agreement in a free and informed manner

Part 3.6 – Sufficient interest and sufficiently representative

27 Explain how the employees requested to vote on the agreement:

- a. have a sufficient interest in the terms of the agreement, and
- b. are sufficiently representative, having regard to the employees the agreement is expressed to cover?



See section 188(2) of the [Fair Work Act 2009](#). The Commission must also take into account paragraphs 17 and 18 of the Statement of Principles on Genuine Agreement.

Part 3.7 – Voting on the agreement

28 Provide the following dates:



See sections 181, 173 and 182 of the [Fair Work Act 2009](#).

Event		Date
28.1	The date voting on the agreement commenced (that is, the first date that an employee was able to cast a vote).	
28.2	The date the agreement was made (that is, the date on which the voting process by which the employees approved the agreement concluded).	

29 Provide the following details about the vote on the agreement:



See section 53 of the [Fair Work Act 2009](#). An enterprise agreement covers an employee if it is expressed to cover the employee.

29.1	At the time of the vote, how many employees were covered by the agreement?	
29.2	How many of these employees cast a valid vote?	
29.3	How many of these employees voted to approve the agreement?	

Signature		Date:	
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Giving false or misleading information is a serious offence.

A person who knowingly gives false or misleading information or knowingly produces a false or misleading document in support of an application for approval of an enterprise agreement is guilty of an offence, the punishment for which is imprisonment for up to 12 months – see s.137.1 and s.137.2 of the *Criminal Code*.

Consent to contact by researchers

The Commission undertakes research with participants in agreement approval 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 purpose of inviting you to participate in this research?

- Yes
- No

A copy of this declaration must be served on:



- each other employer that is covered by the agreement **and**
- each employee organisation that was a bargaining representative **and**
- any employee bargaining representative of whom you are aware.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

Information sheet

Legal or other representation

Representation is where another person (such as a lawyer or paid agent, or an employee of an employer organisation) speaks or acts on a person’s behalf, or assists a person in certain other ways in relation to a matter before the Commission. There is no requirement to be represented at the Commission.

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

Generally, a person must give notice to the Commission (by lodging 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) and seek permission from the Commission Member dealing with the matter if they wish to have a lawyer or paid agent represent them by participating in a conference or a hearing.

Apart from participating in a conference or hearing, a person’s lawyer or paid agent can represent them without permission, unless the Commission decides otherwise. For example, the lawyer or paid agent can prepare and lodge written applications, responses and submissions with the Commission, and communicate in writing with the Commission and other parties to the matter on the person’s behalf.

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

Rule 13(2) of the [Fair Work Commission Rules 2024](#) 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, 13 and 14 of the [Fair Work Commission Rules 2024](#) and the Commission’s [practice note on representation by lawyers and paid agents](#).

Glossary of common terms

Applicant – This is the person or organisation making an application.

Better off overall test - The better off overall test requires the Commission to be satisfied, as at the time the application for approval of the agreement by the Commission was made, that each award covered employee, and each reasonably foreseeable employee would be better off overall under the agreement than under the relevant modern award.

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Employee bargaining representative – a person an employee has appointed in writing as the employee’s bargaining representative for the agreement.

Greenfields agreement – An enterprise agreement relating to a genuine new enterprise (including a new business, activity, project or undertaking) which is made at a time when the employer or employers have not yet employed any of the persons who will be necessary for the normal conduct of the enterprise and who will be covered by the agreement.

Lawyer – This is a person who is admitted to the legal profession by a Supreme Court of a State or Territory.

Modern award – Awards are legal documents that outline minimum pay rates and conditions of employment. A modern award is an award the commenced on or after 1 January 2010.

National Employment Standards – The National Employment Standards are minimum employment entitlements that have to be provided to all employees. Agreements cannot exclude or provide for conditions that are less than the National Employment Standards.

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, a 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 2024](#) deal with service.

Privacy

The Commission collects the information (including personal information) provided to it in this form in order to deal with the application for approval of the agreement. 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 information sheet and keep it for future reference – it contains useful information.