



About the F11 application form

Application for the Commission to deal with a bargaining dispute

Who can use this form

Use this form if you are a bargaining representative for a proposed enterprise agreement, and the proposed agreement is:

- a single-enterprise agreement
- a supported bargaining agreement, or
- a multi-enterprise agreement in relation to which a single interest employer authorisation is in operation.

and you want the Fair Work Commission (the Commission) to deal with a bargaining dispute. You can make this application whether or not the other bargaining representatives for the agreement have agreed to the making of the application.

You may also use this form if the proposed agreement is a cooperative workplaces agreement with the agreement of all the bargaining representatives.

About bargaining disputes

The [Fair Work Act 2009](#) (Fair Work Act) allows a bargaining representative for a proposed enterprise agreement of the kind described above to apply to the Commission to deal with a bargaining dispute if the bargaining representatives are unable to resolve it (s.240).

The Commission can deal with the dispute as it considers appropriate, including by mediation, conciliation, making a recommendation or expressing an opinion (s.595(2)). The Commission can only arbitrate the dispute if the bargaining representatives have agreed that the Commission may arbitrate (s.240(4)).

Associated applications

The Commission can only make an intractable bargaining declaration under section 235 of the Fair Work Act:

- if the applicant for the declaration has participated in dispute resolution processes conducted by the Commission to deal with a bargaining dispute under section 240 and there is no reasonable prospect of agreement being reached (s.235(2)(a) and (b)), and
- it is after the end of the minimum bargaining period (which is 9 months after the later of the nominal expiry date of any existing agreement and the day bargaining starts for the proposed agreement) (s 235(1)(c)).

Lodging your completed form

1. Lodge **your application** and any supporting documents with the Commission. The *Fair Work Commission Rules 2013* require that this application must be accompanied by a copy of each notice that has been issued by the applicant, respondent or a bargaining representative since bargaining commenced.
2. You can lodge your application by post, by fax or by email or in person at the [Commission office](#) in your state or territory.
3. **Serve a copy** of this application and any supporting documentation on each Respondent named in the application and all other bargaining representatives seeking to make an enterprise agreement as soon as practicable after the application is lodged with the Commission.

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 (such as a family member or friend, lawyer or paid agent, or an employee of a union or 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 a 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 12(2) of the [Fair Work Commission Rules 2013](#) 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 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.

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 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 F11 – Application for the Commission to deal with a bargaining dispute

Fair Work Act 2009, s. 240

This is an application to the Fair Work Commission to deal with a bargaining dispute in accordance with Part 2-4 of the [Fair Work Act 2009](#).

The Applicant



These are the details of the employer or other bargaining representative who is making the application.

Legal name of Applicant			
Applicant's ACN (if a company)			
Applicant's trading name or registered business name (if applicable)			
Applicant's ABN (if applicable)			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

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

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

Yes – Please specify the assistance required

No

Does the Applicant have a representative?



A representative is a person or organisation who is representing the Applicant. There is no requirement to have a representative.

Yes – Provide representative’s details below

No

Applicant’s representative



These are the details of the person or organisation who is representing the Applicant (if any).

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

Is the representative a lawyer or paid agent?

Yes

No

The Respondent(s)



These are the details of the bargaining representative(s) with whom you are in dispute and who will be responding to this application.

Legal name of Respondent			
Respondent's ACN (if a company)			
Respondent's trading name or registered business name (if applicable)			
Respondent's ABN (if applicable)			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

Please attach additional pages for any further bargaining representatives involved in bargaining for the proposed agreement

1. Preliminary

1.1 What industry is the employer or each employer in?

1.2 Is the proposed enterprise agreement a single-enterprise agreement?

Yes – go to Q2

No

1.3 Is the proposed enterprise agreement a supported bargaining agreement?

Yes – go to Q2

No

1.4 Is the proposed agreement a multi-enterprise agreement to which a single interest employer authorisation is in operation?

Yes – go to Q2

No

1.5 If you have answered No to questions 1.2, 1.3 and 1.4, have all of the bargaining representatives agreed to this application being made?

Yes

No

2. About the bargaining dispute**2.1 Describe the course of bargaining to date, including when bargaining commenced.**

Bargaining commenced when the employer agreed to bargain, or initiated bargaining, or received a request to bargain under section 173(2A) of the [Fair Work Act 2009](#), or when a majority support determination, scope order, supported bargaining authorisation or single interest employer authorisation came into operation.

2.2 What are the main matters in dispute?

Using numbered paragraphs, describe the matters in dispute. Attach additional pages if necessary.

3. Other proceedings before the Commission

3.1 List the Commission matter number of any proceedings that have already been, or are currently, before the Commission in relation to the present bargaining.

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	
Date	
Capacity/ Position	



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