



## About the F20 declaration

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### Employer's declaration in support of application for approval of greenfields agreement made under subsection 182(3) of the Act

#### When to use this form

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

Greenfields agreements may be single or multi-enterprise agreements.

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 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 a greenfields agreement. This form can be used if a [Form F19 – Application for approval of greenfields agreement made under subsection 182\(3\) of the Act](#) has been or is being lodged with the Commission.

#### 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).

**Note:** If the greenfields agreement has been made under section 182(4) of the [Fair Work Act 2009](#) – complete Form F21B. If the agreement is **not** a greenfields agreement – complete Form F17.

## What is covered in this form

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

Part 2 – Requirements for approval

Part 3 – The better off overall test and National Employment Standards

Part 3.1 – The better off overall test

Part 3.2 – The National Employment Standards

Part 4 – Statistical information

## What you may need when completing this form

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

- a copy of the agreement, and
- a copy of the relevant modern award(s) for comparison with the agreement.

## How to lodge and serve your completed form

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

- This **declaration**, 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 organisation signature with full name, address and an explanation of their authority to sign the agreement

Lodge by post, email to [lodge@fwc.gov.au](mailto:lodge@fwc.gov.au), or in person at the [Commission office](#) in your state or territory, either at the same time as the Form F19 or separately.

2. **As soon as practicable** after lodging, you must **serve** a copy of **all documents lodged with the Commission** on:

- each other employer that is covered by the agreement **and**
- each employee organisation that is covered by the agreement.

You can serve documents several ways, including by email, express post or registered post.

**Note:** Each employee organisation covered by the agreement must lodge a Form F21 declaration with the Commission within 14 days after the agreement was made in relation to:

- whether it disagrees with information in the employer's Form F20 declaration
- whether it believes the agreement passes the better off over all test
- how approval of the agreement would be in the public interest.

## 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](http://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 F20 – Employer’s declaration in support of application for approval of greenfields agreement made under subsection 182(3) of the Act

[Fair Work Act 2009](#), s.185; [Fair Work Commission Rules 2024](#), rule 33, rule 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, new enterprise and 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 kind of work will be covered by the agreement?**

**4 Does the agreement cover a genuine new enterprise the employer is establishing or is proposing to establish?**

Yes

No

If you answered **Yes** – Provide details of the genuine new enterprise that the employer is establishing or proposing to establish.

**5 Does the employer have existing similar enterprises or is the employer contemplating the establishment of a similar enterprise?**

Yes

No

If you answered **Yes** – Provide details of these enterprises.

**6 At the date the agreement was made, had the employer employed any persons who will be necessary for the normal conduct of the new enterprise and who will be covered by the agreement?**

Yes

No

## Part 2 – Requirements for approval

**7 On what date was the agreement made?**



See section 182(3) of the [Fair Work Act 2009](#).

Date	
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**8 Once the employer has employed all of the persons who will be necessary for the normal conduct of the new enterprise, will the agreement cover all of the employees of the employer?**



See sections 186(3) and 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 covered is geographically, operationally or organisationally distinct.

Attach additional pages if necessary.

**9 Are the employee organisations covered by the agreement, taken as a group, entitled to represent the industrial interests of a majority of the employees who will**

**be covered by the agreement, in relation to work to be performed under the  
agreement?**



See section 187(5)(a) of the [Fair Work Act 2009](#).

Yes

No

**10 Provide details of how the approval of the agreement would be in the public  
interest:**



See section 187(5)(b) of the [Fair Work Act 2009](#).

**Part 3 – 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 reasonably foreseeable employees for the agreement, and how the agreement interacts with the National Employment Standards in the Fair Work Act.

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 3.1 – 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 reasonably foreseeable employee for the agreement would be better off overall under the agreement than under the relevant modern award.

**11 List the modern award(s), if any, that cover the employer and any of the reasonably foreseeable employees for the agreement.**



You should include the MA number for each award. You can find the MA number from the [Find an award](#) page on the Commission’s website.

**12 Match all employee classifications in the agreement to the classifications in the modern award(s) listed in your answer to question 11.**

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:		
<b>Classification in agreement</b>	<b>Corresponding classification in modern award</b>	

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

### Improvements and reductions



Your answers to questions 13-17 (inclusive) should indicate whether all or only some of the reasonably foreseeable employees for the agreement are affected and, if only some are affected, identify the groups of reasonably foreseeable employees affected. Include relevant clause numbers.

You may provide a consolidated response to questions 13-17 in a separate attachment.

**13 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 11?**

- 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).

**14 Does the agreement provide any entitlements that the modern award(s) listed in your answer to question 11 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).

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**15 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 11?**

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).

**16 Does the agreement omit any entitlements that the modern award(s) listed in your answer to question 11 provide?**

Yes

No

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

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**17 Does the agreement contain any terms or conditions of employment different to those under the modern award(s) listed in your answer to question 11, which you have not already identified in your answers to questions 13 to 16?**

Yes

No

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

**18 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, and
- a bargaining representative for the agreement.

Yes

No

Referring to your answers to questions 11 to 17, explain why the employer is of the view the agreement does or does not pass the better off overall test.



Only answer question 19 if the employer is of the view that the agreement does not pass the better off overall test.

**19 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?**



Section 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 3.2 – The National Employment Standards**

See Part 2-2 and section 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 beneficial than the National Employment Standards.

**20 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?
<a href="#">Maximum weekly hours</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Requests for flexible working arrangements</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Casual employment</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Parental leave and related entitlements</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Annual leave</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Personal/carer's leave</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Compassionate leave</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Family and domestic violence leave</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Community service leave</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Long service leave</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Public holidays</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<a href="#">Superannuation contributions</a>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A

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greenfields agreement made under subsection 182(3) of the Act

National Employment Standard	Agreement clause(s)	Does this clause exclude or provide a less beneficial entitlement when compared to the NES?
<u>Notice of termination</u>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<u>Redundancy pay</u>		<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
<u>Fair Work Information Statement and Casual Employment Information Statement</u>		<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 4 – Statistical information**



This information is collected to enable the General Manager of the Fair Work Commission to comply with the statutory reporting obligations under 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.

**21 What is the primary activity of the employer?**



For example music retailer, plumbing contractor, steel fabricator, etc.


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

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

**23 When did the employer agree to bargain, or initiate bargaining, for the agreement?**

Date	
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Signature		Date:	
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	<p>Giving false or misleading information is a serious offence.</p> <p>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 <i>Criminal Code</i>.</p>
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<b>PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS</b>
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## 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 reasonably foreseeable employee would be better off overall under the agreement than under the relevant modern award.

## Form F20 – Employer’s declaration in support of application for approval of greenfields agreement made under subsection 182(3) of the Act

**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 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 that 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, express or registered post, or in person. Part 5 of Chapter 1, rule 36 and Schedule 1 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.