



Fair Work Commission Rules 2013

I, Iain Ross AO, President of the Fair Work Commission, acting after consultation with the Members of the Fair Work Commission, make the following Rules under the *Fair Work Act 2009*.

Dated 26 November 2013

Iain Ross AO
President of the Fair Work Commission

OPC50278 - A

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Part 1—Preliminary

1 Name of Rules

These Rules are the *Fair Work Commission Rules 2013*.

2 Commencement

These Rules commence on the day after they are registered.

3 Authority

These Rules are made under the *Fair Work Act 2009*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

In these Rules:

Act means the *Fair Work Act 2009*.

approved form means a form approved by the President under rule 8.

business day means a day other than a Saturday, a Sunday or a public or bank holiday in the place concerned.

Commission means the Fair Work Commission.

Commission Member means the President, a Vice President, a Deputy President, a Commissioner or an Expert Panel Member.

FW (RO) Act means the *Fair Work (Registered Organisations) Act 2009*.

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general protections application means an application under section 365 or 372 of the Act for the Commission to deal with a dispute.

Regulations means the *Fair Work Regulations 2009*.

Transitional Act means the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

unfair dismissal application means an application under subsection 394(1) of the Act for a remedy for unfair dismissal.

unlawful termination FWC application means an application under section 773 of the Act for the Commission to deal with a dispute that relates to dismissal.

6 Dispensing with compliance with rule

The Commission may dispense with compliance with any provision of these Rules, either before or after the occasion for compliance arises.

7 Application for directions on procedure

- (1) A person who wants to initiate a matter, or take a step in a matter, may apply to the Commission for directions about the procedure to be followed in relation to the matter if:
 - (a) the procedure is not prescribed by the Act, the Regulations, these Rules or by or under any other Act or regulations; or
 - (b) the person is in doubt about the proper procedure to follow.

Note: The application must be in the approved form—see subrule 8(2).

- (2) Any action taken in accordance with a direction of the Commission made in response to an application under subrule (1) is regular and sufficient.

Part 2—Forms and applications

8 Approved forms

- (1) The President may approve forms for these Rules.
- (2) If the President approves a form for a particular purpose, then subject to these Rules, the approved form must be used for the purpose.
- (3) If there is no form approved for a particular purpose, approved form F1—Application (No specific form) must be used.
- (4) The President must ensure that approved forms are publicly available.
- (5) If these Rules require that an approved form be used, it is sufficient compliance if a document is substantially in accordance with the approved form.

9 Telephone applications

- (1) This rule applies to a person wanting to:
 - (a) make an application under section 365 of the Act to the Commission; or
 - (b) make an unfair dismissal application to the Commission.
- (2) The person may, as an alternative to lodging the application in the approved form, make the application by telephone to a telephone number approved for that purpose by the General Manager.

Note: The telephone numbers approved by the General Manager for making a telephone application are available at www.fwc.gov.au.
- (3) The Commission must prepare a written application for the person, based on the telephone application, and give the written application to the person.
- (4) The person must, within 14 calendar days after the day on which the Commission gives the written application to the person,

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complete and sign the written application and lodge it with the Commission and:

- (a) pay:
 - (i) for an application under section 365 of the Act—the fee mentioned in regulation 3.02 of the Regulations; or
 - (ii) for an application under section 394 of the Act—the fee mentioned in regulation 3.07 of the Regulations; or
 - (b) apply for a waiver of the fee.
- (5) If the person applies for a waiver, and the Commission refuses that application, the person must pay the application fee within 7 calendar days of being notified of the refusal by the Commission.
- (6) If:
- (a) either:
 - (i) the person pays the application fee; or
 - (ii) the Commission approves a fee waiver; and
 - (b) the person completes and signs the written application and lodges it with the Commission;
- the application is taken to have been made on the day that the person telephones the Commission to make the application in accordance with subrule (2).
- (7) The process of telephoning the Commission in accordance with subrule (2), and lodging the completed and signed written application, are taken to be the application.

10 Discontinuance

- (1) An applicant in an application before the Commission may discontinue the application at any time.
- (2) To discontinue the application, the applicant must notify the Commission by:
 - (a) lodging a notice of discontinuance; or
 - (b) advising the Commission by letter, email, fax or telephone that the applicant:
 - (i) wishes to discontinue the application; or
 - (ii) has settled the application; or

- (iii) wishes to withdraw the application; or
- (iv) no longer needs the Commission to deal with the application; or
- (c) advising the Commission of the discontinuance during the course of a conference or hearing.

Note 1: For paragraph (a), the notice of discontinuance must be in the approved form—see subrule 8(2).

Note 2: The Commission prefers applicants to advise it of the discontinuance of a matter by lodging a notice of discontinuance in the approved form.

Note 3: See subregulations 3.02(8), 3.03(8) and 3.07(8) of the Regulations in relation to the refund of an application fee when an application is discontinued.

- (3) To remove any doubt, this rule does not prevent the Commission from dismissing an application on its own initiative.

Part 3—Representation

11 Notice of representative commencing or ceasing to act

- (1) A person who commences to act as a lawyer or paid agent of a party to a matter that is already before the Commission must lodge a notice with the Commission.

Note: The notice must be in the approved form—see subrule 8(2).

- (2) Subject to section 596 of the Act, the Commission may permit a person to represent a party in a matter before the Commission despite the person's failure to lodge a notice in accordance with subrule (1).

Note: Section 596 of the Act provides for when a party may be represented by a lawyer or paid agent.

- (3) A person who ceases to act as a lawyer or paid agent of a party to a matter before the Commission must lodge a notice with the Commission.

Note: The notice must be in the approved form—see subrule 8(2).

12 Representation other than at conference or hearing

- (1) For subsection 596(1) of the Act, a person may be represented in a matter before the Commission by a lawyer or paid agent for the following purposes:

- (a) preparing a written application or written submission for the person in relation to the matter;
- (b) lodging with the Commission a written application, written submission or other document, on behalf of the person in relation to the matter;
- (c) corresponding with the Commission on behalf of the person in relation to the matter.

Note: Section 596 of the Act sets out other circumstances in which a person may be represented in a matter before the Commission by a lawyer or paid representative.

- (2) However, subrule (1) is subject to a direction by the Commission to the contrary in relation to the matter.
- (3) To remove doubt, nothing in this rule is to be taken as permitting a lawyer or paid agent to represent a party in a conference or hearing before the Commission.

Note: Section 596 of the Act sets out when the Commission may grant permission for a person to be represented by a paid agent or lawyer, including at a conference or hearing.

Part 4—Lodging documents: general requirements

13 General requirements for lodging documents

- (1) A document lodged with the Commission must:
 - (a) either:
 - (i) be on white A4 size paper; or
 - (ii) if the document is being lodged by email or using the Commission's electronic lodgment facilities—have an A4 page layout; and
 - (b) be typewritten, clearly written or clearly reproduced.
- (2) A document must be lodged with the Commission by:
 - (a) physically delivering the document to an office of the Commission between 9 am and 5 pm on a business day; or
 - (b) sending the document by post to an office of the Commission; or
 - (c) emailing the document in accordance with rule 14; or
 - (d) using the Commission's electronic lodgment facilities in accordance with rule 15; or
 - (e) faxing the document in accordance with rule 16.

Note: The addresses of the Commission's offices are available at www.fwc.gov.au.

14 Lodging documents by email

- (1) A document that is required or permitted to be lodged with the Commission under these Rules may be lodged by emailing the document to an email address approved by the General Manager for the lodgment of documents by email.

Note: The email addresses approved for lodgment of documents are available at www.fwc.gov.au.

- (2) However, if a matter has been allocated to a Commission Member, a document lodged by email in relation to the matter must be emailed to the email address of the Commission Member's chambers approved by the General Manager.

Note: The approved email addresses for Commission Members' chambers are available at www.fwc.gov.au.

- (3) If a document is lodged by email:
- (a) the document must be attached to the email:
 - (i) for a statutory declaration—as a PDF or other image format approved by the General Manager; and
 - (ii) for any other document—as an attachment in Word, RTF or PDF format or another format approved by the General Manager; and
 - (iii) without any security restrictions; and
 - (b) the covering email must state:
 - (i) the name, address, telephone number and fax number (if any) of the natural person sending the email; and
 - (ii) an email address to which the Commission can send notices or other documentation; and
 - (iii) if the document is an application commencing a matter—that fact; and
 - (iv) if the document relates to an existing matter—the matter number given to the matter by the Commission.

Note: For subparagraph (a)(i), the statutory declaration must be signed and witnessed.

- (4) If a document lodged in accordance with this rule is an application commencing a matter:
- (a) the General Manager must send an acknowledgment of lodgment, by email, to the person lodging the document; and
 - (b) the application is not taken to have been lodged until the acknowledgment of lodgment mentioned in paragraph (a) has been sent; and
 - (c) once the acknowledgment of lodgment mentioned in paragraph (a) has been sent, the application is taken to have been lodged at the time it was received electronically by the Commission.
- (5) A person who lodges a document by email must:
- (a) retain a paper copy of the document; and
 - (b) retain a paper copy of either:

Rule 15

- (i) a receipt indicating the document was delivered to the Commission; or
- (ii) the email as a “sent item” showing the transmission address and the date and time of transmission; and
- (c) produce the paper copies of the documents retained under paragraphs (a) and (b) if directed to so by the Commission.

15 Lodging documents using the Commission’s electronic lodgment facilities

- (1) A document that is required or permitted to be lodged with the Commission under these Rules may be lodged using the Commission’s electronic lodgment facilities in accordance with the instructions provided by the Commission for the use of those facilities.

Note: Web-based forms and eFiling facilities are available at www.fwc.gov.au.

- (2) If a document lodged in accordance with this rule is an application commencing a matter:
 - (a) the General Manager must send an acknowledgment of lodgment, by email, to the person lodging the document; and
 - (b) the application is not taken to have been lodged until the acknowledgment of lodgment mentioned in paragraph (a) has been sent; and
 - (c) once the acknowledgment of lodgment mentioned in paragraph (a) has been sent, the application is taken to have been lodged at the time it was received electronically by the Commission.

16 Lodging documents by fax

- (1) A document that is required or permitted to be lodged with the Commission under these Rules may be lodged by fax sent to the fax number approved by the General Manager for the lodgment of documents by fax.

Note: The fax numbers approved for lodgment of documents by fax are available at www.fwc.gov.au.

- (2) A document sent to the Commission by fax must be accompanied by a cover sheet clearly stating:
 - (a) the sender's name, postal address, document exchange number (if any), telephone number and fax number; and
 - (b) the number of pages transmitted; and
 - (c) if the document is an application commencing a matter—that fact; and
 - (d) if the document relates to an existing matter—the matter number allocated to the matter by the Commission.
- (3) A person who lodges a document by fax must:
 - (a) keep the original document and the transmission report evidencing successful transmission; and
 - (b) produce the original document or the transmission report if directed to do so by the Commission or the General Manager.
- (4) If the Commission or the General Manager directs that the original document be produced, the first page of the document must be endorsed with:
 - (a) a statement that the document is the original of a document sent by fax; and
 - (b) the date that the document was sent by fax.

17 Documents to be signed and dated

- (1) A document (other than an affidavit, annexure or exhibit attached to another document) that is lodged by a party in a matter must be dated and signed by either:
 - (a) the party; or
 - (b) if the party has a lawyer or paid agent—the lawyer or paid agent.

Electronic signatures

- (2) If a document (other than a statutory declaration) is required by these Rules to be signed by a person, the requirement may be satisfied:

Rule 18

- (a) by affixing the person's signature to the document by electronic means by, or at the direction of, the person required to sign the document; or
- (b) if the document is an approved form that is lodged with the Commission by email or using the Commission's electronic lodgment facilities—by typing the name of the person completing the form in the box beside the word "Signature".

18 Information required for witness statements, submissions and certain statutory declarations

- (1) The first page of a witness statement, submission or statutory declaration (other than a statutory declaration that is part of an approved form) lodged with the Commission in relation to a matter must comply with subrules (2) to (4).
- (2) If there is a respondent to the matter, the following information must be included at the top of the page in the following form:

FAIR WORK COMMISSION

Matter No.: [Insert matter number]
Applicant: [Insert name of applicant]
Respondent: [Insert name(s) of respondent(s)]

- (3) If there is no respondent to the matter, the following information must be included at the top of the page in the following form:

IN THE FAIR WORK COMMISSION

Matter No.: [Insert matter number]
Re Application by: [Insert name of applicant]

- (4) In all cases, the following information must be included at the foot of the page in the following form:

Lodged by:

[e.g. Applicant]

Address for Service:

Telephone:

Fax:

Email:

Part 5—Lodging documents: specific requirements

19 Employer response to unfair dismissal application

A respondent to an unfair dismissal application must lodge with the Commission a response to the application, together with any supporting documents, within 7 calendar days after the day on which the respondent was served with the application.

Note: The response must be in the approved form—see subrule 8(2).

20 Objection to unfair dismissal application on jurisdictional or other grounds

- (1) This rule applies to the respondent to an unfair dismissal application if:
 - (a) the respondent wants to raise an objection to the application under section 396 of the Act; and
 - (b) the objection may need to be considered and determined before a conference or hearing on the merits of the application; and
 - (c) the objection is not an objection that the dismissal was fair.

Note: Section 396 of the Act provides that the Commission must decide certain matters relating to an unfair dismissal application before considering whether the termination is harsh, unjust or unreasonable.

- (2) The respondent must:
 - (a) give details of the objection in the response lodged by the respondent under rule 19; or
 - (b) if the objection is taken after the response has been lodged—lodge the objection in the approved form.

Note: Information about the grounds upon which a respondent can object to an application for an unfair dismissal remedy is available at www.fwc.gov.au.

- (3) If:
 - (a) 2 or more unfair dismissal applications are lodged at the same time in respect of a respondent; and

- (b) the applications allege the same or substantially similar conduct; and
 - (c) the respondent wants to raise an objection to 2 or more of the applications; and
 - (d) the substance of the respondent's objection is substantially the same for each of the applications;
- the respondent may lodge one objection for all of the applications.

21 Employer response to a general protections application

A respondent to a general protections application must lodge a response to the application with the Commission within 7 calendar days after the day the respondent was served with the application.

Note: The response must be in the approved form—see subrule 8(2).

22 Employer response to an unlawful termination application

A respondent to an unlawful termination FWC application must lodge a response to the application with the Commission within 7 calendar days after the day on which the respondent was served with the application.

Note: The response must be in the approved form—see subrule 8(2).

23 Two or more applications concerning the same or substantially similar conduct

- (1) Subrule (2) applies if:
 - (a) 2 or more unfair dismissal applications; or
 - (b) 2 or more general protections applications; or
 - (c) 2 or more unlawful termination FWC applications;are lodged at the same time in respect of the same respondent.
- (2) The respondent may, despite rules 19, 21 and 22, lodge one response in respect of the applications if:
 - (a) the applications allege the same or substantially similar conduct; and
 - (b) the substance of the respondent's response is substantially the same for each application.

Rule 24

24 Application for approval of an enterprise agreement

- (1) If an application is made under section 185 of the Act for approval of an enterprise agreement that is not a greenfields agreement, each employer that is to be covered by the agreement must lodge a statutory declaration, in support of the application for approval, by an officer or authorised employee within 14 days after the agreement is made.

Note 1: The statutory declaration must be in the approved form—see subrule 8(2).

Note 2: Rule 40 also requires each employer that will be covered by the enterprise agreement to notify employees that application has been made for approval of the enterprise agreement.

- (2) The statutory declaration lodged under subrule (1) must be accompanied by a copy of the notice given by the employer under section 173 of the Act.

Note: The notice under section 173 of the Act is a notice by an employer that will be covered by an enterprise agreement (other than a greenfields agreement) to each employee who will be covered by the agreement and who is employed at the time of notification that the employee has the right to be represented by a bargaining representative.

- (3) If the agreement is not a greenfields agreement, each employee organisation that is a bargaining representative and wants to advise the Commission about whether the organisation:

- (a) supports approval of the agreement; or
- (b) agrees with one or more statements in a declaration made by an employer under subrule (1);

must lodge a statutory declaration by an officer or authorised employee of the organisation before the Commission approves the agreement.

Note 1: The statutory declaration must be in the approved form—see subrule 8(2).

Note 2: An employee organisation that was a bargaining representative for a proposed enterprise agreement that is not a greenfields agreement may also use the approved form to give the Commission written notice under section 183 of the Act. Section 183 provides that, after an enterprise agreement that is not a greenfields agreement is made, an employee organisation that was a bargaining representative for the

proposed enterprise agreement may give the Commission written notice stating that the organisation wants the enterprise agreement to cover it.

- (4) If the agreement is not a greenfields agreement, each bargaining representative mentioned in paragraph 176(1)(c) of the Act who has been appointed by one or more employees and wants to advise the Commission about whether the employees:

- (a) support approval of the agreement; or
- (b) agree with one or more statements in a declaration made by an employer under subrule (1);

must lodge a statutory declaration before the Commission approves the agreement.

Note: The statutory declaration must be in the approved form—see subrule 8(2).

- (5) If an application is made under section 185 of the Act for approval of an agreement that is a greenfields agreement, the application must be accompanied by a statutory declaration by an officer or authorised employee of each employer and each relevant employee organisation that is to be covered by the agreement.

Note: The statutory declarations must be in the approved form—see subrule 8(2).

- (6) If the application is made, or a statutory declaration is lodged, by a bargaining representative appointed by an employer or by an employee, the application or declaration must be accompanied by a copy of the written instrument of appointment of the bargaining representative.

25 Application for approval of variation of an enterprise agreement

- (1) An application under section 210 of the Act for approval of a variation of an enterprise agreement must be accompanied by:
- (a) a statutory declaration in support of the application by an officer or authorised employee of each employer covered by the agreement; and
 - (b) a statutory declaration in relation to the application by an officer or authorised employee of each employee

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organisation that is a bargaining representative for the variation agreement.

Note: The statutory declarations must be in the approved form—see subrule 8(2).

- (2) If the application is made, or the statutory declaration is lodged, by a bargaining representative appointed by an employer or employee, the application or declaration must be accompanied by a copy of the written instrument of appointment of the bargaining representative.

26 Application for approval of termination of an enterprise agreement or collective agreement-based transitional instrument

- (1) An application under section 222 of the Act for approval of termination of an enterprise agreement or a collective agreement-based transitional instrument must be accompanied by a statutory declaration made by an officer or authorised employee of the applicant setting out the basis upon which the Commission can be satisfied that the requirements of section 223 of the Act have been met.

Note 1: The statutory declaration must be in the approved form—see subrule 8(2).

Note 2: Section 223 of the Act sets out the circumstances in which the Commission must approve the termination.

Note 3: An application may be made under section 222 of the Act for termination of a collective agreement-based transitional instrument by virtue of the extended operation given to that section by item 15 of Schedule 3 to the Transitional Act. Item 15 provides that Subdivision C of Division 7 of Part 2-4 of the Act (which deals with termination of enterprise agreements by employers and employees) applies in relation to a collective agreement-based transitional instrument as if a reference to an enterprise agreement included a reference to a collective agreement-based transitional instrument.

- (2) An application under section 225 of the Act for termination of an enterprise agreement after its nominal expiry date must be accompanied by a statutory declaration made by an officer or authorised employee of the applicant setting out the basis upon

which the Commission can be satisfied that the requirements of section 226 of the Act have been met.

Note 1: The statutory declaration must be in the approved form—see subrule 8(2).

Note 2: Section 226 of the Act sets out the circumstances in which the Commission must terminate the agreement.

27 Application for approval of termination of individual agreement-based transitional instrument

- (1) An application under item 17 of Schedule 3 to the Transitional Act for approval of the termination of an individual agreement-based transitional instrument must be accompanied by a copy of the written agreement that was made in accordance with subitem 17(1) of Schedule 3 to that Act.

Note: Subitem 17(1) of Schedule 3 to the Transitional Act provides that an employer and employee covered by an individual agreement-based transitional instrument may make a written agreement to terminate the agreement.

- (2) An application under item 19 of Schedule 3 to the Transitional Act for approval of the termination of an individual agreement-based transitional instrument must be accompanied by:
- (a) a statutory declaration made by a person authorised to do so setting out the basis upon which the Commission can be satisfied that the requirements of subitems 19(2) and (3) of Schedule 3 to that Act have been met; and
 - (b) a copy of the written declaration that was made in accordance with subitem 19(2) of Schedule 3 to that Act.

Note 1: Subitem 19(2) of Schedule 3 to the Transitional Act provides that an employer or employee to whom an individual agreement-based transitional instrument that has passed its nominal expiry date applies may make a written declaration that the employer or employee wants to terminate the transitional instrument.

Note 2: Subitem 19(3) of Schedule 3 to the Transitional Act sets out notice requirements that must be met before an application can be made.

- (3) If an employer is seeking approval of the termination of more than one individual agreement-based transitional instrument, the requirements of subrule 8(2) are met if the applicant lodges:

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- (a) one application in the approved form; and
- (b) a schedule setting out:
 - (i) the name of the other party to each instrument; and
 - (ii) the item of Schedule 3 to the Transitional Act under which application is made; and
 - (iii) the identification number or date of each instrument to be terminated; and
 - (iv) the nominal expiry date of each instrument; and
 - (v) if a written agreement has been made under subitem 17(1) of Schedule 3 to the Transitional Act—whether the employee was under 18 years of age at the time of making the written agreement.

Note 1: A template schedule is available at www.fwc.gov.au.

Note 2: If a schedule is lodged under subrule (3), subrule (1) provides that the applicant must lodge a copy of each written agreement that has been made with each of the other parties to the agreements that are listed in the schedule.

Note 3: If a schedule is lodged under subrule (3), rule 47 provides that the employer must not serve a copy of the application and schedule upon a party in such a way as to reveal the identity of any other persons mentioned in the schedule.

28 Application for a bargaining order

An application under section 229 of the Act for a bargaining order must be accompanied by a copy of the written notice that has been given to the relevant bargaining representatives under paragraph 229(4)(b) of the Act.

Note: The notice under paragraph 229(4)(b) of the Act is a notice to the relevant bargaining representatives setting out the applicant's concerns under paragraph 229(4)(a) of the Act.

29 Application for a scope order

An application under section 238 of the Act for a scope order must be accompanied by a copy of the written notice, setting out the concerns referred to in subsection 238(1) of the Act, given to relevant bargaining representatives for the agreement under subsection 238(3) of the Act.

30 Application for a serious breach declaration

An application under section 234 of the Act for a serious breach declaration must be accompanied by a copy of each of the bargaining orders in relation to the agreement which the applicant alleges have been contravened.

31 Application for a protected action ballot order

- (1) An application under section 437 of the Act for a protected action ballot order must be accompanied by a draft order in the terms sought by the applicant.

Note: If the application seeks that the Australian Electoral Commission is the protected action ballot agent, the copy of the application that is served upon the Australian Electoral Commission should be accompanied by a completed information form that is available at www.aec.gov.au/elections/pab.

- (2) Unless it has been lodged with the Commission by fax, email or using the Commission's electronic lodgment facilities, an application under section 437 of the Act and the accompanying draft order must be emailed to the chambers of the Commission Member named in the notice of listing issued by the Commission in the matter as soon as practicable after the applicant has received the notice of listing.

Note: The approved email addresses for Commission Members' chambers are available at www.fwc.gov.au.

- (3) If an application is made:
- (a) under section 447 of the Act for variation of a protected action ballot order; or
 - (b) under section 448 of the Act for revocation of a protected action ballot order;
- the application must be lodged with a copy of the protected action ballot order to which the application relates.

32 Application for an order extending a suspension of protected industrial action

An application under section 428 of the Act for an order extending a suspension of protected industrial action must be accompanied by

Rule 33

a copy of the order to suspend protected industrial action under section 423, 424, 425 or 426 of the Act (as the case may be) to which the application relates.

33 Application for an order in relation to partial work bans

An application under section 472 of the Act for an order relating to partial work bans must be accompanied by a copy of the written notice given by the employer to the employee under paragraph 471(1)(c) of the Act.

Note: The notice given by the employer under paragraph 471(1)(c) of the Act states that, because of a partial work ban, the employee's payments will be reduced by the proportion specified in the notice.

34 Application for orders in relation to transfer of business

- (1) An application under section 318 or 319 of the Act for an order in relation to a transfer of business must be accompanied by a copy of the transferrable instrument to which the application relates.
- (2) An application under section 320 of the Act to vary a transferable instrument must be accompanied by a copy of the transferrable instrument to which the application relates.
- (3) An application under section 768AX of the Act to vary a copied State instrument must be accompanied by a copy of the copied State instrument to which the application relates.
- (4) An application under section 768BA, 768BD or 768BG of the Act for an order in relation to transfer of business must be accompanied by a copy of the copied State instrument to which the application relates.

35 Application for an affected member certificate

An application for an affected member certificate under section 520 of the Act must be accompanied by a statutory declaration setting out the basis upon which the Commission can be satisfied that the requirements of subsection 520(1) of the Act have been met.

Note: Subsection 520(1) of the Act sets out the matters in relation to which the Commission must be satisfied before issuing an affected member certificate.

36 Application for the Commission to deal with a dispute

- (1) An application permitted by Schedule 19 to the Transitional Act for the Commission to deal with a dispute must be accompanied by a copy of the dispute settling procedure under which the Commission is empowered to deal with the dispute in accordance with subitem 1(1) of Schedule 19 to that Act.
- (2) An application under section 240 of the Act for the Commission to deal with a bargaining dispute must be accompanied by a copy of each notice that has been issued by the applicant, respondent or a bargaining representative since bargaining commenced in the matter to which the application relates.
- (3) An application under section 739 of the Act for the Commission to deal with a dispute must be accompanied by a copy of the term referred to in section 738 of the Act under which the Commission is required or allowed to deal with the dispute.
- (4) The respondent to an application for the Commission to deal with a dispute under section 739 of the Act must lodge a written response to the application with the Commission as soon as practicable after being served with the application.

Note: Rule 48 requires the respondent to serve a copy of the response upon the applicant.

37 Application for a take-home pay order

- (1) An application for a take-home pay order with respect to multiple employees or outworkers must be accompanied by a statutory declaration in support of the application.

Note: The statutory declaration must be in the approved form—see subrule 8(2).

- (2) A respondent to an application for a take-home pay order (whether with respect to an individual employee or outworker, or multiple employees or outworkers) must lodge a response to the application

Rule 38

with the Commission within 14 calendar days after the day on which the respondent was served with the application.

Note: The response must be in the approved form—see subrule 8(2).

38 Conscientious objection certificate

An application under section 180 of the FW (RO) Act must be accompanied by a statutory declaration verifying the information provided in the application.

Note 1: The application must be in the approved form—see subrule 8(2).

Note 2: Section 180 of the FW (RO) Act provides for the issue or renewal of a certificate stating that a person's conscientious objections do not allow the person to be a member of a registered organisation.

39 Application for registration of an organisation

An application for registration of an organisation under section 18 of the FW (RO) Act must be signed by at least 2 persons who are authorised to sign the application.

Note 1: The application must be in the approved form—see subrule 8(2).

Note 2: See regulation 12 of the *Fair Work (Registered Organisations) Regulations 2009* regarding authorisation to make, sign or lodge documents.

Part 6—Enterprise agreements

40 Employer must notify employees of application for approval of an enterprise agreement

Each employer that will be covered by an enterprise agreement must notify employees who will be covered by the agreement, through the usual means that are adopted by the employer for communicating with employees, that an application has been made to the Commission for approval of the enterprise agreement.

Note: Examples of the “usual means” for communicating with employees are posting notices on employee notice boards and using email.

Part 7—Service of documents: general requirements

41 Requirement to serve documents lodged with the Commission

- (1) A person who lodges a document with the Commission must serve a copy of the document in accordance with the instructions as to service (if any) set out in Schedule 1.
- (2) The Commission must serve a copy of a document in accordance with the instructions as to service (if any) that are set out in Schedule 1.
- (3) If an application is made using approved form F1—Application (No specific form), the applicant may apply to the Commission under rule 7 for directions about the procedure to be followed in relation to service of the application.

Note: The application under rule 7 must be in the approved form—see subrule 8(2).

42 How service is effected by parties

- (1) Subject to these Rules, and any directions of the Commission, a person that is required to serve a document on another person must serve the document as soon as practicable.
- (2) Service of a document on an individual, a body corporate or an organisation or branch of an organisation must be effected:
 - (a) by leaving the document with:
 - (i) the individual to whom it is addressed; or
 - (ii) the secretary of the body corporate; or
 - (iii) the secretary of the organisation or branch; or
 - (b) by tendering the document to:
 - (i) the individual to whom it is addressed; or
 - (ii) the secretary of the body corporate; or
 - (iii) the secretary of the organisation or branch; or
 - (c) by leaving the document:

- (i) with an individual, apparently over the age of 15 years, at the residence, or usual place of business, of the individual who is intended to be served; or
 - (ii) at the registered office of the body corporate; or
 - (iii) at the office of the organisation or branch; or
 - (iv) in a matter in which the individual, body corporate or organisation or branch has notified an address for service—at that address; or
- (d) by posting the document in a prepaid envelope sent by Express Post or registered post to:
- (i) the residence, or usual place of business, of the individual intended to be served; or
 - (ii) the secretary, at the registered office of the body corporate; or
 - (iii) the secretary, at the office of the organisation or branch; or
 - (iv) in a matter in which the individual, body corporate or organisation or branch has lodged an address for service—that address;
- provided that if service is by Express Post, the person serving the document must retain the barcode of the prepaid envelope and produce it if required by the Commission; or
- (e) by fax to a fax number:
- (i) currently published by the person who is being served as his, her or its fax number; or
 - (ii) advised by the person who is being served as his, her or its fax number in response to a request for a fax number that was made immediately before the transmission of the document; or
 - (iii) appearing as the fax number of the person who is being served on a document lodged with the Commission by that person in the same matter;
- provided that the person serving the document must retain the transmission record showing the successful transmission and produce it if required by the Commission; or
- (f) by emailing the document to an email address:

Rule 42

- (i) currently published by the person who is being served as his, her or its email address; or
 - (ii) advised by the person who is being served as his, her or its email address in response to a request for an email address that was made immediately before the transmission of the document; or
 - (iii) appearing as the email address of the person who is being served on a document lodged with the Commission by that person in the same matter;
- provided that the person who is serving the document must:
- (iv) print the email as a “sent item”, showing the transmission address and the date and time of transmission; or
 - (v) print a “delivered” statement or a “read receipt” showing the transmission address and the date and time of transmission;
- and retain the document so printed and produce it if required by the Commission; or
- (g) if:
- (i) the person to be served is an employee of the person who is serving the document; and
 - (ii) a common form of communication between the employer and the employee is by email to a particular email address; and
 - (iii) it is reasonable for the employer to expect that an email to that email address will be received by the employee;
- by emailing the document to that email address, provided that the employer must:
- (iv) print the email as a “sent item”, showing the transmission address and the date and time of transmission; or
 - (v) print a “delivered” statement or a “read receipt” showing the transmission address and the date and time of transmission;
- and retain the document so printed and produce if required by the Commission.

(3) For subrule (2):

registered office, in relation to a body corporate, means the principal office or the principal place of business of the body corporate.

secretary, in the case of a body corporate that is established under a law of the Commonwealth or of a State or Territory of the Commonwealth, means the secretary, clerk or other proper officer of the body corporate.

- (4) For section 29 of the *Acts Interpretation Act 1901*, if service of a document is effected by posting it in accordance with paragraph (2)(d), a certificate:
- (a) signed by:
 - (i) a person occupying, or performing the duties of, the office of Managing Director, Australian Postal Corporation; or
 - (ii) a person authorised in writing by that person to give a certificate under this subrule; and
 - (b) stating that a letter that was posted (with prepaid postage) at a specified time, on a specified day and at a specified place, and addressed to a specified address, would, in the ordinary course of the post, have been delivered at that address on a specified day;

is evidence of the facts stated.

43 How service is effected by the Commission

If the Commission is required by these Rules to serve a document upon a person, service must be effected:

- (a) by posting the document in a prepaid envelope to the address specified in the document as the person's postal address; or
- (b) by faxing the document to the fax number specified in the document as the person's fax number; or
- (c) by emailing the document to the email address specified in the document as the person's email address; or
- (d) by leaving the document with the person; or
- (e) by tendering the document to the person at the address specified in the document as the person's postal address; or

Rule 44

- (f) by leaving the document with an individual, apparently over the age of 15 years, at the address specified in the document as the person's postal address; or
- (g) if the person has notified the Commission of the person's postal address, fax number or email address—by:
 - (i) posting the document in a prepaid envelope to the postal address; or
 - (ii) faxing the document to the fax number; or
 - (iii) emailing the document to the email address; or
 - (iv) tendering the document to the person at the postal address; or
 - (v) leaving the document with an individual, apparently over the age of 15 years, at the postal address.

44 Substituted service

If provision is made for personal, or other, service of a document in a matter before the Commission, the Commission may, on the application of a person, make an order for substituted, or other, service by letter, fax, email, public advertisement or another method, for the purpose of bringing the document to the notice of the person to be served.

Note: The application must be in the approved form—see subrule 8(2).

Part 8—Service of documents in specific circumstances

45 Service of applications by the Commission

If the Commission is required to serve an unfair dismissal application, a general protections application or an unlawful termination FWC application on a respondent, the Commission must serve upon the respondent:

- (a) a copy of the application, excluding that part of the application that deals with the application fee; and
- (b) any documents that were lodged with the application.

46 Documents to be served with employer response or objection

If a respondent in a matter is required to serve:

- (a) a response to an unfair dismissal application; or
- (b) an objection to an unfair dismissal application; or
- (c) a response to a general protections application; or
- (d) a response to an unlawful termination FWC application;

upon the applicant in the matter, the respondent must serve upon the applicant any supporting documents that were lodged by the respondent with the Commission at the time of lodgment of the response or objection that is being served.

47 Application for termination of individual agreement-based transitional instrument

If an employer is serving an application for termination of an individual agreement-based transitional instrument, and the application includes a schedule under subrule 27(3) listing more than one agreement, the employer must not serve a copy of the application and schedule upon a party to one of the agreements in such a way as to reveal the identity of any other persons mentioned in the schedule.

Rule 48

48 Response to an application for the Commission to deal with a dispute under section 739

A respondent to an application for the Commission to deal with a dispute under section 739 of the Act must serve a copy of the response to the application upon the applicant as soon as practicable after lodgment of the response with the Commission.

49 Application to vary a modern award

An applicant who has lodged an application to vary a modern award under Division 5 of Part 2-3 of Chapter 2 of the Act must apply to the Commission under rule 7 for directions about the procedure to be followed in relation to service of the application.

Note: The application under rule 7 must be in the approved form—see subrule 8(2).

50 Application for a representation order

An applicant who has lodged an application for a representation order under section 137A of the FW (RO) Act must apply to the Commission under rule 7 for directions about the procedure to be followed in relation to service of the application.

Note: The application under rule 7 must be in the approved form—see subrule 8(2).

51 Application for entry permit or WHS entry permit

- (1) An application for an entry permit under section 512 of the Act must be accompanied by a document evidencing the completion, by the person who is to hold the permit, of appropriate training about the rights and responsibilities of a permit holder under the Act.
- (2) An application for a WHS entry permit under section 131 of the *Work Health and Safety Act 2011* must be accompanied by a document evidencing the satisfactory completion, by the person who is to hold the entry permit, of the training prescribed under that Act.

52 Appeals

As soon as practicable after an appellant lodges an appeal book with the Commission under subrule 56(3), the appellant must serve a copy of the appeal book upon each other party to the matter from which the appeal is brought.

Part 9—Procedures for certain orders

53 Order for witness to attend

- (1) A party in a matter before the Commission may, by lodging a draft order, request that the Commission inform itself in relation to the matter by issuing an order requiring a person to attend before the Commission under subsection 590(2) of the Act.

Note: The request must be in the approved form—see subrule 8(2).

- (2) If the order is made, the party who requested the order must, as soon as practicable after the order is made, serve a signed copy of the order upon the person who is required to attend before the Commission.

54 Order for production of documents

- (1) A party in a matter before the Commission may, by lodging a draft order, request that the Commission inform itself in relation to the matter by requiring a person to provide copies of documents or records, or provide any other information, under subsection 590(2) of the Act.

Note: The request must be in the approved form—see subrule 8(2).

- (2) If the order is made, the party who requested the order must, as soon as practicable after the order is made, serve a signed copy of the order upon the person who is required to produce the documents, records or other information.
- (3) The order may be satisfied by producing the documents, records or other information specified in the order to the General Manager or other employee of the Commission at the place specified in the order no later than 4 pm on the day before the day specified in the order for the provision of the documents, records or other information.

55 Order for security for payment of unfair dismissal matter costs

- (1) A respondent or applicant in a matter before the Commission arising under Part 3-2 of the Act (unfair dismissal) may apply to the Commission for an order that a person provide security for the payment of costs in respect of the matter or part of the matter.

Note 1: The application must be in the approved form—see subrule 8(2).

Note 2: The Commission will not ordinarily make such an order before the conclusion of conciliation.

- (2) The person to whom an order made under subrule (1) applies must pay the amount of security at the time, and in the manner and form, required by the order.
- (3) If the Commission orders that security for the payment of costs be given in respect of a matter or part of a matter arising under Part 3-2 of the Act, a respondent or applicant in the matter may apply to the Commission to:
- (a) reduce or increase the amount of security to be provided; or
 - (b) vary the time at which, or manner or form in which, the security is to be provided.
- (4) Without limiting any other power which the Commission may exercise, if the Commission directs a person to provide security for costs in relation to a matter or part of a matter arising under Part 3-2 of the Act, the Commission may order that the matter be:
- (a) adjourned until security is provided; or
 - (b) adjourned indefinitely.

Part 10—Appeals and reviews

56 Appeals

- (1) A person seeking to institute an appeal under section 604 of the Act against a decision of:
- (a) a single Commission Member; or
 - (b) the General Manager; or
 - (c) a person exercising a delegation from the President or the General Manager;
- must do so by lodging a notice of appeal.

Note 1: Section 604 of the Act allows a person aggrieved by a decision of the Commission (other than a decision of a Full Bench or an Expert Panel), or of the General Manager (including a delegate of the General Manager) under the FW (RO) Act, to appeal the decision, with the permission of the Commission.

Note 2: The notice of appeal must be in the approved form—see subrule 8(2).

- (2) The notice of appeal must be lodged:
- (a) within 21 calendar days after the date of the decision being appealed against; or
 - (b) if the decision was issued in the form of an order—within 21 calendar days after the date of the order; or
 - (c) within such further time allowed by the Commission on application by the appellant.

Note: Subsection 598(4) of the Act provides that a decision may be made as an order.

- (3) The appellant must, within 7 calendar days after lodging the notice of appeal, lodge the following with the Commission:
- (a) 3 copies of the notice of appeal;
 - (b) 3 copies of a paginated appeal book containing:
 - (i) any order made by the Commission to which the appeal relates; and
 - (ii) the statement of the reasons for the decision being appealed against; and

- (iii) the transcript of the evidence and argument in the matter from which the appeal is brought, or the relevant extract from the transcript; and
- (iv) each document that was an exhibit or written submission in the matter from which the appeal is brought that relates to the grounds of appeal set out in the notice of appeal.

Note: Rule 52 requires the appellant to serve a copy of the appeal book upon each party to the matter from which the appeal is brought.

57 Application for review by Minister

An application by the Minister under section 605 of the Act must, to the fullest extent possible, be made in accordance with the procedure prescribed by rule 56.

Note: Section 605 of the Act allows the Minister to apply to the Commission for a review of a decision by the Commission, other than a decision of a Full Bench or an Expert Panel.

58 Other reviews

- (1) This rule applies if:
 - (a) legislation confers jurisdiction on the Commission to review a decision made by a decision maker other than the Commission or a person exercising a delegation from the President or the General Manager; and
 - (b) the legislation does not specify a time within which the review must be instituted.
- (2) A person who seeks a review of the decision must file an application for review, in accordance with approved form F1-Application (No specific form) (with such variations as the nature of the review requires):
 - (a) within 21 calendar days after the date of the decision; or
 - (b) within such further time allowed by the Commission on application by the person lodging the application for review.

Part 11—Miscellaneous

59 Seal of the Commission

- (1) The seal mentioned in subsection 651(1) of the Act is in the form represented below:



- (2) If a person is required to affix the seal to a document, the requirement is satisfied if a facsimile of the seal is affixed on the document by electronic means, by or at the direction of the person who is required to affix the seal.

60 Recovery of the Commission's costs for copies of documents

- (1) This rule applies if a person requests the Commission to provide a copy of a document to a person (whether in the form of photocopies, fax transmission, electronic data, printed documents or otherwise).
- (2) The person must pay to the Commission an amount that the Commission reasonably requires to be paid for obtaining and providing the copy, before the copy is provided.

Part 12—Transitional arrangements

61 Transition from the *Fair Work Australia Rules 2010*

- (1) These Rules apply to a matter started in the Commission on or after the commencement of these Rules.
- (2) These Rules also apply to a step in a matter that was started before commencement of these Rules if the step is taken on or after the commencement of these Rules.
- (3) However, the Commission may order that a provision of the *Fair Work Australia Rules 2010*, as in force immediately before the commencement of these Rules, is to apply, with or without modification, to a step mentioned in subrule (2).

Schedule 1—Instructions as to service

Note: See rule 41.

1 Instructions as to service

An approved form of a kind mentioned in columns 2 and 3 of an item of the table must be served as follows:

- (a) by the person mentioned in column 5 of the item;
- (b) upon the person, and in the manner (if any), mentioned in column 6 of the item;
- (c) at the time, or within the period, mentioned in column 7 of the item.

Example: If a person makes an unfair dismissal application to the Commission, the Commission must serve a copy of the completed Form F2—Unfair Dismissal Application upon the respondent named in the application as soon as practicable after the application is lodged with the Commission. The respondent must then serve a Form F3—Employer Response to Unfair Dismissal Application upon the applicant within 7 calendar days after being served with the application.

Note: Subrules 53(2) and 54(2) provide for the service of an order made following the lodgment of draft orders using Form F51—Order Requiring a Person to Attend the Fair Work Commission and F52—Order Requiring Production of Documents etc. to the Fair Work Commission.

| Instructions as to service | | | | | | |
|-----------------------------------|--|---|------------------------------------|--------------------------------|--------------------------------|---|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| F1 | Application for which there is no specific approved form | Application (No specific form) | Subrules 8(3),41(3) and 58(2) | Applicant | Respondent | As soon as practicable after lodgment with the Commission |
| F2 | Unfair dismissal | Unfair Dismissal Application | Section 394 of the Act and rule 45 | Commission | Respondent | As soon as practicable after lodgment with the Commission |
| F3 | Unfair dismissal | Employer Response to Unfair Dismissal Application | Rules 19, 23 and 46 | Respondent | Applicant | Within 7 calendar days after being served with the Unfair Dismissal application |
| F4 | Unfair | Objection to | Rules 20 and | Respondent | Applicant | As soon as practicable |

Schedule 1 Instructions as to service

| Instructions as to service | | | | | | |
|-----------------------------------|--|--|---|--|---|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | dismissal | Unfair Dismissal Application | 46 | | | after lodgment with the Commission |
| F5 | Unfair dismissal | Application for Security for Payment of Costs | Section 404 of the Act and subrule 55(1) | Applicant for security for costs | Respondent against whom an order is sought | As soon as practicable after lodgment with the Commission |
| F6 | Costs | Application for Costs | Sections 376 , 400A, 401, 611 and 780 of the Act | Applicant for order as to costs | Respondent against whom an order is sought | As soon as practicable after lodgment with the Commission |
| F7 | Appeal | Notice of Appeal | Section 604 of the Act and rules 52 and 56 | Commission | Each party to the matter from which the appeal is brought other | As soon as practicable after lodgment with the Commission under rule 56 |

| Instructions as to service | | | | | | |
|-----------------------------------|--------------------------------------|--|---|--------------------------------|--------------------------------|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | | | | than the appellant | |
| F8 | Dispute resolution | General Protections Application | Sections 365 and 372 of the Act and rule 45 | Commission | Respondent | As soon as practicable after lodgment with the Commission |
| F8A | Dispute resolution | Employer Response to General Protections Application | Rules 21, 23 and 46 | Respondent | Applicant | Within 7 calendar days after being served with the General Protections Application |
| F9 | Dispute resolution | Unlawful Termination Application | Section 773 of the Act and rule 45 | Commission | Respondent | As soon as practicable after lodgment with the Commission |
| F9A | Dispute resolution | Employer Response to | Rules 22, 23 and 46 | Respondent | Applicant | Within 7 calendar days after being served with |

Schedule 1 Instructions as to service

| Instructions as to service | | | | | | |
|-----------------------------------|--------------------------------------|---|---|--------------------------------|--|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | Unlawful Termination Application | | | | the Unlawful Termination Application |
| F10 | Dispute resolution | Application for the Commission to Deal with a Dispute in Accordance with a Dispute Settlement Procedure | Section 739 of the Act, Schedule 19 to the Transitional Act and rule 36 | Applicant | Respondent | As soon as practicable after lodgment with the Commission |
| F11 | Dispute resolution | Application for the Commission to Deal with a Bargaining Dispute | Section 240 of the Act and subrule 36(2) | Applicant | Each respondent named in the application and all other | As soon as practicable after lodgment with the Commission |

| Instructions as to service | | | | | | |
|-----------------------------------|--|---|-------------------------------|--------------------------------|---|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | | | | bargaining representative s who are seeking to make an enterprise agreement | |
| F12 | Dispute resolution | Application for the Commission to Deal with a Dispute about the operation of Part 3-4 regarding right of entry | Section 505 of the Act | Applicant | Respondent | As soon as practicable after lodgment with the Commission |
| F13 | Dispute | Application for | Section 526 | Applicant | Respondent | As soon as practicable |

Schedule 1 Instructions as to service

| Instructions as to service | | | | | | |
|-----------------------------------|--------------------------------------|--|------------------------------------|--------------------------------|--|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | resolution | the Commission to Deal with a Dispute about the operation of Part 3-5 regarding Stand Down | of the Act | | | after lodgment with the Commission |
| F14 | Dispute resolution | Application for an Order to Stop etc. (Unprotected) Industrial Action | Sections 418 and 419 of the Act | Applicant | Each person against whom orders are sought | As soon as practicable after lodgment with the Commission |
| F16 | Enterprise agreement | Application for Approval of an Enterprise | Section 185 of the Act and rule 24 | Applicant | Each employer that will be | As soon as practicable after lodgment with the Commission |

| Instructions as to service | | | | | | |
|-----------------------------------|-------------------------|-------------------|------------------|-------------------|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | Agreement | | | covered by the agreement, each employee organisation that was a bargaining representative and any other employee bargaining representative of whom the applicant is aware | |
| F17 | Enterprise | Employer's | Section 185 | Declarant | Each | As soon as practicable |

Schedule 1 Instructions as to service

| Instructions as to service | | | | | | |
|-----------------------------------|-------------------------|--|---------------------------------------|-------------------|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | agreement | Statutory Declaration in Support of an Application for Approval of an Enterprise Agreement | of the Act and subrules 24(1) and (2) | | employer that will be covered by the agreement, each employee organisation that was a bargaining representative and any employee bargaining representative of whom the declarant is | after lodgment with the Commission |

| Instructions as to service | | | | | | |
|-----------------------------------|--------------------------------------|--|--|--------------------------------|---|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| F18 | Enterprise agreement | Statutory Declaration of Employee Organisation in relation to an Application for Approval of an Enterprise Agreement | Section 185 of the Act and subrule 24(3) | Declarant | Each employer that will be covered by the agreement, each employee organisation that was a bargaining representative and any employee bargaining representative | As soon as practicable after lodgment with the Commission |

Schedule 1 Instructions as to service

| Instructions as to service | | | | | | |
|-----------------------------------|-------------------------|--|--|-------------------|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | | | | of whom the declarant is aware | |
| F18A | Enterprise agreement | Statutory Declaration of employee representative in relation to Application for Approval of Enterprise Agreement | Section 185 of the Act and subrule 24(4) | Declarant | Each employer that will be covered by the agreement, each employee organisation that was a bargaining representative and any other employee | As soon as practicable after lodgment with the Commission |

| Instructions as to service | | | | | | |
|-----------------------------------|--|--|--|--------------------------------|---|---|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | | | | bargaining representative of whom the declarant is aware | |
| F19 | Enterprise agreement | Application for Approval of Greenfields Agreement | Section 185 of the Act and rule 24 | Applicant | Each employer and each employee organisation that will be covered by the agreement | As soon as practicable after lodgment with the Commission |
| F20 | Enterprise agreement | Employer's Statutory Declaration in | Section 185 of the Act and subrule | Applicant | Each person served with the | At the same time as the Application for Approval of Greenfields |

Schedule 1 Instructions as to service

| Instructions as to service | | | | | | |
|-----------------------------------|--------------------------------------|---|--|--------------------------------|---|---|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | Support of Application for Approval of Greenfields Agreement | 24(5) | | Application for Approval of Greenfields Agreement | Agreement is served |
| F21 | Enterprise agreement | Statutory Declaration of Employee Organisation in relation to Application for Approval of Greenfields Agreement | Section 185 of the Act and subrule 24(5) | Applicant | Each person served with the Application for Approval of Greenfields Agreement | At the same time as the Application for Approval of Greenfields Agreement is served |
| F23 | Enterprise agreement | Application for Approval of | Section 210 of the Act | Applicant | Each employer and | As soon as practicable after lodgment with the |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | Variation of Enterprise Agreement | and rule 25 | | each employee organisation that is a bargaining representative for the variation agreement | Commission |
| F23A | Enterprise agreement | Employer's Statutory Declaration in Support of Approval of Variation of Enterprise Agreement | Section 210 of the Act and rule 25 | Applicant | Each person served with the Application for Approval of Variation of Enterprise Agreement | At the same time as the Application for Approval of Variation of Enterprise Agreement is served |

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|-----------------------------------|--|---|--|--------------------------------|---|---|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| F23B | Enterprise agreement | Statutory Declaration of Employee Organisation in relation to Approval of Variation of Enterprise Agreement | Section 210 of the Act and rule 25 | Applicant | Each person served with the Application for Approval of Variation of Enterprise Agreement | At the same time as the Application for Approval of Variation of Enterprise Agreement is served |
| F24 | Enterprise agreement | Application for Approval of Termination of Enterprise Agreement | Section 222 of the Act and subrule 26(1) | Applicant | Each employer and each employee organisation covered by the enterprise | As soon as practicable after lodgment with the Commission |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| F24A | Enterprise agreement | Statutory Declaration in Support of Termination of Enterprise Agreement | Section 222 of the Act and subrule 26(1) | Applicant | Each employer and each employee organisation covered by the enterprise agreement | At the same time as the Application for Approval of Termination of Enterprise Agreement is served |
| F24B | Enterprise Agreement | Application for Termination of Enterprise Agreement— After Nominal Expiry Date | Section 225 of the Act and subrule 26(2) | Applicant | Each employer and each employee organisation covered by the enterprise | As soon as practicable after lodgment with the Commission |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| F24C | Enterprise Agreement | Statutory Declaration in relation to Termination of Enterprise Agreement— After Nominal Expiry Date | Section 225 of the Act and subrule 26(2) | Applicant | Each employer and each employee organisation covered by the enterprise agreement | At the same time as the Application for Termination of Enterprise Agreement— After Nominal Expiry Date is served |
| F25 | Transitional instrument | Application to Vary Transitional Instrument to Remove Ambiguities etc. | Item 10 of Schedule 3 to the Transitional Act | Applicant | Each person bound by, or a party to, the transitional instrument | As soon as practicable after lodgment with the Commission |
| F28 | Transitional | Application for | Items 15 and | Applicant | Each | As soon as practicable |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | instrument | Approval of Termination of Collective Agreement-base d Transitional Instrument | 16 of Schedule 3 to the Transitional Act and subrule 26(1) | | employer and each employee organisation bound by the collective agreement- based transitional instrument | after lodgment with the Commission |
| F29 | Transitional instrument | Application for Approval of Termination of Individual Agreement-base d Transitional Instrument | Items 17 and 19 of Schedule 3 to the Transitional Act and rules 27 and | Applicant | The other party to the individual agreement- based transitional instrument | As soon as practicable after lodgment with the Commission |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | | 47 | | | |
| F30 | Transitional instrument | Application for a Majority Support Determination | Section 236 of the Act | Applicant | Each respondent listed in the application | As soon as practicable after lodgment with the Commission |
| F31 | Bargaining | Application for a Scope Order | Section 238 of the Act and rule 29 | Applicant | Each respondent listed in the application | As soon as practicable after lodgment with the Commission |
| F32 | Bargaining | Application for a Bargaining Order | Section 229 of the Act and rule 28 | Applicant | Each respondent listed in the application and any other bargaining representative | As soon as practicable after lodgment with the Commission |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| F33 | Bargaining | Application for a Serious Breach Declaration | Section 234 of the Act and rule 30 | Applicant | Each respondent listed in the application and any other bargaining representative | As soon as practicable after lodgment with the Commission |
| F34 | Bargaining | Application for a Protected Action Ballot Order | Section 437 of the Act and rule 31 | Applicant | The respondents and either the Australian Electoral Commission at secret.ballotsaec.gov.au or, | Within 24 hours after lodgment with the Commission |

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| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | | | | if the protected action ballot order specifies a person other than the Australian Electoral Commission, the protected action ballot agent and the person (if any) specified as the independent | |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | | | | advisor for the ballot | |
| F35 | Bargaining | Application for Variation of a Protected Action Ballot Order | Section 447 of the Act and subrule 31(3) | Applicant | The respondents, the protected action ballot agent and the independent advisor for the ballot (if any) | As soon as practicable after lodgment with the Commission |
| F36 | Bargaining | Application for Revocation of a Protected Action Ballot Order | Section 448 of the Act and subrule 31(3) | Applicant | Each employer to whom the protected action ballot | As soon as practicable after lodgment with the Commission |

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| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | | | | order applied, the protected action ballot agent and the independent advisor for the ballot (if any) | |
| F37 | Bargaining | Application for an Order to Suspend or Terminate Protected Industrial Action | Sections 423 to 426 of the Act | Applicant | Each respondent | As soon as practicable after lodgment with the Commission |
| F38 | Bargaining | Application for | Section 428 | Applicant | Each | As soon as practicable |

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| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | an Order for an Extension of a Suspension of Protected Industrial Action | of the Act and rule 32 | | respondent | after lodgment with the Commission |
| F39 | Bargaining | Application for an Order in Relation to Partial Work Bans | Section 472 of the Act and rule 33 | Applicant | Respondent | As soon as practicable after lodgment with the Commission |
| F40 | Transfer of business | Application for Orders in Relation to Transfer of Business (ss 318 | Sections 318 and 319 of the Act and subrule 34(1) | Applicant | The other parties to the transferable instrument, any employee | As soon as practicable after lodgment with the Commission |

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| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | and 319) | | | organisation that ordinarily represents the industrial interests of the transferring employee, and the new employer or a person who is likely to be the new employer | |
| F40A | Transfer of business | Application for Orders in Relation to | Sections 768 BA, 768BD and 768BG | Applicant | The other parties to the copied State | As soon as practicable after lodgment with the Commission |

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|-----------------------------------|--|---|---|--------------------------------|---|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | Transfer of Business (ss. 768BA, 768BD and 768BG) | of the Act and subrule 34(4) | | instrument, any employee organisation that ordinarily represents the industrial interests of the transferring employees and the new employer | |
| F41 | Transfer of business | Application to Vary a Transferable Instrument | Section 320 of the Act and subrule 34(2) | Applicant | The other parties to the transferable instrument and, if the | As soon as practicable after lodgment with the Commission |

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|-----------------------------------|-------------------------|-------------------|------------------|-------------------|--|---|
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | | | | transferable instrument is a named employer award, any employee organisation that is entitled to represent the industrial interests of an employee covered by the named employer award | |
| F41A | Transfer of | Application to | Section 768 | Applicant | The other | As soon as practicable |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | business | vary a copied State instrument | AX of the Act and subrule 34(3) | | parties to the copied State instrument, any employee organisation that ordinarily represents the industrial interests of the transferring employees and the new employer | after lodgment with the Commission |
| F45A | National Employment Standards | Application to vary Redundancy | Section 120 of the Act | Applicant | Respondent | As soon as practicable after lodgment with the Commission |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | Pay | | | | |
| F46 | Award | Application to Vary a Modern Award | Sections 157 to 160 of the Act and rule 49 | Applicant | The person whom the Commission directs is to be served | The time period as directed by the Commission |
| F47 | Award | Application to Vary a Transitional Instrument that is an Award or a transitional award that is a continuing Schedule 6 instrument | Item 12 of Schedule 3 or Schedule 20 to the Transitional Act | Applicant | Respondents to the transitional instrument that is an award or the transitional award that is a continuing Schedule 6 | As soon as practicable after lodgment with the Commission |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| F47A | Take home pay order | Application for a Take-home Pay Order (Individual Employee/ Outworker) | Item 32 of Schedule 3A, item 9 or 13B of Schedule 5, item 12 of Schedule 6 and item 14 of Schedule 6A to the Transitional Act | Applicant | Respondent instrument | As soon as practicable after lodgment with the Commission |
| F47B | Take home pay order | Response to Application for | Subrule 37(2) | Respondent | Applicant | Within 14 calendar days after being served with |

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| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | a Take-home Pay Order (Individual Employee/ Outworker) | | | | the Application for a Take-home Pay Order (Individual Employee/Outworker) |
| F47C | Take home pay order | Application for a Take-home Pay Order (Multiple Employees/ Outworkers) | Item 9 of Schedule 5 to the Transitional Act and subrule 37(1) | Applicant | Respondent | As soon as practicable after lodgment with the Commission |
| F47D | Take home pay order | Response to Application for a Take-home Pay Order | Subrule 37(2) | Respondent | Applicant | Within 14 calendar days after being served with the Application for a Take-home Pay Order |

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|-----------------------------------|--|--|--|---|--|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | (Multiple Employees/ Outworkers) | | | | (Multiple Employees/Outworkers) |
| F47E | Take home pay order | Statutory Declaration in support of Take-home Pay Order (Multiple Employees/ Outworkers) | Item 9 of Schedule 5 to the Transitional Act and subrule 37(1) | Applicant named in the Application for a Take-home Pay Order (Multiple Employees/ Outworkers) | Respondent named in the Application for a Take-home Pay Order (Multiple Employees/ Outworkers) | At the same time as the Application for a Take-home Pay Order (Multiple Employees/Outworkers) is served |
| F48 | Procedural | Application for Directions on Procedure | Rules 7, 41, 49 and 50 | Applicant | If the application is made in relation to a | As soon as practicable after lodgment with the Commission |

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|-----------------------------------|-------------------------|--|---|---------------------------|--|---|
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | | | | matter that has commenced, each other party in the matter | |
| F50 | Procedural | Notice of Discontinuance | Section 588 of the Act and rule 10 | Applicant | Respondent | As soon as practicable after lodgment with the Commission |
| F53 | Procedural | Notice of Representative Commencing to Act | Subsection 5 96(2) of the Act and rule 11 | Person lodging the notice | All parties to the matter other than the party who the representative represents | As soon as practicable after lodgment with the Commission |
| F54 | Procedural | Notice of | Subsection 5 | Person | All parties to | As soon as practicable |

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|-----------------------------------|--|--|---|--------------------------------|--|--|
| Column 1 Form | Column 2 Type of document | Column 3 Form title | Column 4 Provision | Column 5 Service by | Column 6 Service on | Column 7 Period in which service must be effected |
| | | Representative Ceasing to Act | 96(2) of the Act and rule 11 | lodging the notice | the matter other than the party who the representative formerly represented | after lodgment with the Commission |
| F71 | Registered organisation | Application for a Representation Order | Section 137 A of the FW (RO) Act and rule 50 | Applicant | Each registered organisation, transitionally recognised association, recognised State- registered association and employer | As soon as practicable after lodgment with the Commission |

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|-----------------------------------|-------------------------|-------------------|------------------|-------------------|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 | Column 7 |
| Form | Type of document | Form title | Provision | Service by | Service on | Period in which service must be effected |
| | | | | | listed in the application as being likely to have an interest in the matter | |

Schedule 2—Repeals

Australian Industrial Relations Commission Rules 1998

1 The whole of the Rules

Repeal the Rules.

Australian Industrial Relations Commission Rules 2007

2 The whole of the Rules

Repeal the Rules.

Fair Work Australia Rules 2010

3 The whole of the Rules

Repeal the Rules.