

Form F48 – Application for directions on procedure

Fair Work Commission Rules 2013, Rule 7

This is an application to the Fair Work Commission for directions about procedure in relation to a matter in accordance with the [Fair Work Act 2009](#).

The Applicant



These are the details of the person who is making this application. The applicant for directions on procedure may be different from the applicant in the matter before the Commission.

Title	[<input type="checkbox"/>] Mr [<input type="checkbox"/>] Mrs [<input type="checkbox"/>] Ms [<input type="checkbox"/>] Other please specify:		
First name(s)	Robert		
Surname	Potter		
Postal address	116 Queensberry Street		
Suburb	Carlton South		
State or territory	Victoria	Postcode	2053
Phone number	(03) 9342 3400	Fax number	
Email address	info@asu.asn.au		

If the Applicant is a company or organisation

If the Applicant is a company or organisation please also provide the following details

Legal name of Applicant	Australian Municipal, Administrative, Clerical and Services Union
Applicant's trading name or registered business name	Australian Services Union
Applicant's ACN (if a company)	
Applicant's ABN (if applicable)	
Contact person	Michael Robson, National Industrial Officer (ASU), mrobson@asu.asn.au, 0428 447 114.

Does the Applicant need an interpreter?



If the Applicant requires an interpreter (other than a friend or family member) in order to participate in conciliation, a conference or hearing, the Fair Work Commission will provide an interpreter at no cost.

Yes – Specify language

No

Does the Applicant require any special assistance at the hearing or conference (e.g. a hearing loop)?

Yes – Please specify the assistance required

No

Does the Applicant have a representative?



A representative is a person or organisation who is representing the Applicant. This might be a lawyer or paid agent, a union or employer organisation, or a family member or friend. There is no requirement to have a representative.

Yes – Provide representative’s details below

No

Applicant’s representative



These are the details of the person or organisation who is representing the Applicant (if any).

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

Is the Applicant’s representative a lawyer or paid agent?

Yes

No

The other party



These are the details of the other party in the matter.

Title Mr Mrs Ms Other please specify:

First name(s)

Surname

Postal address

Suburb

State or territory

Postcode

Phone number

Fax number

Email address

If the other party is an organisation

If the other party is an organisation please also provide the following details

Legal name of organisation	
Trading name of organisation	Australian Business Lawyers and Advisors
ABN/ACN	
Contact person	Julian Arndt

Legal name of organisation	
Trading name of organisation	Australian Industry Group
ABN/ACN	
Contact person	Brent Ferguson and Ruchi Bhatt

Legal name of organisation	
Trading name of organisation	Australian Federation of Employers and Industries
ABN/ACN	
Contact person	Paula Thomson

Legal name of organisation	
Trading name of organisation	National Disability Services
ABN/ACN	
Contact person	Michael Pegg

1. Preliminary

1.1 Are you seeking directions for an existing matter?

Yes – Go to 1.2

No – Go to 1.3

1.2 What is the name and matter number for the matter?

1.3 What is the type of matter that you want to initiate?

Briefly, provide the details of the type of matter.

An application to vary the Social, Community, Home Care and Disability Services Industry Award 2010.

2. Reasons for seeking directions

2.1 Why are you applying to the Commission for directions?

The procedure is not prescribed by the FW Act, the Fair Work Commission Rules, the regulations or any other Act or regulations. Provide details below.

You are in doubt about the proper procedure to follow. Provide details below.

Rule 49 requires this application to be made connection with an application to vary a modern award.

3. Proposed directions.


Set out your proposed directions you are seeking, if any (optional).

1. That the attached application to vary a modern award be published on the Fair Work Commission's website at a location deemed appropriate to the Commission
2. That the applicant serve the attached application by e-mail on the persons and organisations identified as an "other party" in the application.
3. That, upon completion of the above steps, the attached application be deemed served.
4. That the application be allocated to the Full Bench hearing matter number AM2020/13

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	
Name	Robert Potter
Date	26 June 2020
Capacity/Position	National Secretary



Where this form is not being completed and signed by the Respondent, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

Form F46 – Application to vary a modern award

Fair Work Act 2009, ss.157–160

This is an application to the Fair Work Commission to make a modern award or make a determination varying or revoking a modern award, in accordance with Part 2-3 of the [Fair Work Act 2009](#).

The Applicant



These are the details of the person who is making the application.

Title [] Mr [] Mrs [] Ms [] Other please specify:
First name(s) Robert
Surname Potter
Postal address 116 Queensberry Street
Suburb Carlton South
State or territory Victoria **State or territory** Victoria
Phone number (03) 9342 3400 **Phone number** (03) 9342 3400
Email address info@asu.asn.au

If the Applicant is a company or organisation please also provide the following details

Legal name of business	Australian Municipal, Administrative, Clerical and Services Union
Trading name of business	Australian Services Union
ABN/ACN	
Contact person	

Does the Applicant need an interpreter?



If the Applicant requires an interpreter (other than a friend or family member) in order to participate in conciliation, a conference or hearing, the Fair Work Commission will provide an interpreter at no cost.

[] Yes – Specify language

[X] No

Does the Applicant require any special assistance at the hearing or conference (eg a hearing loop)?

Yes – Please specify the assistance required

No

Does the Applicant have a representative?



A representative is a person or organisation who is representing the applicant. This might be a lawyer or paid agent, a union or employer organisation, or a family member or friend. There is no requirement to have a representative.

Yes – Provide representative's details below

No

Applicant's representative



These are the details of the person or organisation who is representing the Applicant (if any).

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

Is the Applicant's representative a lawyer or paid agent?

Yes

No

1. Coverage

1.1 What is the name of the modern award to which the application relates?



Include the Award ID/Code No. of the modern award

Social, Community, Home Care and Disability Services Industry Award 2010 [ma000100]

1.2 What industry is the employer in?

The crisis assistance and supported housing, social and community services, home care and family day care scheme sectors as defined in clause 3.1 of the award.

2. Application

2.1 What are you seeking?

Specify which of the following you would like the Commission to make:

- a determination varying a modern award
- a modern award
- a determination revoking a modern award

2.2 What are the details of your application?

A draft determination is attached to this application.

Attach additional pages, if necessary.

2.3 What are the grounds being relied on?

Using numbered paragraphs, specify the grounds on which you are seeking the proposed variations.



You must outline how the proposed variation etc is necessary in order to achieve the modern awards objective as well as any additional requirements set out in the FW Act.


- (1) The variation proposed by the Applicants relates to the COVID-19 Pandemic.
- (2) The Applicants are seeking paid leave terms to replace the unpaid leave terms currently appearing in Schedule X, in proceedings AM2020/13.
- (3) The proceedings in AM2020/13 are listed for hearing on 25 and 26 June 2020.
- (4) There is no practical possibility of the proceedings in AM2020/13 reaching a conclusion before the existing Schedule X entitlements lapse on 30 June 2020.
- (5) The evidence lodged and to be led in matter AM2020/13 supports the need for the ongoing provision of pandemic leave (although the applicants maintain the better solution is paid leave).
- (6) No legislative changes alter the correctness of the legal reasoning in paragraphs [68]-[70] and [74] of the decision [2020] FWCFB 1837 as to the need to preserve the employment relationship where an employee is required to self-isolate.
- (7) The contemporary merit of the terms constituting the existing Schedule X entitlements in the Award is either not disputed or is conceded by the employer parties participating in AM2020/13.
- (8) The extension proposed is of a relatively short duration, to facilitate the preservation of existing entitlements pending final resolution of the proceedings in AM2020/13.
- (9) Such further or other grounds that the Commission considers appropriate.

Attach additional pages, if necessary.

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	
Name	Robert Potter
Date	26 June 2020
Capacity/Position	National Secretary



Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

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PRXXXX

FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

s.157—FWC may vary etc. modern awards if necessary to achieve modern awards objective

Health Sector Awards – Pandemic leave

(AM2020/13)

**SOCIAL, COMMUNITY, HOME CARE AND DISABILITY SERVICES INDUSTRY
AWARD 2010**

MA000100

VICE PRESIDENT HATCHER

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MELBOURNE, XX XXXX 2020

Schedule X—Additional measures during the COVID-19 pandemic.

A. Further to the decision [2020 FWCFB XXXX] issued by the Full Bench of the Fair Work Commission on XX XXX 2020, the above award is varied as follows:

1. By deleting clause X.1 in Schedule X and replacing it with the following:

X.1 Subject to clauses X.2.1(d) and X.2.2(c), Schedule X operates from 8 April 2020 until further or other order of the Commission in matter number AM2020/13. The period of operation can be extended on application.

2. By deleting sub clause (d) of clause X.2.1 in Schedule X and replacing it with the following:

(d) A period of leave under clause X.2.1(a) must start before 31 July 2020, but may end after that date.

3. By deleting sub clause (c) of clause X.2.2 and replacing it with the following:

(c) A period of leave under clause x.2.2(a) must start before 31 July 2020, but may end after that date.

B. This determination comes into operation on XX XXXX 2020. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect in relation to a particular employee until the start of the employee's first full pay period that starts on or after XX XXXX 2020.

VICE PRESIDENT

