



About the F43 application form

Application for an order for access to non-member records

About applications for an order for access to non-member records

A union official holding a valid and current entry permit issued by the Fair Work Commission (Commission) may apply to the Commission for an order allowing the permit holder to examine non-member records relevant to a suspected contravention of the [Fair Work Act 2009](#) or a fair work instrument.

A non-member record or document is one that relates to a person who is not a member of the permit holder's union (and that does not also substantially relate to the employment of a person who is a member of the permit holder's union).

The permit holder may apply to the Commission for an order that requires:

- the occupier of premises or an affected employer to allow the permit holder to inspect and make copies of specified non-member records or documents (or parts of such records or documents), and/or
- an affected employer to produce or provide access to specified non-member records or documents (or parts of such records or documents).

The Commission may make such an order if it is satisfied that the order is necessary to investigate the suspected contravention. Before doing so, the Commission must have regard to any conditions imposed on the permit holder's entry permit.

For further information see [Entry permits](#) on the Commission's website.

Who can use this form

Use this form if you hold an entry permit under the [Fair Work Act 2009](#) and you wish to obtain an order under s.483AA of the Fair Work Act for access to records or documents relating to a non-member and relevant to a suspected contravention of the Fair Work Act or a fair work instrument.

Lodging and serving your completed form

1. **Lodge your application** and any supporting documents 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. Unless the Commission has ordered otherwise, **as soon as practicable** after lodging you must serve the following documents on **each occupier and affected employer** in relation to which the orders are sought:
 - a copy of this application, and
 - a notice that sets out the effect of subrule 80(3) of the [Fair Work Commission Rules 2024](#).

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 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, paid agent or union official) speaks or acts on your behalf, or assists you in certain other ways in relation to your matter. There is no requirement for you to be represented at the Commission.

You will need permission from the Commission Member dealing with your matter if you wish to be represented by a lawyer or paid agent at a conference or a hearing, unless the lawyer or paid agent is an employee or officer of a union or a peak union body that is representing you. If you want to seek permission, you must lodge 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.

You do not need permission to have a lawyer or paid agent prepare and lodge this application with the Commission.

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 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, rule 80 and Schedule 1 of the [Fair Work Commission Rules 2024](#) deal with service of this form.

Privacy

The Commission collects the information (including personal information) provided to it in this form in order to deal with the application for an order for access to non-member records. The information will be included on the case file and the Commission may disclose the 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 F43 – Application for an order for access to non-member records

[Fair Work Act 2009](#), s.483AA; [Fair Work Commission Rules 2024](#), rule 80 and Schedule 1

This is an application to the Fair Work Commission (Commission) for an order under s.483AA of the [Fair Work Act 2009](#) for access to non-member records or documents.



If this application must be served on an occupier or affected employer, it must be accompanied by a notice that sets out the effect of subrule 80(3) of the [Fair Work Commission Rules 2024](#).

The Applicant



These are the details of the permit holder who is making the application to 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			
Name of organisation			
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 for non-English speakers](#) on our website.

Yes – Specify language

No

Do you need any special assistance at the hearing or conference (eg 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, paid agent or union. There is no requirement to have a representative.

Yes – Provide representative’s details below

No – go to question 1.

Your representative



These are the details of the person or organisation who is representing the permit holder (if any).

Name of person			
Firm, union 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	

1. Preliminary

1.1 Provide your entry permit number and details of the conditions (if any) imposed on your entry permit.



The Commission must have regard to any conditions imposed on the permit holder's entry permit before making an order.

1.2 What is the industry of the employer?

2. Suspected contraventions

2.1 Set out the contravention(s) of the Fair Work Act or fair work instrument that you suspect has occurred or is occurring and to which the proposed order relates.

Attach additional pages if necessary.

2.2 Specify the non-member records or documents (or parts of such records of documents) to which access is sought.



It is unnecessary to identify the name of any employee.

Attach additional pages if necessary.

2.3 Specify the grounds and reasons in support of your application.



You should address the following in your response (where relevant):

- the basis for the suspected contravention(s)
- if the suspected contravention is of a fair work instrument, how that instrument applies or applied to a member or members of your organisation
- how the suspected contravention(s) relate to, or affect member(s) of your organisation, and
- why it is necessary to obtain the non-member records to which you seek access.

Attach additional pages if necessary.

2.4 Specify the terms of the order sought.

Include in the proposed order details of the premises to which entry is sought, when such entry is proposed, and specify which non-member records or documents are to be covered by the order.

2.5 Do you want this application to be heard *ex parte*?



Unless the Commission orders otherwise, this application must be served on each occupier and affected employer as soon as practicable after you lodge it with the Commission. If you want your application to be heard without notifying an occupier or affected employer, you can ask the Commission to hear your application *ex parte*.

Yes – Explain below why the application should be heard *ex parte*.

No

Authority to sign and signature



For 'Authority to sign':

- If you are the permit holder – insert 'Permit Holder'
- If you are the permit holder'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