



## About the F21 declaration

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### Declaration of an employee organisation in relation to an application for approval of a greenfields agreement made under subsection 182(3) of the Act

#### About greenfields agreements

Greenfields agreements are enterprise agreements that involve:

- 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.

Such agreements may be single or multi-enterprise agreements.

The Fair Work Commission (the Commission) assesses and approves greenfields 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.

Each employee organisation that is covered by the agreement must lodge this Form F21 declaration with the Commission within 14 days after the agreement is made, in relation to:

- whether it disagrees with one or more statements in an employer's declaration, and
- whether it is of the view that the agreement passes the better off overall test, and
- how approval of the agreement would be in the public interest.

#### Who can use this form

Use this form if:

- a Form F19 – Application for approval of a greenfields agreement made under subsection 182(3) of the Fair Work Act has been or is being lodged with the Commission **and**
- you are an officer or authorised employee of a relevant employee organisation that is covered by the agreement.

**Note:** If the greenfields agreement has been made under section 182(4) of the [Fair Work Act 2009](#) – complete Form F21C. If the agreement is **not** a greenfields agreement – complete Form F18.

## Lodgment and service of your completed form

1. **Lodge this declaration** with the Commission **within 14 days** after the agreement is made.

You can lodge:

- by email to [lodge@fwc.gov.au](mailto:lodge@fwc.gov.au), or
- by post or in person at the [Commission's office](#) in your state or territory.

**Note: Each relevant employee organisation** that is covered by the agreement **must lodge** a Form F21 declaration.

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

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

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

## 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. 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 a union) 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
- 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 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 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 cover sheet** and keep it for future reference – it contains useful information

# Form F21 – Declaration of an employee organisation in relation to an application for approval of a 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

## Part 1 – About the employee organisation (the Union)



The Commission will send the contact person(s) listed in this section correspondence relating to the application (in addition to the contacts named in the Form F19).

Details of the Union			
Union			
Branch			
Postal address			
Suburb or town			
State or territory		Postcode	
Details of the Union’s contact person(s)			
Name			
Position/role			
Email address			
Phone number			

Attach additional pages if necessary.

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**Part 2 - Declaration**

This is a declaration in relation to 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:

**1. I am an officer or authorised employee of the following employee organisation (the Union):**

Name of Union	
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**2. This declaration relates to an application for approval of the following greenfields agreement (the Agreement):**

Name of Agreement	
Name(s) of employer(s) covered by the Agreement	

**3. Is the Union entitled to represent the industrial interests of one or more of the employees who will be covered by the Agreement, in relation to work to be performed under the Agreement?**

Yes

No

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**4. 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?**

Yes

No

**5. Does the Union want to advise the Fair Work Commission (the Commission) that it disagrees with one or more statements in an employer’s declaration relating to the Agreement (the Employer’s Declaration)?**

Yes

No

If you answered **Yes** – provide details of the Employer’s Declaration:

Name of person who made the Employer’s Declaration	
Date of Employer’s Declaration	

**6. If you answered Yes to question 5 – set out the statements that the Union disagrees with and state why the Union disagrees with them, using numbered paragraphs:**

Attach additional pages if necessary.

**7. Is the Union 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

Explain why the Union is of the view the Agreement does or does not pass the better off overall test.

Attach additional pages if necessary.

**8. 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](#)

Attach additional pages if necessary.

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Signature		Date:	
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	<p><b>Giving false or misleading information is a serious offence.</b></p> <p>A person who knowingly gives false or misleading information or knowingly produces a false or misleading document in relation to 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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<p><b>PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS</b></p>
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