



About the F32 application form

Application for a bargaining order

Who can use this form

Use this form if you are a bargaining representative for a proposed enterprise agreement and you want to make an application for a bargaining order in relation to the agreement because you have concerns that:

- one or more of the bargaining representatives for the agreement have not met, or are not meeting, the good faith bargaining requirements, or
- the bargaining process is not proceeding efficiently or fairly because there are multiple bargaining representatives for the agreement.

Before you lodge this application, you must have:

- given a written notice to the relevant bargaining representatives for the agreement setting out your concerns that the bargaining representatives have not met, or are not meeting, the good faith bargaining requirements or the bargaining process is not proceeding efficiently or fairly because there are multiple bargaining representatives for the agreement, and
- given the bargaining representatives a reasonable time in which to respond, and the relevant bargaining representatives have not responded appropriately.

Note: An application for a bargaining order cannot be made in relation to a proposed multi-enterprise agreement unless a low-paid authorisation is in operation in relation to the agreement.

About bargaining orders

The [Fair Work Act 2009](#) allows the Fair Work Commission (the Commission) to make a bargaining order in relation to a proposed enterprise agreement to ensure the integrity of the bargaining process.

If bargaining representatives are not effectively bargaining together, an application can be made to the Commission for a bargaining order to be issued requiring bargaining representatives to bargain in good faith (section 230).

In order to make a bargaining order, the Commission must be satisfied that the good faith bargaining requirements are not being met, or have not been met, by one or more of the relevant bargaining representatives or the bargaining process is not proceeding efficiently or fairly because there are multiple bargaining representatives for the agreement (section 230(3)) and **one** of the following applies:

- the employer or employers have agreed to bargain, or have initiated bargaining, for the agreement, or
- the employer or employers have received a request to bargain under section 173(2A) in relation to the agreement, or
- a majority support determination in relation to the agreement is in operation, or
- a scope order is in operation in relation to the agreement, or
- all of the employers are specified in a low-paid authorisation that is operation in relation to the agreement (section 230(2)).

The Commission must also be satisfied that it is reasonable in all the circumstances to make the bargaining order.

For more information about bargaining orders, please see the Commission’s [Enterprise agreement benchbook](#).

Timing of application

If one or more enterprise agreements apply to an employee, or employees who will be covered by the proposed enterprise agreement, this application must be made either:

- not more than **90 days** before the nominal expiry date of the enterprise agreement, or
- after an employer that will be covered by the proposed enterprise agreement has requested that employees approve the agreement, but before the agreement is approved.
- **Note:** If there is more than one enterprise agreement in operation, the 90 day time period is taken from the latest nominal expiry date.

Otherwise, an application can be made at any time.

Lodging and serving your completed form

1. Lodge with the Commission:

- this **application** and any supporting documents, and
- a copy of the **written notice** you provided to the relevant bargaining representatives setting out your concerns, with the Commission.

You can lodge:

- by email to 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 you 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 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 F32 – Application for a bargaining order

[Fair Work Act 2009](#), section 229, [Fair Work Commission Rules 2024](#), rule 47 and Schedule 1

This is an application to the Fair Work Commission for a bargaining 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.

A person who is a bargaining representative for a proposed enterprise agreement may make an application for a bargaining order.

Applicant's legal name			
Applicant's trading name			
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			

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

Yes – Provide representative’s details below

No

Your representative



This is the person or organisation who is representing you (if any).

Name of person			
Firm, organisation, 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.

Respondent's legal name			
Respondent's trading name			
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. Preliminary

1.1 What industry is the employer in?

1.2 Who are the other bargaining representatives?



List any other bargaining representatives the Applicant is aware of including address and contact details.

1.3 What enterprise agreements currently apply to an employee(s) who will be covered by the proposed enterprise agreement?



Include the nominal expiry date of each agreement.

2. Application for bargaining order

2.1 Has the written notice setting out the concerns that the good faith bargaining requirements are not being, or have not been met, or the bargaining process is not proceeding efficiently or fairly because there are multiple bargaining representatives for the agreement been given to the relevant bargaining representatives for the agreement?

- Yes
- No



You must include a copy of the notice with this application.

2.1.1 If Yes, list the bargaining representatives to whom the notice was given and the date(s) on which it was given.

2.2 What are the grounds being relied on?

2.2.1 Using numbered paragraphs, set out the facts and circumstances upon which the Applicant relies in support of the application. Attach additional pages if necessary.

Indicate the matters giving rise to a concern that one or more of the relevant bargaining representatives for the agreement have not met, or are not meeting, the good faith bargaining requirements or that the bargaining process is not proceeding efficiently or fairly because there are multiple bargaining representatives for the agreement.

2.3 On what date did the employer(s) agree to bargain, initiate bargaining or receive a request to bargain under section 173(2A)?

2.4 Is there a majority support determination, scope order or low-paid authorisation in operation?

Yes – provide details below

No

2.5 What orders are you seeking?

Attach additional pages if necessary. Alternatively, you can attach a draft order.

Authority to sign and signature



For 'Authority to sign':

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

Authority to sign	
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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.

Signature	
Name	
Date	

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS