



About the F86 application form

Application for a regulated labour hire arrangement order

About regulated labour hire arrangement orders

The [Fair Work Act 2009](#) provides for the Fair Work Commission (Commission), on application, to make a **regulated labour hire arrangement order** in relation to employees who are supplied, or will be supplied, (directly or indirectly) by their employer to perform work for a **regulated host** (other than a small business employer). Employees supplied by their employer to a regulated host are **regulated employees**.

A regulated labour hire arrangement order may be made where there is a **covered employment instrument** (such as an enterprise agreement or workplace determination) that would apply to the regulated employees if they were employed by the regulated host to perform the work. Such a covered employment instrument is a **host employment instrument**.

The Commission must not make a regulated labour hire arrangement order:

- unless it is satisfied the performance of the work is not or will not be for the provision of a service, rather than for the supply of labour, or
- if it is satisfied that it is not fair and reasonable in all the circumstances to make the order.

For more information about regulated labour hire arrangement orders, including when the Commission may make orders, see [Labour hire employees' protected rates of pay](#).

When to use this form

Use this form to apply for a regulated labour hire arrangement order.

This form can be used by:

- a regulated employee
- an employee of the regulated host
- the regulated host, or
- an employee organisation that is entitled to represent the industrial interests of a regulated employee or an employee of the regulated host.

Lodging and serving your completed form

1. Lodge this application and any supporting documents with the Commission.

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

2. Serve a copy of this application and any supporting documents as soon as practicable on all of the following (other than the person making this application):

- the regulated host
- each employer of regulated employees that will be covered by the proposed regulated labour hire arrangement order
- each employee organisation of which the person making this application is aware, that is entitled to represent the industrial interests of a regulated employee or an employee of the regulated host.

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 complete the form.

Legal or other representation

Representation is where another person (such as a lawyer, paid agent, 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
- an employee or officer of an employee or employer organisation.

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

Covered employment instrument – see section 12 of the [Fair Work Act 2009](#)

Employer - the employer of the regulated employees to be covered by the proposed regulated labour hire arrangement order

Host employment instrument – see section 306E(6) of the [Fair Work Act 2009](#)

Lawyer – 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 person involved in a matter or case that is brought to the Commission

Regulated employee - see section 306E(5) of the [Fair Work Act 2009](#)

Regulated host – see section 306C of the [Fair Work Act 2009](#)

Service – serving a document means giving a copy of the document to a person, 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 F86 – Application for a regulated labour hire arrangement order

Fair Work Act 2009 (Fair Work Act), section 306E

This is an application to the Fair Work Commission to make a regulated labour hire arrangement order in accordance with Part 2-7A of the Fair Work Act.

The Applicant



These are the details of the person making this application.

The Applicant is (choose one of the following):

- A regulated employee
- An employee of the regulated host
- The regulated host
- An employee organisation that is entitled to represent the industrial interests of a regulated employee or an employee of the regulated host

If the Applicant is an individual, provide the following information:

First name(s)			
Surname			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	

If the Applicant is not an individual, provide the following information:

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			

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 (eg a hearing loop)?

Yes – Specify the assistance required:

No

Does the Applicant have a representative?



A representative is a person or organisation that is representing the Applicant. The Applicant is not required to have a representative. You can read more about [whether or not to have a representative](#) on our website.

Yes – Provide the representative's details below

No

Representative’s details



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

Name of person			
Firm, company or organisation			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	
<p>Is the representative a lawyer or paid agent?</p> <div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;"> </div> <div> <p>The Applicant will need permission to be represented by a lawyer or paid agent in a conference or hearing that is conducted by a Commission Member. Our lawyers and paid agents practice note explains when you need to ask for permission to be represented.</p> </div> </div>			
<input type="checkbox"/> Yes – please select:	<input type="checkbox"/> Lawyer <input type="checkbox"/> Paid agent		
<input type="checkbox"/> No			

1. Other details

1.1 Provide the details of the regulated host to be covered by the proposed order (the Regulated Host).



Section 306C of the Fair Work Act defines *regulated host*. If the Regulated Host's details have been provided above because it is the Applicant, you can just insert 'The Applicant' in the first space below instead of providing the Regulated Host's details again.

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

1.2 Provide the details of the employer of the regulated employees to be covered by the proposed order (the Employer).



These are the details of the employer that supplies or will supply, either directly or indirectly, one or more employees of the employer to perform work for the Regulated Host.

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

Add additional pages if necessary

1.3 Provide the details of each employee organisation of which the Applicant is aware, that is entitled to represent the industrial interests of a regulated employee or an employee of the Regulated Host.



If an employee organisation’s details have been provided above because it is the Applicant, you can just insert ‘The Applicant’ in the first space below instead of providing that organisation’s details again.

Legal name of employee organisation			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	

Phone number	
Email address	

Add additional pages if necessary

2. Preliminary

2.1 What is the industry of the Regulated Host?

2.2 To the best of the Applicant's knowledge, is the Regulated Host a small business employer?



The Commission cannot make an order under section 306E of the Fair Work Act unless it is satisfied the Regulated Host is not a small business employer. See section 23 of the Fair Work Act for the meaning of *small business employer* and how to calculate the number of employees.

Yes

No

2.3 Describe the regulated employees to be covered by the proposed order (the Regulated Employees).



You can describe the Regulated Employees as a class or group (you do not need to name each Regulated Employee).

2.4 Specify the host employment instrument to be covered by the proposed order (the Host Employment Instrument).



This is the covered employment instrument that applies to the Regulated Host and would apply to the Regulated Employees if the Regulated Host were to employ the employees to perform work of the kind that they perform or will perform for the Regulated Host.

See section 12 of the Fair Work Act for the definition of *covered employment instrument*.

Include the full name of the instrument and any other identifying information that you can, such as its ID/Code number, date approved or matter number.

3. Details of the supply and the work performed or to be performed by the Regulated Employees

3.1 Describe how the Employer supplies or will supply, either directly or indirectly, the Regulated Employees to perform work for the Regulated Host.



The Commission cannot make an order under section 306E of the Fair Work Act unless it is satisfied that the Employer supplies or will supply, either directly or indirectly, one or more employees of the Employer to perform work for the Regulated Host.

3.2 Describe the kind of work that is being performed or will be performed for the Regulated Host by the Regulated Employees (the Work).



Section 306D(1) of the Fair Work Act provides that ‘work of kind’ includes work that is substantially of that kind.

3.3 Explain how the performance of the Work is not, or will not be, for the provision of a service, rather than the supply of labour.



Under section 306E(1A) of the Fair Work Act, the Commission must not make a regulated labour hire arrangement order unless it is satisfied that the performance of the Work is not or will not be for the provision of a service, rather than the supply of labour, having regard to the matters listed in section 306E(7A).

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Authority to sign and signature



For 'Authority to sign':

- If you are the Applicant—insert 'Applicant'
- If you are an employee of a company or 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