



## About the F24C declaration

---

### Declaration in relation to termination of an enterprise agreement after the nominal expiry date

#### About the termination of enterprise agreements

Under the [Fair Work Act 2009](#), agreements continue to operate after their nominal expiry date until they are replaced or terminated by application to the Fair Work Commission (the Commission).

Employers and their employees may agree to terminate an enterprise agreement before or after its nominal expiry date. An enterprise agreement may also be terminated by the Commission without agreement after its nominal expiry date has passed.

For information about the process that employers and employees must follow to terminate an enterprise agreement see the [Terminate an agreement](#) page on the Commission's website.

#### Who can use this form

Use this form if:

- a Form F24B – Application for termination of an enterprise agreement after the nominal expiry date is being lodged with the Commission **and**
- you are the Applicant or an officer or authorised employee of the Applicant.

#### Lodgment and service of your completed declaration

1. **Lodge** this declaration with the Commission at the same time as the Form F24B application and any guarantee of entitlements.

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.

2. **As soon as practicable** after lodging, you must **serve** a copy of all documents lodged with the Commission on each employer and each employee organisation covered by the agreement.

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

**Note:** Each employee, employer or employee organisation that is covered by the agreement and wants to advise the Commission of its views on the termination can lodge a Form F24D declaration with the Commission. The Form F24D declaration must be lodged **before the Commission approves the termination** of the agreement. The person making the declaration must also serve a copy on each employer and employee organisation covered by the agreement.

## 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 an employee 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 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 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 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, express or registered post, or in person. Part 5 of Chapter 1 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 termination of the agreement. The information will be included on the case file, and the Commission 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 F24C – Declaration in relation to termination of an enterprise agreement after the nominal expiry date

[Fair Work Act 2009](#), s.225; [Fair Work Commission Rules 2024](#), rule 46 and Schedule 1

This is a declaration in support of an application to the Fair Work Commission for termination of an enterprise agreement under Part 2-4 of the [Fair Work Act 2009](#).

I,	
----	--

[insert name of person making the declaration]

--

[insert postal address of person making the declaration]

--	--	--

[insert suburb]

[insert State or Territory]

[insert postcode]

--

[insert occupation of person making the declaration]

declare that:

## Part 1 – Preliminary

### 1.1 What is the name of the Applicant for termination of the enterprise agreement?

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)	

### 1.2 What is the name of the enterprise agreement that is proposed to be terminated (the Agreement)?



Write the name exactly as it appears in the title clause of the Agreement and include the Agreement ID/Code Number if known.

--

Form F24C –Declaration in relation to termination of an enterprise agreement after the nominal expiry date

**1.3 What is the nominal expiry date of the Agreement? What is the number of the clause in the Agreement that specifies that date?**

Nominal expiry date	
Clause number	

**Part 2 – Grounds for termination**



Section 226(1) of the [Fair Work Act 2009](#) sets out 3 different grounds for termination of an enterprise agreement after the nominal expiry date.

If no employees are covered (or likely to be covered) by the Agreement, you should answer question 2.2.

If any employees are covered by the Agreement, you should answer question 2.1 or questions 2.3(a), (b) and (c).

**Ground 1 – Unfairness**

**2.1 Explain why you believe that the continued operation of the Agreement would be unfair for the employees covered by the Agreement.**



See section 226(1)(a) of the [Fair Work Act 2009](#).

**Ground 2 – Coverage**

**2.2 Are there any employees covered or likely to be covered by the Agreement?**



See section 226(1)(b) of the [Fair Work Act 2009](#).

- Yes
- No
- Don't know

Form F24C –Declaration in relation to termination of an enterprise agreement after the nominal expiry date

If you answered **Yes** – you should answer question 2.1 or questions 2.3(a), (b) and (c).

If you answered **No** – you do not need to answer questions 2.1 or 2.3.

**Ground 3 – Viability of business, potential terminations of employment and termination entitlements**

**2.3(a) Explain how the continued operation of the Agreement would pose a significant threat to the viability of a business carried on by the employer, or employers, covered by the Agreement.**



See section 226(1)(c)(i) of the [Fair Work Act 2009](#).

**2.3(b) Explain how the termination of the Agreement would be likely to reduce the potential of terminations of employment covered by section 226(2) for the employees covered by the Agreement.**



See sections 226(1)(c)(ii) and 226(2) of the [Fair Work Act 2009](#).

Form F24C –Declaration in relation to termination of an enterprise agreement after the nominal expiry date

**2.3(c) Does the Agreement contain terms providing entitlements of the kind set out in section 226A(3) relating to the termination of employees’ employment?**



See sections 226(1)(c)(iii) and 226A of the [Fair Work Act 2009](#).

Yes

No

If you answered **Yes** – specify which clause(s) in the Agreement provide such entitlements.

**Part 3 – Bargaining for a proposed new enterprise agreement**

**3 Has the process of making a proposed new enterprise agreement started?**



Section 226(4) of the [Fair Work Act 2009](#) requires the Commission to consider whether the process of making a proposed new enterprise agreement has started and, if it has, whether terminating the Agreement would adversely affect the bargaining position of employees.

Yes

No

If you answered **Yes** – specify:

- the date of the notification time for the proposed new enterprise agreement,
- whether the proposed new agreement will cover the same, or substantially the same, group of employees as the existing Agreement,
- whether bargaining for the proposed new enterprise agreement is occurring, and
- whether the termination of the existing Agreement would adversely affect the bargaining position of the employees that will be covered by the proposed new enterprise agreement.



Section 173(2) of the [Fair Work Act 2009](#) defines the ‘notification time’ for a proposed enterprise agreement.

#### Part 4 – Any other relevant matter

**4** Is there any other relevant matter that you believe the Commission should consider in deciding whether to terminate the Agreement?

Yes

No

If you answered **Yes** – please provide further details:



See sections 226(1A) and 226(5) of the [Fair Work Act 2009](#).

#### Part 5 – Statistical information



This information is necessary to enable the General Manager of the Fair Work Commission to comply with the statutory reporting obligations in section 653 of the [Fair Work Act 2009](#).

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



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

**5.2** Tick the relevant boxes for the states and territories the Agreement operates in:

Australian Capital Territory

New South Wales


Form F24C –Declaration in relation to termination of an enterprise agreement after the nominal expiry date

- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia
- An external territory

**5.3 Of the employees covered by the Agreement, how many employees are in the following demographic groups?**

Demographic group	Number of employees
Female	
Non-English speaking background	
Aboriginal or Torres Strait Islander	
Disabled	
Part-time	
Casual	
Under 21 years of age	
Over 45 years of age	

Signature		Date:	
-----------	--	-------	--

	<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 termination of an enterprise agreement is guilty of an offence, the punishment for which is imprisonment for up to 12 months – see section 137.1 and section 137.2 of the Criminal Code.</p>
---	--

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS