



About the F90 application form

Application for an unfair termination remedy

About unfair termination remedies

The [Fair Work Act 2009](#) provides for the Fair Work Commission (Commission), on application, to determine whether a **regulated road transport contractor** was unfairly **terminated**.

The Commission may order a remedy for the regulated road transport contractor if the Commission finds the contractor is protected from unfair termination and has been unfairly terminated. To find a contractor was unfairly terminated the Commission must be satisfied that the termination was not consistent with the [Road Transport Industry Termination Code](#).

To be eligible to apply for an unfair termination remedy you must:

- have been a regulated road transport contractor when you were terminated
- have been performing work under a **services contract** under which a **road transport business** received services
- have had the services contract terminated by, or as a result of conduct of, the road transport business
- have earned less than the [contractor high income threshold](#), and
- have been performing work under the services contract, or a series of services contracts under which the road transport business received services, for a period of at least 6 months.

For more information about unfair termination remedies, see [Unfair termination for regulated road transport contractors](#) on the Commission's website.

When to use this form

Use this form to apply to the Commission for unfair termination remedy if you are or were a regulated road transport contractor and you believe you have been unfairly terminated.

You must apply within 21 days after the termination. We can only extend the deadline for lodging an application in exceptional circumstances.

Lodging your completed application

1. **Lodge your application** and any supporting documents with the Commission within **21 days** after your termination took effect. You can lodge:
 - by email to lodge@fwc.gov.au, or
 - by post or in person at the [Commission's office](#) in your state or territory.
2. **Pay your application fee** at the same time as you lodge your application. The current application fee is available on the [Lodge an application](#) page on the Commission's website.

If paying the fee will cause you serious 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.

When the Commission sends a copy of your application to other people involved in the case, we will not include information about the application fee.



We will send a copy of this form (and any other documents you lodge with it) to the other people in this case.

This includes:

- the road transport business, and
- any representatives or paid agents involved in the case.

This is so they can understand your side of the case. We will ask them for their side of the case as well.

If you are worried about particular information being passed on, don't include it yet.

Lodge your completed form and then contact us to talk about whether you should provide the information.

You can find out more about [keeping the case confidential](#) on our website.

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 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 speaks or acts on your behalf, or assists you in certain other ways in relation to your case. A representative could be a lawyer, paid agent, union, legal guardian or a not-for-profit association or body that provides support, advice or advocacy in relation to the kind of application or case concerned.

A representative is different from a support person. A support person is someone you bring with you to a legal proceeding who can give you emotional support, such as a family member or friend.

You do not have to be represented to bring a case to the Commission.

There are some rules about when a lawyer or paid agent can represent you.

Unless the Commission decides otherwise in a particular case, a lawyer or paid agent can represent you without permission to:

- prepare and lodge this application,
- prepare and lodge submissions about your case, and
- write to the Commission and other people involved in the case on your behalf.

Generally, you must give notice to the Commission and seek permission from the Commission Member dealing with your case if you wish to have a **lawyer or paid agent** represent you in a **conference or hearing**. You do not need to ask permission or give notice if your lawyer or paid agent is an employee or officer of a union that is representing you.

You can notify the Commission using this form that you have a lawyer or paid agent – provide their details at ‘Do you have a representative?’.

If you need to notify the Commission that you have a lawyer or paid agent after you have lodged this form, or if you need to ask permission for a lawyer or paid agent to take part in a **conference or hearing**, use [form F53](#).

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](#), information about [representatives and the rules they must follow](#), and the Commission’s [practice note on representation by lawyers and paid agents](#).

Glossary of common terms

Applicant – this is the person 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, this is an agent (other than a bargaining representative) who charges or receives a fee to represent a person in the matter.

Party – this is a person involved in a matter or case that is brought to the Commission.

Person – includes an individual and a body corporate.

Regulated road transport contractor – see section 15Q of the [Fair Work Act 2009](#).

Road transport business – see section 15R of the [Fair Work Act 2009](#).

Respondent – this is the person responding to an application made by an applicant.

Services contract – see section 15H of the [Fair Work Act 2009](#).

Terminated – see section 536LL of the [Fair Work Act 2009](#).

Privacy

The Commission collects the information (including personal information) provided to it in this form in order to deal with the application for an unfair termination remedy. The information will be included on the case file and the Commission may disclose the information to the other parties to this case 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 F90 – Application for an unfair termination remedy

Fair Work Act 2009 (the Fair Work Act), section 536LU

This is an application to the Fair Work Commission (the Commission) for an unfair termination remedy under Part 3A-3 of the Fair Work Act.

The Applicant (you)



These are your details. Provide a telephone number and email. It is important that we can contact you so that we can deal with your application.

To make this application, you must have been a regulated road transport contractor when you were terminated. Section 15Q of the Fair Work Act defines *regulated road transport contractor*.

First name(s)			
Surname			
Email address			
Phone number			
Mobile number			
Postal address			
Suburb			
State or territory		Postcode	

Note: if you provide a mobile number we may send you reminders via SMS

Do you need an interpreter?



If you are having trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help in your language](#) on our website.

Yes – Specify language

No

Do you need 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 that is representing you. This might be a lawyer or paid agent, or a union. You do not need to have a representative.

Yes – Provide representative’s details below

No

Your representative



These are the details of the person representing you (if any).

Name of person			
Firm, organisation or company			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	
Is your representative a lawyer or paid agent?			
You will need permission to be represented by a lawyer or paid agent in a conference or hearing. Our lawyers and paid agents practice note explains when you need to ask for permission to be represented.			
<input type="checkbox"/> Yes – please select:	<input type="checkbox"/> Lawyer <input type="checkbox"/> Paid agent		
<input type="checkbox"/> No			

The Respondent (the road transport business)

Provide details below of the road transport business that terminated you.



Section 15R of the Fair Work Act defines *road transport business*.

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

Legal name of road transport business			
Road transport business's ACN (if a company)			
Road transport business's ABN			
Contact person			
Phone number			
Email address			
Postal address			
Suburb			
State or territory		Postcode	

1. Termination of your services contract

1.1 What date did you begin working under the services contract that was terminated?

1.2 What date were you notified of the termination?



Section 536LL of the Fair Work Act defines *terminated*.

1.3 What date did your termination take effect?

1.4 Have you been performing work in the road transport industry under the services contract, or a series of services contracts under which the road transport business receives services, for a period of at least 6 months?



See section 536LE(c) of the Fair Work Act. To be protected from unfair termination you must have been performing work:

- in the road transport industry
- under a contract, or series of contracts, under which the road transport business receives services

for a period of at least 6 months.

Yes

No

1.5 Are you making this application within 21 calendar days after the day your termination took effect?



See sections 536LU(3) and 536LU(4) of the Fair Work Act. This application must be made within 21 days after the day the termination took effect, or such further period as allowed by the Commission.

The Commission may allow a further period to make this application if satisfied there are exceptional circumstances, taking into account the matters listed in section 536LU(4).

Yes

No

If you answered **No** – Explain why there are exceptional circumstances, referring to the matters listed in section 536LU(4) of the Fair Work Act (including the reason for the delay and any action you have taken to dispute the termination).

1.6 Have you earned less than the contractor high income threshold?



This application can only be made if your annual rate of earnings is less than the contractor high income threshold. See section 536LU(2) of the Fair Work Act and regulation 1.08AA of the Fair Work Regulations 2009.

Yes

No

1.7 Have you commenced other termination proceedings in relation your termination)?



See section 734BB of the Fair Work Act. You cannot make this application if you have commenced other termination proceedings, unless you have discontinued those other proceedings or they have failed because there was no jurisdiction. Regulation 6.01B defines *other termination proceedings*. If you answer yes to this question, you will need to decide which proceeding is the most appropriate one. If you are unsure which is the best option for you, read the **where to get help** section in the cover sheet of this form.

Yes

No

1.8 What were the reasons for your termination given by the road transport business (if any)?



Using numbered paragraphs, specify the reasons for your termination that the road transport business gave you (if any). Attach text messages or documentation given to you by the business. Note that the Commission will send copies of any documents you provide to the business. Add extra pages if necessary.

1.9 Why was your termination unfair?



See section 536LM of the Fair Work Act. Using numbered paragraphs, describe what happened and explain why you say your termination was unfair. This should include:

- your response to any reasons for your termination that the road transport business gave you, and
- whether the road transport business followed any relevant process in the [Road Transport Industry Termination Code](#).

1.10 Why was your termination not consistent with the Road Transport Industry Termination Code?



Under section 536LK of the Fair Work Act, the Commission cannot find you were unfairly terminated unless it is satisfied your termination was not consistent with the [Road Transport Industry Termination Code](#).

2. Remedy

2.1 What outcome are you seeking by lodging this application?



See sections 536LS and 536LT of the Fair Work Act. The Commission may order the road transport business to enter into a new services contract in the same terms as the services contract at the time of the termination or with such variation as the Commission considers appropriate. If the Commission makes an order for a new services contract it may also order the road transport business to pay for remuneration lost, or likely to have been lost, because of the termination.

If the Commission determines that entering into a new services contract would be inappropriate, the Commission may order the road transport business to pay compensation in lieu of entering into a new services contract.

Disclosure of information

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

- the road transport business, and
- any legal representatives.

Authority to sign and signature



For 'Authority to sign':

- If you are the Applicant—insert 'Applicant'
- If you are the Applicant's representative and have provided your details in this form—insert 'Representative'.

Authority to sign	
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Insert your signature, name and the date. If you are completing this form electronically and do not have an electronic signature, type your name in the signature field.

Signature	
Name	
Date	

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 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. The [Fee waiver form](#) can be downloaded from the Commission website www.fwc.gov.au.

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 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 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