



Fair Work Commission Amendment (Greenfields Agreements and Other Measures) Rule 2016

I, Iain Ross AO, President of the Fair Work Commission, acting after consultation with the Members of the Fair Work Commission, make the following rule.

Dated 8 August 2016

Iain Ross AO
President of the Fair Work Commission

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1 Name

This is the *Fair Work Commission Amendment (Greenfields Agreements and Other Measures) Rule 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	12 Aug 2016

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Fair Work Act 2009*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Fair Work Commission Rules 2013

1 Paragraph 10(2)(b)

Omit “by letter, email, fax or telephone”, substitute “, or a member of the staff of the Commission, by letter, email, fax or telephone, or orally in person,”.

2 Before subrule 24(1)

Insert:

Agreements other than greenfields agreements

3 After subrule 24(4)

Insert:

Greenfields agreements—other than single enterprise agreements made under subsection 182(4) of the Act

4 After subrule 24(5)

Insert:

Greenfields agreements—single enterprise agreements made under subsection 182(4) of the Act

- (5A) For paragraph 185A(b) of the Act, subrules (5B) to (5D) apply in relation to an application for the approval of an agreement made under subsection 182(4) of the Act.

Note: Subsection 182(4) of the Act provides that single-enterprise greenfields agreements may be taken to have been made in certain circumstances even if not signed by each employer and relevant employee organisation.

- (5B) The application must be accompanied by a statutory declaration, in support of the application for approval, made by an officer or authorised employee of each employer that is a bargaining representative for the agreement.

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

- (5C) The statutory declaration must be accompanied by a copy of each notice given under section 178B of the Act by an employer that is a bargaining representative for the agreement.

Note: Each employer that is a bargaining representative for the agreement must give a notice under section 178B of the Act to each employee organisation that is a bargaining representative for the agreement. The notice provides for a stated 6 month period to be the notified negotiating period for the agreement.

- (5D) If an employee organisation that is a bargaining representative for the agreement wants to advise the Commission about whether the organisation agrees with one or more statements in the statutory declaration accompanying the application under subrule (5B), the organisation must lodge a statutory declaration by an officer or authorised employee of the organisation before the Commission approves the agreement.

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

General—instruments of appointment of bargaining representatives

5 Clause 1 of Schedule 1 (table items dealing with forms F16 to F18A, at the end of the cells at column 3)

Add “(other than a greenfields agreement)”.

6 Clause 1 of Schedule 1 (table items dealing with forms F19 to F21, at the end of the cells at column 3)

Add “made under subsection 182(3) of the Act”.

7 Clause 1 of Schedule 1 (after table item dealing with form F21)

Insert:

F21A	Enterprise agreement	Application for Approval of Greenfields Agreement made under subsection 182(4) of the Act	Section 185A of the Act and rule 24	Applicant(s)	Each employee organisation that is a bargaining representative for the agreement	As soon as practicable after lodgment with the Commission
F21B	Enterprise agreement	Employer's Statutory Declaration in Support of Application for Approval of Greenfields Agreement made under subsection 182(4) of the Act	Section 185A of the Act and subrules 24(5B) and (5C)	Applicant(s)	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
F21C	Enterprise Agreement	Statutory Declaration of Employee Organisation in relation to Application for Approval of Greenfields Agreement made under subsection 182(4) of the Act	Section 185A of the Act and subrule 24(5D)	Declarant	Each employer that is covered by the agreement, and each employee organisation that is a bargaining representative for the agreement	As soon as practicable after lodgment with the Commission

8 Clause 1 of Schedule 1 (after table item dealing with form F34)

Insert:

F34A	Bargaining	Application to extend the 30-day period for protected action	Subsection 459(3) of the Act	Applicant	Respondent	As soon as practicable after lodgment with the Commission
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Schedule 2—Application of amendments

Fair Work Commission Rules 2013

1 At the end of Part 12

Add:

62 Application of amendments made by the *Fair Work Commission Amendment (Greenfields Agreements and Other Measures) Rule 2016*

- (1) The amendments made by items 2 to 7 of Schedule 1 to the *Fair Work Commission Amendment (Greenfields Agreements and Other Measures) Rule 2016* apply in relation to an application for approval of an enterprise agreement made on or after the day those amendments commenced.
- (2) The amendment made by item 8 of Schedule 1 to the *Fair Work Commission Amendment (Greenfields Agreements and Other Measures) Rule 2016* applies in relation to an application to extend the 30-day period for protected action made on or after the day the amendment commenced.