About the F21A application form

# Application for approval of greenfields agreement made under subsection 182(4) of the Act

## About greenfields agreements

Greenfields agreements are enterprise agreements made in relation to:

* a genuine new enterprise that one or more employers are establishing, or propose to establish; where
* the employer or employers have not yet employed any of the people who will be necessary for the normal conduct of the enterprise and will be covered by the agreement.

The Fair Work Commission (the Commission) assesses and approves enterprise agreements. It can also assist in the process of making agreements and can deal with disputes arising under the terms of 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.

For information about the process that must be followed to make a new enterprise agreement see the [Making an agreement](https://www.fwc.gov.au/agreements-awards/enterprise-agreements/make-enterprise-agreement) page on the Commission’s website.

## Who can use this form

Use this form if:

* you are an employer that will be covered by a greenfields agreement to be made under subsection 182(4) the *Fair Work Act 2009* (or are completing this form for such an employer) and
* you wish to apply to the Commission for approval of the agreement.

**Note:** If more than one employer will be covered by the agreement a **joint application** should be lodged using this application form.

**Note:** If the greenfields agreement has been made under section 182(3) of the *Fair Work Act 2009* – complete Form F19 instead of this form. If the agreement is **not** a greenfields agreement – complete Form F16 instead of this form.

## Lodgment and service of your completed form

1. The following must be **lodged** with the Commission:

[ ]  this form **and**

[ ]  a copy of the greenfields agreement **and**

[ ]  a copy of each notice given under section 178B of the *Fair Work Act 2009* by an employer that is a bargaining representative for the greenfields agreement **and**

[ ]  a Form F21B – Employer’s declaration in support of application for approval of a greenfields agreement made under subsection 182(4) of the Act, completed by each employer that is a bargaining representative for the agreement.

You can lodge your application by post, fax or email, or in person at the [Commission office](https://www.fwc.gov.au/about-us/contact-us) in your state or territory.

1. **As soon as practicable** after this application is lodged with the Commission, you must **serve** a copy of this application upon each employee organisation that is a bargaining representative for the greenfields agreement.

**Note:** **Before the agreement is approved**, if an employee organisation that is a bargaining representative for the greenfields agreement wants to advise the Commission about whether it agrees with information in an employer’s Form F21B declaration, the organisation must lodge a Form F21C—declaration of employee organisation in relation to an application for approval of a greenfields agreement made under subsection 182(4) of the Act.

## 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](https://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, 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 a 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](https://www.legislation.gov.au/Series/F2013L02054) 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](https://www.legislation.gov.au/Series/C2009A00028), rules 11, 12 and 12A of the [Fair Work Commission Rules 2013](https://www.legislation.gov.au/Series/F2013L02054) and the Commission’s [practice note on representation by lawyers and paid agents](https://www.fwc.gov.au/hearings-decisions/practice-notes/practice-note-lawyers-paid-agents).

## Glossary of common terms

**Applicant** – This is the person or organisation that is making the 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 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 2013](https://www.legislation.gov.au/Series/F2013L02054) 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](https://www.fwc.gov.au/documents/forms/form_f21a-privacy.pdf) 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 F21A – Application for approval of greenfields agreement made under subsection 182(4) of the Act

[Fair Work Act 2009](https://www.legislation.gov.au/Series/C2009A00028), s.182(4); Fair Work Commission Rules 2013, rule 24 and Schedule 1

This is an application to the Fair Work Commission for approval of a greenfields agreement in accordance with Part 2-4 of the [Fair Work Act 2009](https://www.legislation.gov.au/Series/C2009A00028).

## The Applicant(s)

|  |  |
| --- | --- |
|  | These are the details of the employer or employers that are making this application. If there is more than one employer, provide the details of each employer. |

## Employer 1

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

### Does Employer 1 have a representative?

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

[ ]  Yes

[ ]  No

#### If yes, provide the details of Employer 1’s representative

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

### Is Employer 1’s representative a lawyer or paid agent?

[ ]  Yes

[ ]  No

### Did Employer 1 appoint a bargaining representative?

[ ]  Yes

[ ]  No

#### If yes, provide the details of Employer 1’s bargaining representative

|  |  |
| --- | --- |
| Name of employer bargaining representative |  |
| Contact person |  |
| Postal address |  |
| Suburb |  |
| State or territory |  | Postcode |  |
| Phone number |  | Fax number |  |
| Email address |  |

## Employer 2 (delete if not applicable)

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

### Does Employer 2 have a representative?

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

[ ]  Yes

[ ]  No

#### If yes, provide the details of Employer 2’s representative

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

### Is Employer 2’s representative a lawyer or paid agent?

[ ]  Yes

[ ]  No

### Did Employer 2 appoint a bargaining representative?

[ ]  Yes

[ ]  No

#### If yes, provide the name of the Employer 2’s bargaining representative

|  |  |
| --- | --- |
| Name of employer bargaining representative |  |
| Contact person |  |
| Postal address |  |
| Suburb |  |
| State or territory |  | Postcode |  |
| Phone number |  | Fax number |  |
| Email address |  |

|  |  |
| --- | --- |
|  | If there are more than two employers making the application, ensure the above details are completed for each employer. Attach additional pages if necessary. |

## 1. The agreement

### 1.1 What is the name of the agreement?

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

|  |
| --- |
|  |

### 1.2 Are you aware of any other agreement that has been lodged or dealt with by the Commission that has identical or substantially identical terms?

[ ]  Yes

[ ]  No

#### If you answered Yes – Provide information to identify each such other agreement.

If you can, include: the name of the other agreement, the name of the employer covered by the other agreement, the agreement ID number, the date of the Commission's decision and the name of the Commission Member who dealt with the other agreement

|  |
| --- |
|  |

## 2. The employer(s)

### 2.1 How many employers are covered by the agreement?

|  |  |
| --- | --- |
| Number of employers |  |
|  | If there is more than one employer, ensure each employer’s details are included in the applicant section above. |

### 2.2 What is the industry of the employer or employers that will be covered by the agreement?

|  |
| --- |
|  |

## 3. Union bargaining representatives

### 3.1 Which employee organisations (unions) were bargaining representatives for the agreement?

Provide the name(s) of the employee organisation(s).

|  |  |
| --- | --- |
| Name of employee organisation |  |
| Contact person |  |
| Postal address |  |
| Suburb |  |
| State or territory |  | Postcode |  |
| Phone number |  | Fax number |  |
| Email address |  |

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. |

### Employer 1

|  |  |
| --- | --- |
| 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. |

### Employer 2 (delete if not applicable)

|  |  |
| --- | --- |
| 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.If there are more than two employers making this application, include additional signature boxes. |
| **PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS** |