



About the F23E application form

Application by an employee organisation for a variation of a supported bargaining agreement to add an employer and employees

About a variation of a supported bargaining agreement to add an employer and employees

Under section 216B the [Fair Work Act 2009](#), an employee organisation covered by a supported bargaining agreement can apply to the Fair Work Commission (Commission) for approval of a variation of the agreement so that an employer who is not covered by the agreement and its 'affected employees' will become covered by the agreement.

The 'affected employees' are employees employed by the employer, who will become covered by the agreement if the Commission approves the variation.

When to use this form

Use this form if:

- you are an officer or authorised employee of an employee organisation covered by a supported bargaining agreement, and
- your organisation wishes to apply under section 216B of the [Fair Work Act 2009](#) for a variation of the agreement so that an employer that is not covered by the agreement and its affected employees will become covered by the agreement.

Note: If an employer wishes to apply to the Commission under section 216AA of the [Fair Work Act 2009](#) for approval of a variation to add an employer and its affected employees to a supported bargaining agreement, use *Form F23D – Application by an employer for approval of a variation of a supported bargaining agreement to add an employer and employees*.

Lodging and serving your completed form

1. Lodge with the Commission:

- this **application** form
- a copy of the **variation** signed by the employee organisation in accordance with regulation 2.10C of the of [Fair Work Regulations 2009](#).
For **each person** who signs, the variation must include the person's full name and address and an explanation of their authority to sign the variation.
- a copy of the **supported bargaining agreement** as proposed to be **varied**
- a **declaration in support** of the application. You must use **Form F23EA - Declaration of an employee organisation in relation to a variation of a supported bargaining agreement to add an employer and employees**.

Lodge by post, email or in person at the [Commission office](#) in your state or territory.

2. **As soon as practicable** after lodging, you must **serve** a copy of **all documents lodged** with the Commission on:

- The employer that will become covered by the agreement if the Commission approves the variation
- each employer covered by the agreement
- each other employee organisation covered by the agreement.

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

Note: within 14 days after being served with the Form F23EA declaration, the employer must lodge with the Commission a *Form F23DA—Employer's declaration in relation to a variation of a supported bargaining agreement to add an employer and employees*. The employer declaration advises whether the employer supports or opposes the proposed variation and whether it disagrees with information in the employee organisation's Form F23EA declaration.

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
- 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](#).

If you decide to represent yourself in proceedings you will need to make sure you are well prepared.

Glossary of common terms

Applicant – This is the person 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 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 F23E – Application by an employee organisation for a variation of a supported bargaining agreement to add an employer and employees

Fair Work Act 2009, section 216B, Fair Work Commission Rules 2024, rule 39

This is an application to the Commission under section 216B of the [Fair Work Act 2009](#) for variation of a supported bargaining agreement.

The Applicant



These are the details of the employee organisation that is making the application.

Name of employee organisation			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

Does the Applicant have a representative?



A representative is a person or organisation that is representing the Applicant. There is no requirement to have a representative.

Yes – Provide representative’s details below

No – Go to question 1

Applicant’s representative



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

Name of person	
Firm, organisation or company	

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Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

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	

1. The Agreement

1.1 What is the name of the supported bargaining agreement that is proposed to be varied (the Agreement)?



Write the name exactly as it appears in the title clause of the agreement and include the Agreement ID/Code Number if known.

2. The employers

2.1 How many employers are covered by the Agreement?

Number of employers:	
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2.2 What is the industry of the employers covered by the Agreement?

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2.3 Provide the details of all of the employers covered by the Agreement below.

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

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

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Email address	
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Attach additional pages if necessary

3. Other employee organisations

3.1 Are there any other employee organisations covered by the Agreement?

Yes

No

If you answered **Yes** – Provide the details of all the other employee organisations.

Name of employee organisation			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

Attach additional pages if necessary.

4. The proposed variation

4.1 Provide the details of the employer(s) that will become covered by the Agreement if the proposed variation is made (the Employer)

Legal name of Employer	
Employer's ACN (if a company)	
Employer's trading name or registered business name (if applicable)	
Employer's ABN	
Contact person	

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Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

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

Attach additional pages if necessary.

Authority to sign and signature



For ‘Authority to sign’:

- If you are an officer or authorised employee of an employee organisation that is the Applicant—insert your position title
- 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