



## About the F35 application form

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### Application for variation of a protected action ballot order

#### Who can use this form

Use this form to make an application for a variation of a protected action ballot order if you are:

- a bargaining representative for a proposed enterprise agreement who has lodged an application for a protected action ballot order and you are seeking to have the order varied; or
- a protected action ballot agent and you are seeking to change the date by which voting in the ballot closes.

#### About protected action ballots

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

A protected action ballot is conducted after the Fair Work Commission (the Commission) has made a protected action ballot order.

Once issued, a ballot order may be varied by the Commission (section 447).

For more information, please see the Commission's [protected action ballots](#) web page.

#### When can an application be made

An application may be made any time **before** the date by which voting in the protected action ballot closes, or **after** that date has passed provided the ballot has not been held and the Commission consents (section 447(3)).

#### Lodging and serving your completed form

**1. Lodge with the Commission:**

- This **form**, and
- A copy of the **protected action ballot order** to which this application relates.

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:

- the respondents
- the Australian Electoral Commission ([secret.ballots@aec.gov.au](mailto:secret.ballots@aec.gov.au)) or the alternative ballot agent specified in the application, and
- the independent advisor for the ballot (if one has been appointed).

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

**Jurisdictional objection** – This is a type of objection a Respondent can raise to an application. A Respondent can make this kind of objection if they think that the Commission, for a technical or legal reason, cannot hear the matter.

**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, 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 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 F35 – Application for variation of a protected action ballot order

[Fair Work Act 2009](#), section 447; [Fair Work Commission Rules 2024](#), rule 77 and Schedule 1

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

## The Applicant



These are the details of the person making the application.

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			

## Second Applicant (if applicable)

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

Attach additional pages if necessary.

**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, or a union. 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 employer(s) who will be covered by the proposed enterprise agreement.

Legal name of business			
Trading name of business			
ABN/ACN			
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 Please provide details of the protected action ballot order to which this application relates

Order print number	
Date of order	
Commission Member who made the order	



You must attach a copy of the protected action ballot order.

### 1.2 What is the capacity in which you make this application?

- Applicant for the protected action ballot order
- The protected action ballot agent

## 2. Variation of protected action ballot order

### 2.1 What is the date specified in the ballot order by when voting in the ballot is to close?

### 2.2 Is this application made after that date?

- Yes
- No

### 2.3 If the answer to question 2.2 is “Yes”, has the ballot been held?

- Yes
- No

**2.4 If the answer to question 2.3 is “No”, on what grounds should the Commission consent to this application?**



If the date by which voting in the protected action ballot closed has passed, but the ballot has not been held, an application to vary the order can only be made with the consent of the Commission

**2.5 What variation(s) are you seeking?**

**Describe** the variations you are seeking to the protected action ballot order.

Attach additional pages if necessary.



If you are applying as the protected ballot agent, you can only apply to change the date by which voting in the ballot closes.

**2.6 What other grounds are relied upon for the variation?**

Using numbered paragraphs, describe the grounds for the variation(s) sought.

### Authority to sign and signature



For 'Authority to sign':

- If you are the Applicant – 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>	

**PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS**

### Consent to contact by researchers

**I consent** to my contact details being provided to an external provider for the purposes of seeking my interest in participating in research. The Fair Work Commission supports research initiatives through its community engagement strategy. The details provided on this application may be provided to external providers in order to conduct research about the work of the Commission. More information about research being conducted by external providers about the work of the Commission can be found on the Commission's website at [www.fwc.gov.au/about-us/strategy-and-research/research](http://www.fwc.gov.au/about-us/strategy-and-research/research).