



Fair Work Commission Amendment (Miscellaneous Measures) Rules 2020

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.

Dated 22 April 2020

Iain Ross AO
President of the Fair Work Commission

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1 Name

This instrument is the *Fair Work Commission Amendment (Miscellaneous Measures) Rules 2020*.

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	1 May 2020.	1 May 2020

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Notices about lawyers or paid agents

Fair Work Commission Rules 2013

1 Rule 11

Repeal the rule, substitute:

11 Notice—lawyer or paid agent acting, or ceasing to act, for person in relation to matters before Commission

- (1) If a person wants to advise the Commission that a lawyer or paid agent acts for the person in relation to a matter before the Commission, the person must lodge a notice with the Commission.

Note 1: A person may want to lodge a notice under this subrule (and serve the notice in accordance with rule 41) so that:

- (a) a lawyer or paid agent acting for the person is copied into information relating to the matter; or
- (b) all other parties to the matter are given notice that costs are being incurred by the person for which a party (or their lawyer or paid agent) could be liable if an order for costs is made against them by the Commission.

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

- (2) If:
- (a) a person has lodged a notice under subrule (1) about a lawyer or paid agent in relation to a matter before the Commission; and
 - (b) the lawyer or paid agent of the person ceases to act for the person in relation to the matter;
- the person must lodge a notice with the Commission advising that the lawyer or paid agent has ceased to act for the person in relation to the matter.

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

2 Subrule 12(1)

Omit “and subject to rule 11”.

3 Clause 1 of Schedule 1 (table items dealing with F53, F53A and F54)

Repeal the items, substitute:

F53	Procedural	Notice that person: (a) has lawyer or paid agent; or (b) will seek permission for lawyer or paid agent to participate in a conference or hearing	Subsection 5 96(2) of the Act and rules 11 and 12A	Person lodging the notice	All parties to the matter other than the person lodging the notice	As soon as practicable after lodgment with the Commission
F54	Procedural	Notice that lawyer or paid agent has ceased to act for a person	Subsection 5 96(2) of the Act and rule 11	Person lodging the notice	All parties to the matter other than the person lodging the notice	As soon as practicable after lodgment with the Commission

Part 2—Applications for approval of enterprise agreements

Fair Work Commission Rules 2013

4 Subrule 24(3)

Omit “about whether”, substitute “that”.

5 Paragraphs 24(3)(a) and (b)

Repeal the paragraphs, substitute:

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

6 Subrule 24(4)

Omit “about whether”, substitute “that”.

7 Paragraphs 24(4)(a) and (b)

Repeal the paragraphs, substitute:

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

8 Subrule 24(5D)

Omit “about whether the organisation agrees”, substitute “that the organisation disagrees”.

Part 3—Amendments to require declarations rather than statutory declarations

Fair Work Commission Rules 2013

9 Amendments of listed provisions

Substituting references to statutory declaration with references to declaration			
Item	Provision	Omit (wherever occurring)	Substitute
1	Rule 17A (heading)	Statutory declarations	Declarations
2	Paragraph 17A(a)	statutory declaration	declaration
3	Subrules 24(1) to (4) (including the notes)	statutory declaration	declaration
4	Paragraphs 24(5)(a) and (b)	statutory declaration	declaration
5	Subrule 24(5) (note)	statutory declarations	declarations
6	Subrules 24(5B) to (6) (including the notes)	statutory declaration	declaration
7	Paragraphs 25(a) and (b)	statutory declaration	declaration
8	Rule 25 (note)	statutory declarations	declarations
9	Subrules 26(1) and (2) (including the notes)	statutory declaration	declaration
10	Paragraph 27(2)(a)	statutory declaration	declaration
11	Subrule 31(1) (including the notes)	statutory declaration	declaration
12	Rule 35	statutory declaration	declaration
13	Subrule 37(1) (including the note)	statutory declaration	declaration
14	Rule 38	statutory declaration	declaration
15	Rule 40A (heading)	statutory declarations	declarations
16	Paragraphs 40A(a) to (f)	statutory declaration	declaration
17	Subrule 63(4)	statutory declarations	declarations
18	Clause 1 of Schedule 1 (table items dealing with F17 and F18)	Statutory Declaration	Declaration
19	Clause 1 of Schedule 1 (table item dealing with F18A)	Statutory declaration	Declaration
20	Clause 1 of Schedule 1 (table item dealing with F20)	Statutory Declaration	Declaration
21	Clause 1 of Schedule 1 (table item dealing with F21)	Statutory declaration	Declaration
22	Clause 1 of Schedule 1 (table item dealing with F21B)	Statutory Declaration	Declaration
23	Clause 1 of Schedule 1	Statutory declaration	Declaration

Schedule 1 Amendments

Part 3 Amendments to require declarations rather than statutory declarations

Substituting references to statutory declaration with references to declaration			
Item	Provision	Omit (wherever occurring)	Substitute
	(table item dealing with F21C)		
24	Clause 1 of Schedule 1 (table item dealing with F23A)	statutory declaration	declaration
25	Clause 1 of Schedule 1 (table items dealing with F23B, F24A and F24C)	Statutory declaration	Declaration
26	Clause 1 of Schedule 1 (table item dealing with F34B)	Statutory Declaration	Declaration
27	Clause 1 of Schedule 1 (table item dealing with F47E)	Statutory declaration	Declaration

Part 4—Other amendments

Fair Work Commission Rules 2013

10 Paragraph 40A(d)

Omit “subrule 25(1)”, substitute “rule 25”.

11 In the appropriate position in Part 12

Insert:

64 Application of amendments made by the *Fair Work Commission Amendment (Miscellaneous Measures) Rules 2020*

(1) In this rule:

amending Rules means the *Fair Work Commission Amendment (Miscellaneous Measures) Rules 2020*.

commencement day means the day the amending Rules commence.

- (2) The amendments made by Part 1 of Schedule 1 to the amending Rules apply in relation to a matter that starts in the Commission on or after the commencement day.
- (3) The amendments made by Part 2 of Schedule 1 to the amending Rules apply in relation to an application for approval of an enterprise agreement if the application is made on or after the commencement day.
- (4) The amendments made by Part 3 of Schedule 1 to the amending Rules (other than the amendment of subrule 63(4)) apply in relation to a declaration made on or after the commencement day.

Note: A consequence of this rule is that the provisions of this instrument, as in force immediately before the commencement day, continue to apply in relation to matters starting or made before that day.

Example: Rule 11, and items F53, F53A and F54 of the table in clause 1 of Schedule 1, as in force immediately before the commencement day, continue to apply in relation to matters starting in the Commission before that day.