



# About the F31 application form

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## Application for a scope order

### Who can use this form

Use this form if you want to make an application for a scope order and you are a bargaining representative for a proposed single-enterprise agreement.

Before you lodge this application, you must have:

- taken all reasonable steps to give a written notice setting out your concerns regarding the scope of the proposed agreement to the relevant bargaining representatives for the agreement, and
- given the relevant bargaining representatives a reasonable time in which to respond, and
- not received an appropriate response.

You cannot make an application if a single interest employer authorisation is in operation in relation to the agreement.

### About scope orders

- The [Fair Work Act 2009](#) allows the Fair Work Commission (the Commission) to make an order to determine the appropriate employees to be covered by a proposed single-enterprise agreement (scope order) (section 238). If the Commission makes a scope order, it will specify the employer or employers and employees who will be covered by the proposed agreement (section 238(5)).
- A bargaining representative can apply to the Commission for a scope order if there are concerns that bargaining for the agreement is not proceeding efficiently or fairly because the agreement will not cover appropriate employees, or will cover employees that it is not appropriate for the agreement to cover (section 238(1)).
- The Commission may make a scope order if it is satisfied that:
  - the applicant is meeting, or has met the good faith bargaining requirements, and
  - making the order will promote the fair and efficient conduct of bargaining, and
  - the group of employees who will be covered by the agreement was fairly chosen, and
  - it is reasonable in all the circumstances to make the order (section 238(4)).
- If the proposed agreement will not cover all the employees of the employer, the Commission must take into account whether the group is geographically, operationally or organisationally distinct when considering whether the group of employees was fairly chosen (section 238(4A)).
- For more information about scope orders, please see the Commission's [Enterprise agreements benchbook](#).

## Lodging and serving your completed form

### 1. Lodge with the Commission:

This **form** and any supporting documents, and

- A copy of the **written notice** given under subsection 238(3) of the [Fair Work Act 2009](#) to relevant bargaining representatives for the agreement setting out concerns that bargaining for the agreement is not proceeding efficiently or fairly because the agreement will not cover appropriate employees, or will cover employees that it is not appropriate for the agreement to cover.

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, serve a copy of all documents lodged with the Commission on:

- each Respondent listed in the application, and
- any other bargaining representative.

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:

- 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](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 answer the question following.

### Legal or other representation

Representation is where another person (such as a 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 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 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, 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 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 F31 – Application for a scope order

[Fair Work Act 2009](#), section 238, [Fair Work Commission Rules 2024](#), rule 48

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

### The Applicant



These are the details of the person who is making the application with the Commission.

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)			
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

### If the Applicant is a company or organisation please also provide the following details

Legal name of business	
Trading name of business	
ABN/ACN	
Contact person	

### 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 in your language](#) on our website.

Yes – Specify language

No

**Do you require any special assistance at the hearing or conference (for example a hearing loop)?**

Yes – Please specify the assistance required

No

**Do you have a representative?**



A representative is a person or organisation who is representing you. This might be a lawyer or paid agent, a union or employer organisation. There is no requirement to have a representative.

Yes – Provide representative’s details below

No

**Your representative**



These are the details of the person or organisation that is representing you (if any).

Name of person			
Firm, organisation or company			
Representative’s ABN (if applicable)			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

**Is your representative a lawyer or paid agent?**

<input type="checkbox"/> Yes — please select:	<input type="checkbox"/> Lawyer <input type="checkbox"/> Paid agent
<input type="checkbox"/> No	

## The Respondent



These are the details of the bargaining representative(s) against whom an order is sought.

Legal name of business			
Trading name of business			
ABN/ACN			
Contact person			
Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)			
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

### 1. Coverage

#### 1.1 What industry is the employer in?

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### 2. The Application

#### 2.1 What group of employees do you seek to have covered by the scope order?

2.1.1 Using numbered paragraphs, explain how bargaining for the agreement is not proceeding fairly or efficiently because the scope of the agreement does not cover appropriate employees, or will cover employees that it is not appropriate for the agreement to cover.

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**2.1.2 How will the making of the order promote fair and efficient conduct of the bargaining?**

**2.1.3 Using numbered paragraphs, describe the group of employees that should be covered by the proposed agreement and explain how the employees you are seeking to be covered by the agreement have been fairly chosen. You should clearly explain how the group of employees is operationally, geographically and/ or organisationally distinct.**

**2.2 Have you met, or are you meeting, the good faith bargaining requirements?**

- Yes
- No

2.2.1 Using numbered paragraphs, describe how the Commission can be satisfied that you are meeting, or have met, the good faith bargaining requirements.

2.3 Are there any other matters relevant to whether it is reasonable for the Commission to make the scope order?

2.4. Have you attached a copy of the written notice of concerns to this application?

- Yes
- No



You may only apply for a scope order if you have taken all reasonable steps to give a written notice setting out your concerns to the relevant bargaining representatives for the agreement and given them a reasonable time in which to respond and you consider the relevant bargaining representatives have not responded appropriately – see section 238(3).

2.4.1 List the persons to whom that notice was given and the date such notice was given:

## Authority to sign and signature



For 'Authority to sign':

- If you are the bargaining representative for a proposed single enterprise agreement – insert 'Applicant'
- If you are the Applicant's representative and have provided your details in this form – insert 'Representative'.

<b>Authority to sign</b>	
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Insert your signature, name and the date. If you are completing this form electronically and do not have an electronic signature, type your name in the signature field.

<b>Signature</b>	
<b>Name</b>	
<b>Date</b>	