

# Q&As about regulated workers

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This fact sheet answers questions about regulated workers, and the Fair Work Commission's role in:

- setting and varying minimum standards for regulated workers, and
  - dealing with disputes about unfair deactivation, unfair termination and unfair terms in services contracts.
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## Who the new laws apply to

### Who is a regulated worker?

A regulated worker is someone who:

- is engaged to perform the work under a services contract
- is engaged as an individual, or by way of a body corporate, trust or partnership
- performs all, or most, of the work under the services contract themselves
- is not an employee, and
- meets the requirements to be
  - an **employee-like worker**, or
  - a **regulated road transport contractor**.

 'Services contract' is defined in section 15H of the [Fair Work Act 2009](#).

### Who is an 'employee-like worker'?

A contractor doing paid work through a **digital labour platform**, who has at least 2 of the following characteristics:

- low bargaining power in negotiating the services contract they work under

- payment at or below the rate received by an employee doing comparable work, and/or
- a low degree of authority over how and when they do the work.

## Who is a 'regulated road transport contractor'?

A contractor who performs work in the road transport industry and is **not** an 'employee-like worker'.

Note: a person working in the road transport industry may be an employee-like worker if they get work through a digital platform and have at least 2 of the characteristics above.

## What is a regulated business?

A business may be a 'regulated business' if they:

- operate a digital labour platform, or
- are a road transport business.

## What is a digital labour platform?


A digital labour platform is an application (app), website or online system used to arrange, allocate or facilitate the provision of labour services, where the operator:

- engages the contractor's services through the platform, or acts as an intermediary between users and contractors, and
- processes payments to the contractor directly, or through an associated entity or contractor.

 'Digital labour platform' is defined in section 15N of the [Fair Work Act 2009](#).

## What is a road transport business?

A road transport business is a person (including a company) who receives services under a services contract for the performance of work in the road transport industry.

 'Road transport business' is defined in section 15R of the [Fair Work Act 2009](#).|  
'Road transport industry' is defined in section 15S of the [Fair Work Act 2009](#).

## **Do the new regulated worker laws apply to employees and employers?**

Employees are not regulated workers and a minimum standards order cannot apply to them.

However, employers who also engage employee-like workers or regulated road transport contractors, may now have both:

- an award or enterprise agreement that applies to their employees, and
- a minimum standards order or guidelines that apply to their employee-like workers or regulated road transport contractors.

## **Minimum standards orders**

### **What are minimum standards orders?**

Minimum standards orders create enforceable rights and obligations for regulated workers and regulated businesses covered by the order.

Minimum standards guidelines are similar, but are not legally binding.

The Commission can make minimum standards orders and guidelines on application or on its own initiative.

### **What is the process for deciding whether to make a minimum standards order?**

The Commission must follow the consultation process in the Fair Work Act. This includes genuinely engaging with the parties to be covered before making or varying a minimum standards order.

The process will involve:

- publishing the application received
- issuing a 'Notice of Intent' to make an order and draft order for comment
- giving affected entities a reasonable opportunity to make written submissions about the draft order
- publishing submissions received
- holding public hearings (optional), and
- listening to affected entities and considering submissions.

## Who is an affected entity?

- An affected entity is a person or body likely to be affected by the making of the minimum standards order. Affected entities may be identified by the Commission based on the terms of the draft order or may be prescribed by the Fair Work Regulations.
- Before making any order, the Commission must give all affected entities a reasonable opportunity to make submissions about a draft of the order.



Visit the [How we consult about regulated worker minimum standards page](#) to learn more.

## Does the Commission have to make an order after consultation?

No. Having regard to the submissions made, and the factors required by the legislation, including the minimum standards objective, the Commission may decide:

- to make the minimum standards order (as drafted or with minor amendments)
- not to make a minimum standards order
- to make non-binding minimum standards guidelines instead
- to significantly change the proposed order (which means issuing a new Notice of Intent and then consulting on the redrafted order)



The Minimum standards objective is detailed at section 536JX of the [Fair Work Act 2009](#).

## When do minimum standards orders start?

If the Commission decides to make a minimum standards order, there are rules about when the order can come into operation.

For road transport minimum standards orders, the time between issuing a Notice of Intent and the order taking effect must be at least **12 months**. (The Commission can reduce this to 6 months if urgent).

There is no set timeframe for when employee-like worker minimum standards orders start. However, the Commission must be satisfied there has been enough time for a reasonable period of consultation after the Notice of Intent was issued, taking into account the unique nature of digital platform work.

## What conditions can a Minimum Standards Order include?

The Fair Work Act sets out what can, and can't, be in a minimum standards order. For example, **minimum standards orders**:

- **must include** terms about disputes and coverage
- **may include** terms about payment terms, deductions, record-keeping, insurance and other topics,
- **must not include** terms about overtime rates, rostering arrangements, deeming provisions (changing employees to contractors or vice versa), or matters comprehensively dealt with by work health and safety laws.



More information about what can be included in minimum standards orders is available [on our website](#).

## Unfair deactivation, unfair termination and unfair terms

The Commission can deal with disputes about:


- unfair deactivation from a digital labour platform for employee-like workers,
- unfair termination of a contract for regulated road transport contractors, and
- unfair terms in a services contract.

## Who can make an unfair deactivation application?

Employee-like workers may be eligible to make an unfair deactivation application if:

- they worked on a regular basis for a period of at least **6 months**
- they are protected by law from unfair deactivation
- their deactivation was not consistent with the Digital Labour Platform Deactivation Code (we will publish details of the code [on our website](#) once it has been made)
- they were unfairly deactivated from a digital labour platform, and
- their annual earnings are less than **\$175,000** (this figure is the [contractor high income threshold](#) for the 2024/25 financial year and is subject to change).

It is important to note that work performed before the laws started on 26 August 2024 does not count towards the 6 months. **You can only apply to us for help from 26 February 2025** (6 months after the laws start).


 More information about who can make unfair deactivation application is available [on our website](#).

## Who can make an unfair termination application?

Regulated road transport contractors may be eligible to make an unfair termination application if:

- they worked in the road transport industry under a services contract or a series of contracts for a period of at least **6 months**.
- they are protected by law from unfair termination
- the termination was not consistent with the Road Transport Industry Termination Code (we will publish details of the code [on our website](#) once it has been made)
- they were unfairly terminated, and
- their annual earnings are less than **\$175,000** (this figure is the [contractor high income threshold](#) for the 2024/25 financial year and is subject to change).


It is important to note that work performed before the laws started on 26 August 2024 does not count towards the 6 months. **You can only apply to us for help from 26 February 2025** (6 months after the laws start).

 More information about who can make unfair contract termination application is available [on our website](#).

## Is there a time limit for unfair deactivation or unfair termination applications?

Yes. Applications must be received by us within **21 calendar days** of the deactivation or termination. We can sometimes extend this if there are exceptional circumstances but it's important to meet the deadline.

Application forms for unfair deactivation and unfair termination will be available **from 26 February 2025**.


 More information about applying for an unfair deactivation or termination remedy is available on our [unfair deactivation and termination webpage](#).

## What can I do if my services contract is unfair?

The Commission can cancel or change unfair terms in a services contract if:

- the contract was entered on or after **26 August 2024**
- the unfair terms would relate to 'workplace relations matters' if the contractor was an employee
- the contractor's annual rate of earnings is less than **\$175,000** (this figure is the contractor high income threshold for the 2024/25 financial year and is subject to change).

If your pre-26 August 2024 contract is unfair, you may have options under the Independent Contractors Act 2006. These matters are heard by the Federal Circuit and Family Court of Australia (not the Commission). You should seek legal advice before commencing any legal process.

 Find more information about unfair terms in services contracts on [our disputes about unfair contract terms webpage](#).

## Where to get more information

The Commission has published a range of resources to help workers and businesses understand our new functions. For more information, videos and presentations visit:

 [Regulated worker and contractual chain standards](#)

 [Unfair deactivation or termination for regulated workers](#)

[Independent contractor disputes about unfair contract terms](#)

You can also ask your union or employer organisation for help, or seek independent legal advice.

 Find out [where to find legal help](#) on our website.