



About the F92 application form

Application to deal with a dispute about the employee right to disconnect

About employee right to disconnect disputes

The [Fair Work Act 2009](#) (the Fair Work Act) gives employees a right to refuse to monitor, read or respond to contact, or attempted contact from:

- an employer, or
- a third party (if the contact or attempted contact relates to the employee's work),

outside their working hours, unless their refusal is unreasonable.

This is known as the **employee right to disconnect**.

The Fair Work Commission (the Commission) can deal with a dispute about the employee right to disconnect if:

- an employee has refused to monitor, read or respond to contact, or attempted contact, outside their working hours and the employer:
 - reasonably believes this refusal is unreasonable, or
 - has asserted that the refusal is unreasonable and the employee reasonably believes the refusal is not unreasonable, or
- the employee and employer have another dispute about how the employee right to disconnect operates.

You can find out more about [disputes about the employee right to disconnect](#) on our website.



If an employer was a small business employer on 26 August 2024, the employee right to disconnect will not apply to its employees until 26 August 2025.

Applications to deal with a dispute about the employee right to disconnect may be made by small business employers and their employees on or after 26 August 2025.

To find out more about the meaning of *small business employer* and how to calculate the number of employees, see [what is a 'small business'?](#) on our website.

When to use this form

Use this form to apply to the Commission to deal with a dispute about the employee right to disconnect. An application can be made by an employee or an employer who are in dispute.

Use this form if:

- the employer and employee have tried to resolve the dispute by having discussions at the workplace, but these discussions have not resolved the dispute, and
- you want the Commission to:
 - make a stop order
 - deal with the dispute in another way, or
 - both.

Apply for a stop order

Apply for a stop order if you want the Commission to make an order to:

- prevent the employee from continuing to unreasonably refuse to monitor, read or respond to contact or attempted contact, or
- prevent the employer, where the employee's refusal to monitor, read or respond to contact or attempted contact is not unreasonable, from:
 - continuing to require the employee to monitor, read or respond to contact or attempted contact, or
 - taking disciplinary or other action against the employee because the employer believes the employee's refusal to monitor, read or respond to contact or attempted contact is unreasonable.

Apply for the Commission to deal with the dispute in other ways

The Commission may also deal with the dispute in other ways. As a first step, the Commission will usually hold a conference to help the employer and employee settle the dispute. At a conference, a Commission member may mediate or conciliate, make a recommendation or express an opinion.

If the employer and employee agree, the dispute can be arbitrated by a Commission member. If the dispute is arbitrated, the Commission may make any order it considers appropriate.

Note about general protections

The employee right to disconnect is a workplace right under the Fair Work Act.

An employer cannot take adverse action against an employee because of a workplace right, including the employee right to disconnect.

Adverse action can include:

- being dismissed
- being demoted
- being overlooked for promotion.

If an employee believes their employer has taken adverse action against them because of the employee right to disconnect, or because they have lodged a form *F92—Application to deal with a dispute about the employee right to disconnect*, they may be able to apply to the Commission for help under the general protections laws.

To find out more about [general protections disputes](#), or to make an application, visit our website.

This form asks questions about

- contact details for the employer and employee involved in the dispute
- what has happened
- what outcome the applicant is seeking to resolve the dispute.

Lodging your completed form

Lodge your application form and any supporting documents with the Commission by:

- email to wdt@fwc.gov.au, or
- post or in person at the [Commission office](#) in your state or territory.



We will send a copy of this form (and any attachments) to the other people in this case

This includes:

- if the applicant is an employee—the employer
- if the applicant is an employer—the employee
- any representatives or paid agents involved in the case.

This is so they can understand your side of the case. We will ask them for their side of the case as well.

If you are worried about particular information being passed on, don't include it yet. Lodge your completed form and then contact us to talk about whether you should provide the information.

You can find out more about [keeping a case confidential](#) on our website.

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.

Legal or other representation

Representation is where another person speaks or acts on your behalf or assists you in certain other ways in relation to a matter before the Commission. A representative could be a lawyer, paid agent, union, employer organisation or a not-for-profit association or body that provides support, advice or advocacy in relation to the kind of application or case concerned.

A representative is different from a support person. A support person is someone you bring with you to a legal proceeding who can give you emotional support, such as a family member or friend.

You do not have to be represented in a case at the Commission.

There are some rules about when a lawyer or paid agent can represent you.

Unless the Commission decides otherwise in a particular case, a lawyer or paid agent can represent you without permission to:

- prepare and lodge this application,
- prepare and lodge submissions about your case, and
- write to the Commission and other people involved in the case on your behalf.

Generally, you must give notice to the Commission and seek permission from the Commission Member dealing with your case if you wish to have a lawyer or paid agent represent you in a conference or a hearing.

You do not need to ask permission or give notice if the lawyer or paid agent is:

- for an employer—your employee or officer, or
- an employee or officer of a union or employer organisation that is representing you.

You can notify the Commission using this form that you have a lawyer or paid agent—provide their details at ‘Does the Applicant have a representative?’

If you need to notify the Commission that you have a lawyer or paid agent after you have lodged this form, or if you need to ask permission for a lawyer or paid agent to take part in a conference or hearing, use [form F53](#).

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](#).

Privacy

The Commission collects the information (including personal information) provided to it in this form in order to deal with the application to deal with a dispute about the employee right to disconnect. The information will be included on the case file, and we 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 F92 – Application to deal with a dispute about the employee right to disconnect

[Fair Work Act 2009](#) (the Fair Work Act) section 333N

This is an application for the Fair Work Commission to deal with a dispute about the employee right to disconnect under Division 6 of Part 2-9 of the [Fair Work Act](#).

Preliminary questions

What is this application for? (Choose one of the following)

This application is for the Commission to deal with a dispute about the employee right to disconnect:

- | | | |
|--------------------------|---|--|
| <input type="checkbox"/> | by making a stop order | Complete Parts 1, 2, 3 and 4 and sign the form |
| <input type="checkbox"/> | by otherwise dealing with the dispute | Complete Parts 1, 2, 3 and 5 and sign the form |
| <input type="checkbox"/> | by making a stop order and by otherwise dealing with the dispute | Complete all parts of the form |

A **stop order** is an order made by the Commission to:

- prevent an employee from continuing to unreasonably refuse to monitor, read or respond to contact or attempted contact, or
- prevent an employer, where the employee's refusal to monitor, read or respond to contact or attempted contact is not unreasonable, from:
 - continuing to require an employee to monitor, read or respond to contact or attempted contact, or
 - taking disciplinary or other action against an employee because the employer believes the employee's refusal to monitor, read or respond to contact or attempted contact is unreasonable.

To the best of your knowledge, was the employer involved in the dispute a small business employer on 26 August 2024?



If the employer was a small business employer on 26 August 2024, the employee right to disconnect will not apply until 26 August 2025.

To find out more about the meaning of *small business employer* and how to calculate the number of employees, see [what is a 'small business'?](#)

- Yes – seek advice before making this application
- No

Part 1 – the Applicant



These are the details of the person who is making this application (the Applicant).

The Applicant is (choose one of the following):

- An employee who is in dispute with their employer about the employee right to disconnect (the Employee)
- An employer who is in dispute with an employee about the employee right to disconnect (the Employer)

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	
Applicant's age	<input type="checkbox"/> 18 years or over (adult)		
	<input type="checkbox"/> Under 18 years		



If the Applicant is under 18 years of age, the Commission encourages them to have a parent or guardian, or a legal representative, involved. We can provide further information about how to find legal services.

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			

Note: If you provide a mobile number we may send reminders via SMS.

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 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

Name of person			
Firm, company or organisation			
Email address			
Phone number			
Postal address			
Suburb			
State or territory		Postcode	
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			

Part 2 – the Respondent



These are the details of the employer or employee that will be responding to this application (the Respondent). Note that the Commission will send a copy of this application to the Respondent you name below.

The Respondent is (choose one of the following):

- The Employer
- The Employee

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

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

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

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	

Phone number			
Email address			
Postal address			
Suburb			
State or territory		Postcode	

Part 3 – About the dispute

3.1 What is the dispute about? (Choose one or both of the following)

- The Employee has refused to monitor, read or respond to contact or attempted contact from the Employer or a third party, and the Employer and Employee disagree about whether the refusal is unreasonable.
- The Employer and the Employee have another dispute about how the right to disconnect operates.

3.2 Explain what has happened and, if relevant, why the Employee's refusal to monitor, read or respond to contact or attempted contact is either unreasonable or not unreasonable.



Matters the Commission must consider in deciding whether an employee's refusal is unreasonable include:

- the reason for the contact or attempted contact
- how the contact or attempted contact is made and the level of disruption it causes the employee
- the extent to which the employee is compensated to remain available to perform work during the period in which the contact or attempted contact is made, or for working additional hours outside the employee's ordinary hours of work
- the nature of the employee's role and the employee's level of responsibility
- the employee's personal circumstances, including family or caring responsibilities.

An employee's refusal to monitor, read or respond to contact or attempted contact **will** be unreasonable if the contact or attempted contact is required under a Commonwealth, state or territory law.

Include any other information you think is relevant.

3.3 What steps have the Employer and Employee taken at the workplace to try to resolve the dispute?



The Employer and Employee **must** try to resolve the dispute by having discussions at the workplace level before this application is made to the Commission. If this has not happened, please seek advice. Information about [legal help and representation](#) is available on our website.

Include any information you think is relevant, for example:

- whether a dispute resolution procedure has been followed - if a modern award or enterprise agreement applies to the employee, it will contain a dispute resolution clause
- dates(s) and outcomes of discussions, in the order they happened.

Part 4 – Stop order



Only complete this Part if you want the Commission to make a stop order.

- If the Applicant is the Employer - answer questions 4.1 and 4.3.
- If the Applicant is the Employee - answer questions 4.2 and 4.3.

The Commission can make a stop order to:

- prevent the Employee from continuing to unreasonably refuse to monitor, read or respond to contact or attempted contact, or
- prevent the Employer from:
 - continuing to require the Employee to monitor, read or respond to contact or attempted contact, or
 - taking disciplinary or other action against the Employee because the Employer believes the Employee's refusal to read, monitor or respond to contact or attempted contact is unreasonable.

The Commission cannot order payment of money (including compensation) as part of a stop order. You can find more information about the kind of orders the Commission can make on our website.

4.1 If the Applicant is the Employer—explain why there is a risk that the Employee will continue to unreasonably refuse to monitor, read or respond to contact or attempted contact.

4.2 If the Applicant is the Employee—explain why there is a risk that your Employer will:

- **continue to require you to monitor, read or respond to contact or attempted contact despite your refusal to do so, or**
- **take disciplinary or other action against you because the Employer believes your refusal to monitor, read or respond to contact or attempted contact is unreasonable.**

4.3 Whether the Applicant is the Employer or the Employee – What does the Applicant want the Commission to order the Respondent to do or stop doing?

Part 5 - Otherwise dealing with the dispute



Only complete this Part if you want the Commission to deal with the dispute in another way (instead of, or as well as making a stop order). For more information about how the Commission deals with disputes, see [disputes about the right to disconnect](#).

5.1 What outcome is the Applicant seeking to settle the dispute?

Authority to sign and signature

For 'Authority to sign':

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