



About the F34 application form

Application for a protected action ballot order

Who can use this form

You should use this form if you want to make an application for a protected action ballot order and you are:

- a bargaining representative of an employee who will be covered by a proposed enterprise agreement, or
- two or more bargaining representatives of employees acting jointly.

You cannot make an application if the proposed enterprise agreement is a greenfields agreement or a cooperative workplace agreement.

You cannot make an application more than 30 days before the nominal expiry date of any existing enterprise agreement (section 438 of the [Fair Work Act 2009](#) (Fair Work Act)).

About protected action ballots

Before industrial action can be lawfully taken by employees, it must be authorised by a protected action ballot (section 409(2)).

The Fair Work Commission (the Commission) will make a protected action ballot order if an application is made in accordance with the [Fair Work Act 2009](#) and it is satisfied that each applicant has been, and is, genuinely trying to reach an agreement with the employer of the employees who are to be balloted (section 443(1)).

An application that relates to a multi-enterprise agreement and employees of different employers will be treated as if it is multiple applications, one in relation to each employer (section 437A of the [Fair Work Act](#)).

Protected action ballot compulsory conciliation conferences

If the Commission makes a protected action ballot order, it must also make an order directing the bargaining representatives for the proposed agreement to attend a compulsory conciliation conference for mediation or conciliation on or before the date that voting in the protected action ballot closes (section 448A). All bargaining representatives for the proposed agreement will be required to attend the compulsory conciliation conference.

What to include in the application

You must specify:

- the details of each of the bargaining representatives for the proposed agreement
- all the existing enterprise agreements that cover the employees to be covered by the proposed enterprise agreement and the nominal expiry date of these agreements (section 438)
- the group or groups of employees to be balloted (section 437(3)(a))
- the questions to be put to employees who are to be balloted (section 437(3)(b))
- the name of the person or entity that you wish to be the protected action ballot agent (section 473(3)(c))
- if the Applicant does not wish the Australian Electoral Commission to be the protected action ballot agent, the directions that the Applicant proposes the Commission should give to the protected action ballot agent pursuant to section 450
- the proposed date by which voting is to close (section 443(3)(c)).

When completing the Form F34B declaration, you will also be required to set out the steps taken to satisfy the Commission that the applicant has been, and is genuinely trying to reach agreement with the employer(s) of the employees to be balloted (section 443(1)(b)).

Eligible protected action ballot agents

The protected action ballot agent must be an eligible protected action ballot agent unless exceptional circumstances justify another person conducting the ballot (section 444(1D)). An eligible protected action ballot agent is either the Australian Electoral Commission or a person who has been approved by the Commission as an eligible protected action ballot agent (section 468A). You can make an application for a person to be approved as an eligible protected action ballot agent by lodging Form F34C – Application for approval as an eligible protected action ballot agent.

Lodging and serving your completed documents

1. **Lodge** the following documents with the Commission:

- this **form**.
- a **draft order** in the terms sought by the applicant or applicants.

As a guide in drafting the order, there are 2 template orders at the end of this form. You can use the first template if the proposed ballot agent is the Australian Electoral Commission, or the second if the proposed ballot agent is not the Australian Electoral Commission.

The draft order must be lodged electronically in Word or PDF format (or in hard copy form if it cannot be lodged electronically).

- a **Form F34B – Declaration** in support of an application for a protected action ballot order. If the proposed enterprise agreement is a multi-enterprise agreement, lodge a separate declaration in relation to **each employer** of the employees proposed to be balloted.

For example, if 2 applicants make a joint application and there are 5 employers of the employees who are to be balloted, each applicant must make 5 Form F34B declarations.

- a **Form 34D – Declaration** by a proposed protected action ballot agent who is not an eligible protected action ballot agent, where applicable.

A Form 34D Declaration must be lodged where this form names a person as the protected action ballot agent but that person is not an eligible protected action ballot agent.

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. **Within 24 hours** after lodging, you must **serve** a copy of this form, the draft order and the Form 34B Declaration on:

- the employer(s) of the employees who are to be balloted, and
- the protected action ballot agent specified in this form, and
- any proposed independent advisor for the protected action ballot.

If this form specifies the Australian Electoral Commission as the protected action ballot agent:

- you can serve the Australian Electoral Commission by emailing secret.ballots@aec.gov.au
- you **must** retain proof of service. This must show the recipient's email address, and the date and time of sending. You must either keep the email as a 'sent item' or retain a 'delivered' statement or 'read receipt'.

For service on others, you can serve documents several ways, including by email, express post or registered post.

Note: the proposed protected action ballot agent must serve the Form 34D Declaration within 24 hours of lodging with the Commission, on the employer(s) of the employees who are to be balloted and any proposed independent advisor for the protected action ballot.

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 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 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, rule 76 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 F34 – Application for a protected action ballot order

Fair Work Act 2009, section 437, Fair Work Commission Rules 2024, rule 76 and Schedule 1

This is an application to the Fair Work Commission for an order for a protected action ballot in accordance with Part 3-3 of the Fair Work Act 2009.

The Applicant



The applicant must be a bargaining representative of an employee who will be covered by the proposed 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)			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

Second applicant (if applicable)

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)			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

Attach additional pages if necessary.

Does the Applicant 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

Does the Applicant require any special assistance at the hearing or conference (for example a hearing loop)?

Yes – Please specify the assistance required

No

Does the Applicant have a representative?

A representative is a person or organisation who is representing the applicant. There is no requirement to have a representative.

Yes – Provide representative’s details below

No

The Applicant’s representative



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

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

Attach additional pages if necessary.

Is the 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 Employer(s) (Respondent(s))

These are the details of the employer(s) that will be covered by the proposed enterprise agreement.

Legal name of Respondent			
Respondent's ACN (if a company)			
Respondent's trading name or registered business name (if applicable)			
Respondent's ABN (if applicable)			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

Additional Bargaining Representative(s) for the proposed enterprise agreement

These are the details of any additional bargaining representatives for the proposed agreement who are not the Applicant or the Respondent. These details are required for arranging the compulsory conciliation conference. Please provide as many details as you can.

Legal name of Bargaining Representative			
Bargaining Representative's ACN (if a company)			
Bargaining Representative's trading name or registered business name (if applicable)			
Bargaining Representative's ABN (if applicable)			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

Attach additional pages if necessary.

1. Preliminary

1.1 What is the industry of the employer or employers?

1.2 What existing enterprise agreement(s) cover the employees who will be covered by the proposed enterprise agreement?

For each employer to be covered by the proposed agreement and whose employees are to be balloted, list all of the enterprise agreements that currently apply to the employees of the employer who will be covered by the proposed agreement and the nominal expiry date of those agreements.

2. About the ballot



Please check that your responses to the questions below are consistent with the draft order you lodge with this application form.

2.1 Which employees are to be balloted?

For each employer to be covered by the proposed agreement and whose employees are to be balloted, list the details of the group or groups of employees of the employer who are to be balloted.

2.2 What are the ballot question(s)?

List the question(s) to be put to employees who are to be balloted, including the nature of the proposed industrial action.

Ballot questions should be sufficiently clear as to the nature of the proposed action so employees can provide a response. Attach additional pages if necessary.

2.3 On which date does the Applicant propose the vote will close?

Specify the date on which the Applicant proposes voting in the protected action ballot will close. In considering this aspect, you should have regard to both the logistics of conducting the ballot and the fact that a compulsory conciliation conference of all bargaining representatives for the proposed agreement must be conducted during the ballot period.

3. Protected action ballot agent

3.1 Who does the Applicant wish to be appointed as the protected action ballot agent? Insert the name, address and contact details of the proposed protected action ballot agent.

Note: a protected action ballot agent must be an eligible protected ballot agent unless exceptional circumstances justify another person conducting the ballot (see section 444).

Legal name of proposed protected action ballot agent (if an individual give full first name, middle name(s) and surname)	
ACN (if a company)	
Trading name or registered business name (if applicable)	
ABN (if applicable)	
Contact person (if applicable)	

Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

3.2 If the person proposed as the protected action ballot agent in question 3.1 is *not* an eligible protected action ballot agent, describe the exceptional circumstances that justify the ballot not being conducted by an eligible protected action ballot agent.

Note: a protected action ballot agent must be a fit and proper person to conduct the ballot (see s.444) and meet the additional requirements provided by regulation 3.11. The proposed ballot agent must complete a form F34D declaration and this is to be lodged with this application form.

Note: If you are the proposed protected action ballot agent, or the proposed protected action ballot agent is an officer of your organisation, the Commission may appoint an independent ballot advisor. Include the name, address and contact details of any person proposed by you as an independent ballot advisor.

4. Directions for conduct of protected action ballot

Only complete this part if the Applicant does **not** wish the Australian Electoral Commission to be the protected action ballot agent.

4.1 What directions does the Applicant propose the Commission should give to the protected action ballot agent pursuant to section 450?

List the proposed directions addressing each of the following matters (see section 450(2)(a)–(d)):

- the development of a timetable
- the voting method, or methods, to be used
- the compilation of the roll of voters

4.2 Is the Applicant seeking a direction for the names of the employees included in the group(s) of employees specified in the protected action ballot order to be provided (see section 450(4))?

If so, list the proposed directions proposed to be made to enable the roll of voters to be compiled:

Authority to sign and signature



For 'Authority to sign':

- If you are a bargaining representative of employee(s) who will be covered by 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

Consent to contact by researchers

The Fair Work Commission undertakes research with participants in bargaining matters to ensure a high quality process. Some research may be undertaken by external providers on behalf of the Fair Work Commission.

Do you consent to the contact details provided on page 1 of this form being provided to an external provider of research services for the sole purpose of inviting you to participate in this research?

Yes

No

Details about how the Commission manages personal information can be found in our [Privacy policy](#).



DRAFT ORDER (AEC ballot agent)

Fair Work Act 2009

Section s.437 – Protected action

Applicant

v

Respondent

(B202X/XXXX)

MEMBER

LOCATION, DATE

Proposed protected action ballot of employees of [Respondent] – AEC ballot

Pursuant to s.443 of the *Fair Work Act 2009* (the Act) the Fair Work Commission orders:

1. PROTECTED ACTION BALLOT TO BE HELD

The {insert full name of Applicant (insert short name or Applicant)} is to hold a protected action ballot of employees of {insert full name of Respondent (insert short name or Employer)} described in clause 3 of this order.

2. NAME OF PERSON AUTHORISED TO CONDUCT THE BALLOT

The ballot is to be conducted by the Australian Electoral Commission.

3. GROUP OR GROUPS OF EMPLOYEES TO BE BALLOTTED

In accordance with section 437(5) of the Act, the employees to be balloted are those who will be covered by the proposed enterprise agreement and are represented by the bargaining representative who is the applicant for this protected action ballot order, including employees who are a bargaining representative for themselves but are a member.

4. DATE BY WHICH BALLOT CLOSES

The date by which voting in the protected action ballot is to close is {insert proposed date that is no earlier than 30 working days from the date of this order}.

5. QUESTIONS

The question(s) to be put to voters in the ballot are:

In support of reaching an enterprise agreement with your employer, do you authorise the taking of protected industrial action against your employer separately, concurrently and/or consecutively, in the form of:

{insert the proposed industrial action questions from the application with adjustment as appropriate}

6. DATE OF EFFECT

This order commences on **XX XXXX 202X**.

[MEMBER]

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DRAFT ORDER (Non-AEC Ballot Agent)

Fair Work Act 2009

Section 437—Protected action

Applicant

v

Respondent

(B202X/XXXX)

MEMBER

LOCATION, DATE

Proposed protected action ballot of employees of [Respondent] – non-AEC ballot agent electronic voting

Pursuant to s. 443 of the *Fair Work Act 2009* (the Act) the Fair Work Commission orders:

1. PROTECTED ACTION BALLOT TO BE HELD

The {insert full name of Applicant (insert short name or Applicant)} is to hold a protected action ballot of employees of {insert full name of Respondent (insert short name or Employer)} described in clause 3 of this order}.

2. NAME OF PERSON AUTHORISED TO CONDUCT THE BALLOT

The ballot is to be conducted by the {insert name of Agent} (Agent). The contact details of the Agent are:

{insert contact details here}

3. GROUP OR GROUPS OF EMPLOYEES TO BE BALLOTTED

In accordance with s.437(5) of the Act, the employees to be balloted are those who will be covered by the proposed enterprise agreement and are members of, and are represented by the bargaining representative who is the applicant for this protected action ballot order, including employees who are a bargaining representative for themselves but are a member.

4. DATE BY WHICH BALLOT CLOSES

The date by which voting in the protected action ballot is to close is {insert proposed date}.

{Note: the Commission decides the ballot period in the circumstances of each case. A date that is between 10 and 15 working days from the date of the order is commonly proposed}.

5. QUESTIONS

The question(s) to be put to voters in the ballot are:

In support of reaching an enterprise agreement with your employer, do you authorise the taking of protected industrial action against your employer separately, concurrently and/or consecutively, in the form of:

{insert the proposed industrial action questions from the application with adjustment as appropriate}

6. EMPLOYER TO PROVIDE LIST OF ELIGIBLE EMPLOYEES

6.1 The Employer is to provide to the Agent **{insert agent email}** by 4:00pm on the third working day after the day the order is issued, a list of its employees (as at the date of the order) being a list that includes all of the employees who would be covered by the proposed enterprise agreement, in the following format:

6.2 The list is to be provided in the form of a Microsoft Excel compatible spreadsheet in a file named “**{Employer full name}** – Employee List”.

- (a) The list is to be in alphabetical order of surname.
- (b) The list is to contain the information (if known) for each employee who would be covered by the proposed enterprise agreement as indicated by those column names set out below:

Column 1	Employee ID
Column 2	Surname
Column 3	First Name
Column 4	Middle Name
Column 5	Date of Birth
Column 6	Work Email Address
Column 7	Private Email Address
Column 8	Mobile Phone Number
Column 9	Postal – Address 1
Column 10	Postal – Address 2
Column 11	Postal – State
Column 12	Postal – Postcode

6.3 The list must be accompanied by a declaration in writing that the Employer reasonably believes that the information is complete, up-to-date and accurate in accordance with Regulation 3.15 of the *Fair Work Regulations 2009 (Regulations)*.

6.4 The Employer may provide the list of employees to the Agent by way of encrypted or password protected email that is accessible by the Agent.

7. APPLICANT TO PROVIDE LIST OF ELIGIBLE MEMBERS

7.1 The Applicant is to provide to the Agent by 4:00pm on the third working day after the day the order is issued a list of its eligible members (as at the date of the order) employed by the Employer in the following format:

7.2 The list is to be provided in the form of a Microsoft Excel compatible spreadsheet in a file named “{Applicant short name} – Member List”.

- (a) The list is to be in alphabetical order of surname.
- (b) The list is to contain the information (if known) for each member who would be covered by the proposed enterprise agreement as indicated by those column names set out below:

Column 1	Surname
Column 2	First Name
Column 3	Middle Name
Column 4	Date of Birth
Column 5	Work Email Address
Column 6	Private Email Address
Column 7	Mobile Phone Number
Column 8	Union Membership Number (if applicable)
Column 9	Postal – Address 1
Column 10	Postal – Address 2
Column 11	Postal – State
Column 12	Postal – Postcode

7.3 The list must be accompanied by a declaration in writing that the Applicant reasonably believes that the information is complete, up-to-date and accurate in accordance with Regulation 3.15 of the Regulations.

7.4 The Applicant may provide the list of members to the Agent by way of encrypted or password protected email that is accessible by the Agent.

8. VOTING METHOD (electronic voting – different directions are required for other forms of voting permitted by s.450 of the Act)

- 8.1 The ballot is to be conducted by electronic voting and must take place in compliance with the Act, the Regulations and this order.
- 8.2 Pursuant to s.450 of the Act, the Agent is to conduct the protected action ballot in accordance with the following directions.

Timetable

- 8.2.1 The Agent will determine the date the ballot commences in accordance with s.451. The Commencement Date will be included in the timetable compiled in accordance with paragraph 10 of this order. The ballot will not commence before the Commencement Date.
- 8.2.2 The date by which voting in the protected action ballot is to close is set out in clause 4 of this order.

Voting method

- 8.2.3 The ballot will be held electronically.
- 8.2.4 The Agent will design a voting website on a secure server which will allow eligible voters to vote in the ballot.
- 8.2.5 The Agent will allocate to each eligible voter on the list of voters a unique identifier, being a randomly generated internet voting password, to access and vote on the website.
- 8.2.6 Just prior to the opening of the ballot, the Agent will issue to eligible voters an Instruction Sheet. The Instruction Sheet will contain the web address for the voting website, each eligible employee's randomly generated internet voting password, instructions on how to vote and any other material the Agent considers relevant.
- 8.2.7 The Agent will issue the Instruction Sheet to each employee's email address, where provided. Additionally, the Agent will send an SMS to any mobile number for that eligible voter, where a mobile phone number has been provided.
- 8.2.8 For any eligible employees without an email address or mobile phone number, the Agent will send the Instruction Sheet by mail to that employee's home postal address.
- 8.2.9 The Agent will ensure the voting website will only be accessible for voting in the ballot by eligible voters.
- 8.2.10 The Agent will ensure that the operation of the internet voting system provides that an authenticated voter may cast only one vote in the ballot.

Updates to the list of voters

- 8.2.11 Before the Commencement Date, the Employer will provide the Agent with the names of any of its employees that have ceased employment on the day such employment ends. If any of these employees are on the list of voters, their internet voting password to vote in the ballot will be disabled.

9. FINALISING THE LIST OF VOTERS

- 9.1 The Agent is to finalise the list of voters using its discretion in accordance with the Act, Regulations and the other terms of this order.

10. TIMETABLE FOR BALLOT AND COMPILATION OF LIST OF VOTERS

- 10.1 The Agent will compile a timetable in accordance with the Act and the Directions outlined in paragraphs 8.2.1 and 8.2.2 of this order, to be sent to the parties.
- 10.2 The Agent may make variations to the timetable (excluding the date by which the ballot would close) as may be necessary to bring about the efficient and expeditious conduct of the protected action ballot.

11. INFORMATION

- 11.1 The Agent may give any ballot-related notice, information or other material to employees by means including sending the materials to employees' work email addresses and personal or other email addresses.
- 11.2 The Agent shall, as soon as practicable, issue to eligible employees on the roll of voters, the notice to employees, consistent with reg. 3.13 of the Regulations, including by email to their nominated email address, and SMS to any mobile phone number for that eligible voter, where a mobile phone number has been provided. For any eligible employees without an email address or mobile phone number, the Agent will send the notice to employees by mail to that employee's home postal address.
- 11.3 The notice to employees shall contain a copy of the protected action ballot order and include the following information and statements:
- (a) the name and contact details of the Agent including telephone contact and email address details;
 - (b) the timetable for the conduct of the protected action ballot including the times of opening and closing the ballot;
 - (c) a statement informing employees that the protected action ballot is to be conducted by electronic voting;
 - (d) information about how eligible employees will receive their voting instructions and how they can vote electronically on the designated voting website using unique identifiers;

- (e) a statement inviting employees to contact the Agent if the employee believes that he or she should be included on the roll of voters;
- (f) a statement inviting employees to contact the Agent if the employee believes that he or she should not be included on the roll of voters;
- (g) a statement inviting employees to contact the Agent, the independent advisor (if any) or the Fair Work Commission in the event that the employee has any concerns or complaints relating to the conduct of the protected action ballot;
- (h) a statement that the protected action ballot is to be conducted as a secret ballot and that employees are free to approve or not approve the proposed industrial action; and
- (i) contact details of the independent advisor if one has been appointed.

12. PROVISION OF INFORMATION AND ASSISTANCE TO AUTHORISED BALLOT AGENT

- 12.1 The Applicant and the Employer are to comply as quickly as is reasonably practicable with any reasonable request made by the Agent pursuant to the Act or the Regulations for information or assistance.
- 12.2 The Employer shall facilitate the email delivery of ballot related notices, information, or other materials to all employees by whitelisting the domain utilised by the Agent.
- 12.3 The Employer shall allow access to the voting web site from all employees' places of work and accommodation (if applicable) by whitelisting the site across the Employer's internet network.
- 12.4 Where the Employer does not manage the IT networks that employees may use to vote they will do all that is practicable to ensure that orders 12.2 and 12.3 are complied with.

13. SCRUTINEERS

- 13.1 The Applicant and the Employer are to comply with the provisions contained in the Regulations and to notify in writing to the Agent the names of any scrutineer(s) that they propose to authorise to attend the conduct of the ballot.
- 13.2 Any notification of the appointment of any scrutineer(s) must be served on the other party. Should the other party object to the appointment of any scrutineer(s), then that party is able to apply to the Fair Work Commission to have its objection heard and determined.
- 13.3 The functions of any scrutineer(s) appointed pursuant to this clause will only occur once all votes have been received, the ballot has closed, but before any ballot result is declared.

14. RESULTS

- 14.1 The Agent may, on request, report to either the Employer or the Applicant the participation rate.

14.2 The Agent shall report the results of the protected action ballot as soon as practicable after the close of voting to the Applicant, the Employer and the Fair Work Commission.

15. **DATE OF EFFECT**

This order commences on **XX XXXX 202X**.

MEMBER

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