

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	[X] Mr [] Mrs [] Ms [] Other please specify:		
First name(s)	Robert		
Surname	Potter		
Postal address	116 Queensberry Street		
Suburb	Carlton South		
State or territory	Victoria	Postcode	
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	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Tamsin Lawrence		
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number	0408586151	Fax number	

Email address	Tamsin.lawrence@australianchamber.com.au
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If the other party is an organisation

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

Legal name of organisation	Australian Chamber of Commerce and Industry
Trading name of organisation	ACCI
ABN/ACN	
Contact person	Tamsin Lawrence

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Luis Izzo		
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number	0408 109 622	Fax number	
Email address	luis.izzo@ablawyers.com.au		

If the other party is an organisation

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

Legal name of organisation	Australian Business Industrial
Trading name of organisation	ABI
ABN/ACN	
Contact person	Luis Izzo

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Stephen Smith		
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number	0418 461 183	Fax number	

Email address	Stephen.smith@aigroup.com.au
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If the other party is an organisation

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

Legal name of organisation	Australian Industry Group
Trading name of organisation	AIG
ABN/ACN	
Contact person	Stephen Smith

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.

Award variation.

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.

3. Proposed directions.

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

1. That the attached application to vary several modern awards 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.

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	Monday 29 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	<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	
Phone number	(03) 9342 3400	Fax number	
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	
	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 (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

1. Airline Operations – Ground Staff Award 2020 MA000048
2. Business Equipment Award 2020 MA000021
3. Contract Call Centres Award 2020 MA000023
4. Higher Education Industry-General Staff-Award 2020 MA000007
5. Labour Market Assistance Industry Award 2020 MA000099
6. Legal Services Award 2020 MA000116
7. Local Government Industry Award 2020 MA000112
8. Rail Industry Award 2020 MA000015
9. Water Industry Award 2020 MA000113

1.2 What industry is the employer in?

Aviation
Business Equipment
Contract Call Centres
Higher Education
Labour Market Assistance
Legal Services
Local Government Industry
Rail Industry
Water Industry

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?

Draft determinations 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.

Background

1. The variation proposed by the Applicant relates to the COVID-19 Pandemic.
2. On 8 April 2020, the Fair Work Commission (FWC) issued a decision ([2020] FWCFB 1837) which modified a number of Modern Awards to insert a new Schedule – ‘Schedule X: Additional measures during the COVID-19 pandemic’.
3. The Awards are one of the Awards so modified.
4. Schedule X provides an entitlement to unpaid ‘pandemic leave’ and the flexibility to take twice as much annual leave at half pay.
5. In a Statement issued on 23 June 2020, the FWC stated that it did not propose to extend the operation of Schedule X beyond 30 June 2020, and that any party seeking to do so could apply by 26 June 2020.

Reasons for Extension

6. The COVID-19 pandemic continues to affect Australian workers, and the lasting duration of its effect is difficult to predict, but could easily be anticipated to last for the remainder of 2020 and at least into 2021. At any rate, the pandemic will continue to affect workers beyond 30 June 2020.
7. 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.
8. Accordingly, the Applicant submits that the reasons for inserting Schedule X remain current and favour the retention of that Schedule for a further limited period.
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	Monday 29 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.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

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

Variation of Awards

(AM2020/XX)

AIRLINE OPERATIONS – GROUNDSTAFF AWARD 2020

MA000048

FWC MEMBER

LOCATION, XX XXXX 2020

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

A. Further to the decision [2020 FWCFB 1837] 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 30 September 2020. 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 30 September 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 30 September 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.

FWC Member

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

Variation of Awards

(AM2020/XX)

BUSINESS EQUIPMENT AWARD 2020

MA000021

FWC MEMBER

LOCATION, XX XXXX 2020

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

A. Further to the decision [2020 FWCFB 1837] 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 30 September 2020. The period of operation can be extended on application.

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(c) A period of leave under clause x.2.2(a) must start before 30 September 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.

FWC Member

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

Variation of Awards

(AM2020/XX)

CONTRACT CALL CENTRES AWARD 2020

MA000023

FWC MEMBER

LOCATION, XX XXXX 2020

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

A. Further to the decision [2020 FWCFB 1837] 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 30 September 2020. The period of operation can be extended on application.

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FWC Member

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

Variation of Awards

(AM2020/XX)

HIGHER EDUCATION INDUSTRY-GENERAL STAFF-AWARD 2020

MA000007

FWC MEMBER

LOCATION, XX XXXX 2020

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

A. Further to the decision [2020 FWCFB 1837] 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:

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FWC Member

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

Variation of Awards

(AM2020/XX)

LABOUR MARKET ASSISTANCE INDUSTRY AWARD 2020

MA000099

FWC MEMBER

LOCATION, XX XXXX 2020

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

A. Further to the decision [2020 FWCFB 1837] 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:

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FWC Member

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

Variation of Awards

(AM2020/XX)

LEGAL SERVICES AWARD 2020

MA000116

FWC MEMBER

LOCATION, XX XXXX 2020

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

A. Further to the decision [2020 FWCFB 1837] 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 30 September 2020. The period of operation can be extended on application.

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FWC Member

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

Variation of Awards

(AM2020/XX)

LOCAL GOVERNMENT INDUSTRY AWARD 2020

MA000112

FWC MEMBER

LOCATION, XX XXXX 2020

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

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FWC Member

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

Variation of Awards

(AM2020/XX)

RAIL INDUSTRY AWARD 2020

MA000015

FWC MEMBER

LOCATION, XX XXXX 2020

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

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FWC Member

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

Variation of Awards

(AM2020/XX)

WATER INDUSTRY AWARD 2020

MA000113

FWC MEMBER

LOCATION, XX XXXX 2020

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

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FWC Member