

EXPOSURE DRAFT



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Fair Work Commission Rules 2024

I, Justice Adam Hatcher, President of the Fair Work Commission, after consulting with the other Members of the Fair Work Commission, make the following Rules.

Dated 2024

Justice Adam Hatcher **[DRAFT ONLY—NOT FOR SIGNATURE]**
President of the Fair Work Commission

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General procedures **Chapter 1**
Preliminary **Part 1**

Rule 1

Chapter 1—General procedures

Part 1—Preliminary

1 Name

These Rules are the *Fair Work Commission Rules 2024*.

2 Commencement

- (1) Each provision of these Rules 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 these Rules	The day after these Rules are registered.	

Note: This table relates only to the provisions of these Rules as originally made.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

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

3 Authority

These Rules are the procedural rules of the FWC made under section 609 of the Act.

4 Schedules

Each instrument that is specified in a Schedule to these Rules is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to these Rules has effect according to its terms.

5 Definitions

- Note: A number of expressions used in these Rules are defined in the Act, including the following:
- (a) affected employees;
 - (b) FWC;
 - (c) FWC Member;
 - (d) organisation;
 - (e) Registered Organisations Act;
 - (f) relevant employee organisation;
 - (g) sexual harassment FWC application;
 - (h) Transitional Act;
 - (i) unfair dismissal application;

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Chapter 1 General procedures
Part 1 Preliminary

Rule 6

- (i) unlawful termination FWC application.

In these Rules:

Act means the *Fair Work Act 2009*.

approved form means a form approved by the President under rule 9.

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

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

nominated representative: see rule 11.

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.

6 Calculating number of days

- (1) For the purposes of these Rules, Saturdays, Sundays, public holidays and bank holidays in the place concerned are to be counted as days.
- (2) This rule does not affect the operation of section 36 of the *Acts Interpretation Act 1901*.

Note: Section 36 of the *Acts Interpretation Act 1901* provides for calculating periods of time, including extending periods of time so that the last day to do a thing does not fall on a Saturday, Sunday, public holiday or a bank holiday in the place concerned. For the *Acts Interpretation Act 1901* that applies to these Rules, see section 40A of the Act.

7 Dispensing with rules and orders inconsistent with these Rules

- (1) The FWC may dispense with compliance with any provision of these Rules, either before or after the occasion for compliance arises.
- (2) The FWC may make an order that is inconsistent with these Rules and, if it does so, the order prevails over these Rules to the extent of any inconsistency.

Note 1: An order of the FWC may be given in the form of a direction.

Note 2: Otherwise, an application to the FWC must be in accordance with these Rules: see section 585 of the Act.

8 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 FWC for directions about the procedure to be followed in relation to the matter if:
 - (a) the procedure is not prescribed by the Act, the *Fair Work Regulations 2009*, these Rules or by or under any other Act or regulations;
or

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General procedures **Chapter 1**
Preliminary **Part 1**

Rule 8

(b) the person is in doubt about the proper procedure to follow.

Note: The application must be in the approved form: see rule 9.

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

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Chapter 1 General procedures
Part 2 Forms and applications

Rule 9

Part 2—Forms and applications

9 Approved forms

- (1) The President may approve forms for the purposes of 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 application, approved form F1—Application (no specific form provided) must be used for the application.
- (4) The President must ensure that approved forms are publicly available.
Note: In 2024, the approved forms were available on the FWC’s website (<http://www.fwc.gov.au>).
- (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.

10 Discontinuance

- (1) An applicant in an application before the FWC may discontinue the application at any time.
Note: This rule is made for the purposes of paragraph 588(a) of the Act.
- (2) To discontinue the application, the applicant must notify the FWC by:
 - (a) lodging a notice of discontinuance; or
 - (b) otherwise advising the FWC, or a member of the staff of the FWC, that the applicant:
 - (i) wants to discontinue the application; or
 - (ii) wants to withdraw the application; or
 - (iii) no longer needs or wants the FWC to deal with the application.
Note 1: The notice of discontinuance must be in the approved form: see rule 9.
Note 2: The FWC 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), 3.07(8), 6.05(8) and 6.07A(8) of the *Fair Work Regulations 2009* in relation to the refund of an application fee in certain circumstances when an application is discontinued.
- (3) To avoid doubt, this rule does not prevent the FWC from dismissing an application on its own initiative.

Part 3—Representation

11 Notice of nominated representative

A person may, by notice to the FWC, nominate one of the following as the person's nominated representative in relation to an application to the FWC or a matter before the FWC:

- (a) the person's guardian, or if the person is under 18 years of age, the person's parent or guardian;
- (b) a lawyer;
- (c) a paid agent;
- (d) an organisation.

12 Notice of lawyer or paid agent acting, or ceasing to act, for person

- (1) A person may, by lodging a notice with the FWC, advise the FWC that a lawyer or paid agent acts for the person in relation to an application to the FWC, or a matter before the FWC.

Note 1: A person may want to lodge a notice under this subrule (and serve the notice in accordance with rule 21) 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 FWC.

Note 2: The notice must be in the approved form: see rule 9.

- (2) If:

- (a) a person has lodged a notice under subrule (1) about a lawyer or paid agent in relation to an application or matter; and
- (b) the lawyer or paid agent of the person ceases to act for the person in relation to the application or matter;

the person must lodge a notice with the FWC advising that the lawyer or paid agent has ceased to act for the person in relation to the application or matter.

Note: The notice must be in the approved form: see rule 9.

13 Representation by lawyers and paid agents

- (1) In any matter before the FWC, a person:
- (a) must not, without the permission of the FWC, be represented in the matter by a lawyer or paid agent participating in a conference or hearing relating to the matter; but
 - (b) may otherwise, without the permission of the FWC, be represented by a lawyer or paid agent in the matter.

Note 1: This rule is made for the purposes of subsection 596(1) of the Act.

Note 2: See subsection 596(4) of the Act for when a person is taken not to be represented by a lawyer or paid agent for the purposes of that section.

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Chapter 1 General procedures
Part 3 Representation

Rule 14

- (2) Despite paragraph (1)(a), a person may, without the permission of the FWC, be represented in a matter by a lawyer or paid agent:
- (a) participating in a conference or hearing in relation to the following:
 - (i) a matter arising under Part 2-3 of the Act (modern awards);
 - (ii) a matter arising under Part 2-5 of the Act (workplace determinations);
 - (iii) a matter arising under Part 2-6 of the Act (minimum wages);
 - (iv) a matter arising under Part 2-7 of the Act (equal remuneration);
 - (v) a matter arising under section 510 or 512 of the Act (entry permits);and
 - (b) participating in a conference conducted by a member of the staff of the FWC, whether or not under delegation, in relation to the following:
 - (i) an unfair dismissal application;
 - (ii) a sexual harassment FWC application;
 - (iii) an application under section 789FC of the Act for an order under section 789FF of the Act to stop bullying or sexual harassment.
- (3) Despite anything in this rule, the FWC may, in relation to a matter before the FWC, direct that a person is not to be represented in the matter by a lawyer or paid agent except with the permission of the FWC.
- (4) To avoid doubt, nothing in paragraph (2)(b) is to be taken as permitting a person to be represented in a matter by a lawyer or paid agent participating in a conference before a FWC Member in relation to a sexual harassment FWC application, an unfair dismissal application or an application under section 789FC of the Act without the permission of the FWC.

14 Notice—proposed representation in a conference or hearing

- (1) If:
- (a) a person proposes to be represented in a matter before the FWC by a lawyer or paid agent participating in a conference or hearing relating to the matter; and
 - (b) the participation requires permission under rule 13;
- the person must lodge a notice with the FWC informing the FWC that the person will seek the FWC's permission for a lawyer or paid agent to participate in the conference or hearing.

Note 1: The notice must be in the approved form: see rule 9.

Note 2: See subsection 596(4) of the Act for when a person is taken not to be represented by a lawyer or paid agent for the purposes of section 596 of the Act.

- (2) The FWC may permit a person to be represented by a lawyer or paid agent in a matter before the FWC even if the person fails to comply with subrule (1).

Part 4—Lodging documents

15 General requirements for lodging documents

- (1) A document lodged with the FWC must:
 - (a) either:
 - (i) be on white A4 size paper; or
 - (ii) if the document is being lodged electronically—have an A4 page layout; and
 - (b) be typewritten, clearly written or clearly reproduced.
- (2) A document must be lodged with the FWC by:
 - (a) physically delivering the document to an office of the FWC between 9 am and 5 pm on a business day; or
 - (b) sending the document by post to an office of the FWC; or
 - (c) emailing the document in accordance with rule 16; or
 - (d) using the FWC’s online lodgment facilities in accordance with rule 17.

Note: In 2024, the addresses of the FWC’s offices were available on the FWC’s website (<http://www.fwc.gov.au>).

16 Lodging documents by email

- (1) A person may lodge a document that is required or permitted to be lodged with the FWC under these Rules by emailing the document:
 - (a) if paragraph (b) does not apply—to an email address approved by the General Manager for the lodgment of documents by email; or
 - (b) if the email is in relation to a matter allocated to a FWC Member—to the email address of the FWC Member’s chambers approved by the General Manager.

Note: In 2024, the email addresses approved for lodgment of documents and for FWC Members’ chambers were available on the FWC’s website (<http://www.fwc.gov.au>).

- (2) 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 an 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 and telephone number of the natural person sending the email; and
 - (ii) an email address to which the FWC 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 FWC; and
 - (c) the person must either:

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Rule 17

- (i) retain the email as a “sent item” showing the email address to which the email was sent and the date and time that it was sent; or
- (ii) retain a “delivered” statement or a “read receipt” showing the email address to which the email was sent and the date and time that it was delivered or read; and
- (d) the person must produce the retained document if required by the FWC.

Note: The statutory declaration must be signed and witnessed.

- (3) 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 has been sent; and
 - (c) once the acknowledgment of lodgment has been sent, the application is taken to have been lodged at the time it was received electronically by the FWC.

17 Lodging documents using the FWC’s online lodgment facilities

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

Note: In 2024, the FWC’s online lodgment facilities were available on the FWC’s website (<http://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 has been sent; and
 - (c) once the acknowledgment of lodgment has been sent, the application is taken to have been lodged at the time it was received electronically by the FWC.
- (3) The FWC may collect personal information (including sensitive personal information) for the purposes of facilitating the lodgment of a document in accordance with this rule (whether or not the document is lodged).

Note: This subrule is an authorisation for the purposes of the Australian Privacy Principles.

18 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 nominated representative—the nominated representative.

Electronic signatures

- (2) A requirement in these Rules to sign a document (other than a statutory declaration) may be satisfied:
- (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 FWC by email or using the FWC's online lodgment facilities—by typing the name of the person completing the form in the box beside the word "Signature".

19 Lodging documents and notifying under rule 35—employers that are partnerships

If an employer is a partnership, an obligation under these Rules for an employer:

- (a) to lodge a document; or
- (b) to notify under rule 35 employees who are covered by an enterprise agreement;

is imposed on each partner, but may be discharged by:

- (c) any of the partners; or
- (d) an officer or employee of the partnership who is authorised by the partnership to do so.

20 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 FWC 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:

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:

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Chapter 1 General procedures

Part 4 Lodging documents

Rule 20

Lodged by: <i>[e.g. Applicant]</i>	Telephone:
Address for Service:	Email:

Part 5—Serving documents—general requirements

21 Serving documents lodged with the FWC

If a document of a kind mentioned in column 3 of an item of the table in Schedule 1 is lodged with the FWC, a copy of the document must be served:

- (a) by the person mentioned in column 5 of the item (which may be the FWC); and
- (b) on each person (if any) mentioned in column 6 of the item, excluding themselves; and
- (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 FWC, the FWC must serve a copy of the completed form F2—Unfair dismissal application on the respondent named in the application as soon as practicable after the application is lodged with the FWC. The respondent must then serve a copy of completed form F3—Employer response to unfair dismissal application on the applicant within 7 days after the day on which the application is served.

Note 1: Under subrules 7(1) and (2) the instructions as to service that are set out in Schedule 1 may be dispensed with or varied by an order or direction of the FWC in a matter. This is most likely to occur in relation to a sexual harassment FWC application or an application under section 789FC of the Act for an order to stop bullying or sexual harassment.

Note 2: For how to serve the document, see rules 22 (persons other than the FWC) and 23 (FWC).

Note 3: If an application is made using approved form F1—Application (no specific form provided), the applicant may apply to the FWC under rule 8 for directions about the procedure to be followed in relation to service of the application.

Note 4: A person may also be required to serve other documents: see rules 25, 26, 36, 44, 50, 72, 76, 80, 85, 119, 120, 121, 122 and 128.

22 Serving by persons other than the FWC

- (1) Subject to these Rules, and any directions of the FWC, a person that is required to serve a document on another person must serve the document as soon as practicable.
- (2) The document may be served on the other person:
 - (a) by leaving the document with, or tendering the document to:
 - (i) if the person, or the person's nominated representative, is an individual—the person or representative; or
 - (ii) if the person, or the person's nominated representative, is a body corporate, an organisation or a branch of an organisation—the secretary of the body corporate, the organisation or the branch; or
 - (b) by leaving the document:
 - (i) if the person, or the person's nominated representative, is an individual—with an individual, apparently over the age of 15 years, at the residence, or usual place of business, of the person or representative; or
 - (ii) if the person, or the person's nominated representative, is a body corporate, an organisation or a branch of an organisation—at the

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Chapter 1 General procedures

Part 5 Serving documents—general requirements

Rule 22

- registered office of the body corporate or the office of the organisation or branch; or
- (iii) if the person, or the person's nominated representative, has notified an address for service in the matter—at that address; or
- (c) if subrule (3) is complied with, by posting the document in a prepaid envelope sent by express post or registered post to:
- (i) if the person, or the person's nominated representative, is an individual—the residence, or usual place of business, of the person or representative; or
 - (ii) if the person, or the person's nominated representative, is a body corporate, an organisation or a branch of an organisation—the secretary, at the registered office of the body corporate or the office of the organisation or branch; or
 - (iii) if the person, or the person's nominated representative, has notified an address for service in the matter—that address; or
- (d) if subrule (4) is complied with, by emailing the document to an email address:
- (i) currently published as the email address of the person or the person's nominated representative; or
 - (ii) advised by the person or the person's nominated representative, in response to a request for an email address that was made immediately before the transmission of the document, as the person's or representative's email address; or
 - (iii) appearing as the email address of the person or the person's nominated representative on a document lodged with the FWC by the person or representative in the same matter; or
- (e) if subrule (4) is complied with, by emailing the document to the email address of an employee 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 that particular email address; and
 - (iii) it is reasonable for the employer to expect that an email to that particular email address will be received by the employee; or
- (f) using the FWC's online lodgment facilities if:
- (i) the document was lodged using those facilities; and
 - (ii) the email address specified for service is an email address of a kind mentioned in paragraph (d) or (e).
- (3) For the purposes of paragraph (2)(c), the person serving the document must retain the barcode of the prepaid envelope and produce it if required by the FWC.
- (4) For the purposes of paragraphs (2)(d) and (e), the person serving the document must:
- (a) either:
 - (i) retain the email as a "sent item", showing the email address to which the email was sent and the date and time that it was sent; or

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Rule 23

-
- (ii) retain a “delivered” statement or a “read receipt” showing the email address to which the email was sent and the date and time that it was delivered or read; and
 - (b) produce the retained document if required by the FWC.
- (5) For the purposes of section 29 of the *Acts Interpretation Act 1901*, if a document is served by posting it in accordance with paragraph (2)(c) of this rule, 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.

Note: For the *Acts Interpretation Act 1901* that applies to these Rules, see section 40A of the Act.

23 Serving by the FWC

If the FWC is required by these Rules to serve a document on a person, the FWC may serve the document:

- (a) by posting the document in a prepaid envelope to the address specified in the document as the postal address of the person or the person’s nominated representative; or
- (b) by emailing the document to the email address specified in the document as the email address of the person or the person’s nominated representative; or
- (c) by leaving the document with the person or the person’s nominated representative; or
- (d) by tendering the document to the person or the person’s nominated representative at the address specified in the document as the postal address of the person or representative; or
- (e) by leaving the document with an individual, apparently over the age of 15 years, at the address specified in the document as the postal address of the person or the person’s nominated representative; or
- (f) if the person or the person’s nominated representative has notified the FWC of the postal address or email address of the person or the representative—by:
 - (i) posting the document in a prepaid envelope to the postal address; or
 - (ii) emailing the document to the email address; or
 - (iii) tendering the document to the person or the representative at the postal address; or
 - (iv) leaving the document with an individual, apparently over the age of 15 years, at the postal address.

EXPOSURE DRAFT

Chapter 1 General procedures

Part 5 Serving documents—general requirements

Rule 24

24 Substituted service

If provision is made for personal, or other, service of a document in a matter before the FWC, the FWC may, on the application of a person, make an order for substituted, or other, service by letter, 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 rule 9.

Part 6—Procedures for certain orders

25 Order for person to attend

- (1) A party in a matter before the FWC may apply for an order requiring a person to attend before the FWC under paragraph 590(2)(a) of the Act so that the FWC may inform itself in relation to the matter.

Note: The application must be in the approved form: see rule 9.

- (2) The application must be accompanied by a draft order in the terms sought by the applicant.
- (3) The draft order must be lodged:
 - (a) electronically in Word format; or
 - (b) if the applicant is unable to lodge electronically—in hard copy form.

Note: The template for the draft order is attached to the application's approved form.

- (4) If an order is made, the applicant must, as soon as practicable after the order is made, serve a signed copy of the order on:
 - (a) the person who is required to attend before the FWC; and
 - (b) if the order has not been published on the FWC's website—each other party in the matter.

26 Order for production of documents

- (1) A party in a matter before the FWC may apply for an order requiring a person to provide copies of documents or records, or to provide any other information to the FWC, under paragraph 590(2)(c) of the Act so that the FWC may inform itself in relation to the matter.

Note: The application must be in the approved form: see rule 9.

- (2) The application must be accompanied by a draft order in the terms sought by the applicant.
- (3) The draft order must be lodged:
 - (a) electronically in Word format; or
 - (b) if the applicant is unable to lodge electronically—in hard copy form.

Note: The template for the draft order is attached to the application's approved form.

- (4) If an order is made, the applicant must, as soon as practicable after the order is made, serve a signed copy of the order on:
 - (a) the person who is required to produce the documents, records or other information; and
 - (b) if the order has not been published on the FWC's website—each other party in the matter.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 1 National Employment Standards

Rule 27

Chapter 2—Matters under the Act

Part 1—National Employment Standards

27 Application for the FWC to deal with a dispute about a change in working arrangements

- (1) A referral to the FWC under subsection 65B(3) of the Act, of a dispute between an employer and an employee relating to a request under subsection 65(1) of the Act for a change in working arrangements, must be made by application to the FWC.

Note: The application must be in the approved form: see rule 9.

- (2) The application must be accompanied by:
 - (a) a copy of the written request; and
 - (b) if a written response has been given under subsection 65A(1) of the Act at the time of lodging the application—a copy of the written response.

30 Application for the FWC to deal with a dispute about an extension of a period of unpaid parental leave

- (1) A referral to the FWC under subsection 76B(3) of the Act, of a dispute between an employer and an employee relating to a request under subsection 76(1) of the Act for an extension of unpaid parental leave, must be made by application to the FWC.

Note: The application must be in the approved form: see rule 9.

- (2) The application must be accompanied by:
 - (a) a copy of the written request; and
 - (b) if a written response has been given under subsection 76A(1) of the Act at the time of lodging the application—a copy of the written response.

Part 2—Modern awards

31 Application to make, vary or revoke a modern award

An applicant that has lodged an application to make, vary or revoke a modern award under Division 5 of Part 2-3 of the Act must apply to the FWC under rule 8 for directions about the procedure to be followed in relation to service of the application.

Note: The application and the application under rule 8 must be in the approved form: see rule 9.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 3 Enterprise Agreements

Division 1 Approval of enterprise agreements

Rule 32

Part 3—Enterprise Agreements

Division 1—Approval of enterprise agreements

32 Application for approval of an enterprise agreement—other than a greenfields agreement

- (1) This rule applies if an application is made under section 185 of the Act for approval of an enterprise agreement that is not a greenfields agreement.

Note 1: The application must be accompanied by a signed copy of the agreement: see subsection 185(2) of the Act and regulation 2.06A of the *Fair Work Regulations 2009*.

Note 2: The application must be in the approved form: see rule 9.

Applicant

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

Employers covered by the agreement

- (3) Each employer that is covered by the agreement must lodge a declaration by the employer, in support of the application for approval, with the FWC within 14 days after the day on which the agreement is made.

Note 1: The declaration must be in the approved form: see rule 9.

Note 2: Rule 35 also requires each employer that is covered by the enterprise agreement to notify its employees that an application has been made for approval of the enterprise agreement.

- (4) The declaration must be accompanied by:
- (a) if the employer is required to give notice under subsection 173(1) of the Act of the right to be represented by a bargaining representative—a copy of the notice; and
 - (b) copies of any documents:
 - (i) used to explain to the employees employed at the time who will be covered by the agreement the terms of the agreement and the effect of those terms; or
 - (ii) used to ensure that explanation is provided to those employees in an appropriate manner taking into account their particular circumstances and needs; or
 - (iii) provided to those employees to inform them of the time, place and method for the vote.

Note 1: An employer will only be required to give a notice under subsection 173(1) of the Act if the agreement is a single-enterprise agreement (or an agreement with a notification time before 6 June 2023 covered by item 66 of Schedule 1 to the Act).

Note 2: For the definition of *document*, see the *Acts Interpretation Act 1901* (as applying to these Rules under section 40A of the Act).

EXPOSURE DRAFT

Employee organisations that are bargaining representatives

- (5) Each employee organisation that is a bargaining representative and wants to advise the FWC:
- (a) that the organisation supports or opposes approval of the agreement; or
 - (b) that the organisation disagrees with one or more statements in an employer's declaration; or
 - (c) of the organisation's views on whether the agreement passes the better off overall test;

must lodge a declaration by the organisation to that effect with the FWC before the FWC approves the agreement.

Note 1: The declaration must be in the approved form: see rule 9.

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 FWC written notice under section 183 of the Act. Section 183 of the Act 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 FWC written notice stating that the organisation wants the enterprise agreement to cover it.

Appointed bargaining representatives

- (6) 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 FWC:
- (a) that the employees support or oppose approval of the agreement; or
 - (b) that the employees disagree with one or more statements in an employer's declaration; or
 - (c) of the employees' views on whether the agreement passes the better off overall test;

must lodge a declaration by the bargaining representative to that effect with the FWC before the FWC approves the agreement.

Note: The declaration must be in the approved form: see rule 9.

- (7) The declaration must be accompanied by a copy of the written instrument of appointment of the bargaining representative.

33 Application for approval of an enterprise agreement—greenfields agreement made under subsection 182(3) of the Act

- (1) This rule applies if an application is made under section 185 of the Act for approval of an enterprise agreement that is a greenfields agreement made under subsection 182(3) of the Act.
- (2) The application must be accompanied by:
- (a) a declaration in support of the application for approval by each employer that is covered by the agreement; and
 - (b) a declaration by each relevant employee organisation that is covered by the agreement in relation to:
 - (i) whether the organisation disagrees with one or more statements in an employer's declaration; and

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 3 Enterprise Agreements

Division 1 Approval of enterprise agreements

Rule 34

- (ii) whether the organisation is of the view that the agreement passes the better off overall test; and
- (iii) how approval of the agreement would be in the public interest; and
- (c) if the applicant is a bargaining representative appointed by an employer—a copy of the written instrument of appointment of the bargaining representative.

Note 1: This subrule is made for the purposes of paragraph 185(2)(b) of the Act. The application must also be accompanied by a signed copy of the agreement: see paragraph 185(2)(a) of the Act and regulation 2.06A of the *Fair Work Regulations 2009*.

Note 2: The application and declarations must be in the approved form: see rule 9.

34 Application for approval of an enterprise agreement—greenfields agreement made under subsection 182(4) of the Act

- (1) This rule applies if an application is made under subsection 182(4) of the Act for approval of a greenfields agreement.

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

Applicant

- (2) The application must be accompanied by:
 - (a) a declaration in support of the application for approval by each employer that is a bargaining representative for the agreement; and
 - (b) a copy of each notice given under section 178B of the Act to an employee organisation by an employer that is a bargaining representative for the agreement.

Note 1: This subrule is made for the purposes of paragraph 185A(b) of the Act. The application must also be accompanied by a copy of the agreement: see paragraph 185A(a) of the Act.

Note 2: The application and the declarations must be in the approved form: see rule 9.

Note 3: An 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.

Employee organisations that are bargaining representatives

- (3) Each employee organisation that is a bargaining representative for the agreement and wants to advise the FWC:
 - (a) that the organisation disagrees with one or more statements in an employer's declaration; or
 - (b) of the organisation's views on whether the agreement passes the better off overall test;

must lodge a declaration by the organisation to that effect with the FWC before the FWC approves the agreement.

Note: The declaration must be in the approved form: see rule 9.

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
Enterprise Agreements **Part 3**
Approval of enterprise agreements **Division 1**

Rule 35

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

- (1) Each employer that is covered by an enterprise agreement must notify its employees who are covered by the agreement that an application has been made to the FWC for approval of the agreement.
- (2) The employees must be notified, as soon as practicable after the application is lodged with the FWC, through the usual means that are adopted by the employer for communicating with employees.

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

36 Documents lodged with an application for approval of an enterprise agreement or a related declaration must be served with the application or declaration

If a person is required to serve:

- (a) an application for approval of an enterprise agreement; or
- (b) a declaration in support of, or in relation to, an application for approval of an enterprise agreement;

the person must serve with the application or declaration copies of any documents that were lodged with the application or declaration.

Note 1: The rules in this Division provide for documents that must accompany such an application (in addition to the documents that are required under the Act to accompany the application) or declaration.

Note 2: For how to serve the application or declaration and documents, see rules 21 and 22.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 3 Enterprise Agreements

Division 2 Variation of enterprise agreements

Rule 37

Division 2—Variation of enterprise agreements

37 Application under section 210 of the Act for approval of a variation of an enterprise agreement

- (1) This rule applies if an application is made under section 210 of the Act for approval of a variation of an enterprise agreement.

Note 1: The application must be in the approved form: see rule 9.

Note 2: The application must be accompanied by a signed copy of the variation and a copy of the agreement as proposed to be varied: see subsection 210(2) of the Act and regulation 2.09A of the *Fair Work Regulations 2009*.

Employers covered by the agreement

- (2) Each employer that is covered by the agreement must lodge a declaration by the employer, in support of the application for approval of the variation, with the FWC within 14 days after the day on which the variation is made.

Note: The declaration must be in the approved form: see rule 9.

- (3) The declaration must be accompanied by copies of any documents:
- (a) provided to the affected employees to inform them that the employer is bargaining for a variation of the agreement and of the coverage of the agreement as proposed to be varied; or
 - (b) provided to those employees to inform them of their capacity to be represented in bargaining for the variation and how to exercise that capacity; or
 - (c) used to explain to those employees the terms of the variation and the effect of those terms; or
 - (d) used to ensure that explanation is provided to those employees in an appropriate manner taking into account their particular circumstances and needs; or
 - (e) provided to those employees to inform them of the time, place and method for the vote.

Note: For the definition of **document**, see the *Acts Interpretation Act 1901* (as applying to these Rules under section 40A of the Act).

Employee organisations covered by the agreement

- (4) Each employee organisation that is covered by the agreement and wants to advise the FWC:
- (a) that the organisation supports or opposes approval of the variation of the agreement; or
 - (b) that the organisation disagrees with one or more statements in an employer's declaration; or
 - (c) of the organisation's views on whether the agreement as proposed to be varied passes the better off overall test;

must lodge a declaration by the organisation to that effect with the FWC before the FWC approves the variation.

Note: The declaration must be in the approved form: see rule 9.

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
Enterprise Agreements **Part 3**
Variation of enterprise agreements **Division 2**

Rule 38

38 Application by employer for approval of a variation of a supported bargaining agreement to add employer and employees

- (1) This rule applies if an application is made under section 216AA of the Act by an employer for approval of a variation of a supported bargaining agreement.

Applicant

- (2) The application must be accompanied by a declaration in support of the application by the employer.

Note 1: The application and declaration must be in the approved form: see rule 9.

Note 2: This subrule is made for the purposes of paragraph 216AA(2)(c) of the Act.

Note 3: Under paragraphs 216AA(2)(a) and (b) of the Act, the application must also be accompanied by a signed copy of the variation and a copy of the agreement as proposed to be varied. For requirements for signing, see regulation 2.10B of the *Fair Work Regulations 2009*.

- (3) The declaration must be accompanied by copies of any documents:
- (a) used to explain to the affected employees the terms of the agreement as proposed to be varied and the effect of those terms; or
 - (b) used to ensure that explanation is provided to those employees in an appropriate manner taking into account their particular circumstances and needs; or
 - (c) provided to those employees to inform them of the time, place and method for the vote.

Note: For the definition of **document**, see the *Acts Interpretation Act 1901* (as applying to these Rules under section 40A of the Act).

Employee organisations covered by the agreement

- (4) Each employee organisation that is covered by the agreement and wants to advise the FWC:
- (a) that the organisation supports or opposes approval of the variation of the agreement; or
 - (b) that the organisation disagrees with one or more statements in the employer's declaration;

must lodge a declaration by the organisation to that effect with the FWC within 7 days after the organisation was served with the employer's declaration.

Note: The declaration must be in the approved form: see rule 9.

39 Application by employee organisation for a variation of a supported bargaining agreement to add employer and employees

- (1) This rule applies if an application is made under section 216B of the Act by an employee organisation for a variation of a supported bargaining agreement in relation to an employer.

Applicant

- (2) The application must be accompanied by a declaration in support of the application by the employee organisation.

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Rule 40

- Note 1: The application and declaration must be in the approved form: see rule 9.
- Note 2: This subrule is made for the purposes of paragraph 216B(2)(c) of the Act.
- Note 3: Under paragraphs 216B(2)(a) and (b) of the Act, the application must also be accompanied by a signed copy of the variation proposed by the employee organisation and a copy of the agreement as proposed to be varied. For requirements for signing, see regulation 2.10C of the *Fair Work Regulations 2009*.

Employer to be covered by the agreement

- (3) The employer must lodge a declaration by the employer in relation to:
- (a) whether the employer supports or opposes the proposed variation of the agreement; and
 - (b) whether the employer disagrees with one or more statements in the employee organisation's declaration;
- with the FWC within 7 days after the day on which the employer was served with the employee organisation's declaration.

Note: The declaration must be in the approved form: see rule 9.

40 Application by employer for approval of a variation of cooperative workplace agreement to add employer and employees

- (1) This rule applies if an application is made under section 216CA of the Act by an employer for approval of a variation of a cooperative workplace agreement.

Applicant

- (2) The application must be accompanied by a declaration in support of the application by the employer.

- Note 1: The declaration and the application must be in the approved form: see rule 9.
- Note 2: This subrule is made for the purposes of paragraph 216CA(2)(c) of the Act.
- Note 3: Under paragraphs 216CA(2)(a) and (b) of the Act, the application must also be accompanied by a signed copy of the variation and a copy of the agreement as proposed to be varied. For requirements for signing, see regulation 2.10D of the *Fair Work Regulations 2009*.

- (3) The declaration must be accompanied by copies of any documents:
- (a) used to explain to the affected employees the terms of the agreement as proposed to be varied and the effect of those terms; or
 - (b) used to ensure that explanation is provided to those employees in an appropriate manner taking into account their particular circumstances and needs; or
 - (c) provided to those employees to inform them of the time, place and method for the vote.

Note: For the definition of **document**, see the *Acts Interpretation Act 1901* (as applying to these Rules under section 40A of the Act).

Employee organisations covered by the agreement

- (4) Each employee organisation that is covered by the agreement and wants to advise the FWC:

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Matters under the Act **Chapter 2**
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Variation of enterprise agreements **Division 2**

Rule 41

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- (a) that the organisation supports or opposes approval of the variation of the agreement; or
 - (b) that the organisation disagrees with one or more statements in the employer's declaration;

must lodge a declaration by the organisation to that effect with the FWC within 7 days after the day on which the organisation was served with the employer's declaration.

Note: The declaration must be in the approved form: see rule 9.

41 Application by employer for approval of a variation of a single interest employer agreement to add employer and employees

- (1) This rule applies if an application is made under section 216DA of the Act by an employer for approval of a variation of a single interest employer agreement.

Applicant

- (2) The application must be accompanied by a declaration in support of the application by the employer.

Note 1: The declaration and the application must be in the approved form: see rule 9.

Note 2: This subrule is made for the purposes of paragraph 216DA(2)(c) of the Act.

Note 2: Under paragraphs 216DA(2)(a) and (b) of the Act, the application must also be accompanied by a signed copy of the variation and a copy of the agreement as proposed to be varied. For requirements for signing, see regulation 2.10E of the *Fair Work Regulations 2009*.

- (3) The declaration must be accompanied by copies of any documents:
 - (a) used to explain to the affected employees the terms of the agreement as proposed to be varied and the effect of those terms; or
 - (b) used to ensure that explanation is provided to those employees in an appropriate manner taking into account their particular circumstances and needs; or
 - (c) provided to those employees to inform them of the time, place and method for the vote.

Note: For the definition of *document*, see the *Acts Interpretation Act 1901* (as applying to these Rules under section 40A of the Act).

Employee organisations covered by the agreement

- (4) Each employee organisation that is covered by the agreement and wants to advise the FWC:
 - (a) that the organisation supports or opposes approval of the variation of the agreement; or
 - (b) that the organisation disagrees with one or more statements in the employer's declaration;

must lodge a declaration by the organisation to that effect with the FWC within 7 days after the day on which the organisation was served with the employer's declaration.

Note: The declaration must be in the approved form: see rule 9.

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Chapter 2 Matters under the Act

Part 3 Enterprise Agreements

Division 2 Variation of enterprise agreements

Rule 42

42 Application by employee organisation for approval of a variation of a single interest employer agreement to add employer and employees

- (1) This rule applies if an application is made under section 216DB of the Act by an employee organisation for approval of a variation of a single interest employer agreement in relation to an employer.

Applicant

- (2) The application must be accompanied by a declaration in support of the application by the employee organisation.

Note 1: The application and declaration must be in the approved form: see rule 9.

Note 2: This subrule is made for the purposes of paragraph 216DB(2)(c) of the Act.

Note 3: Under paragraphs 216DB(2)(a) and (b) of the Act, the application must also be accompanied by a signed copy of the variation for which approval is sought and a copy of the agreement as proposed to be varied. For requirements for signing, see regulation 2.10F of the *Fair Work Regulations 2009*.

Employer to be covered by the agreement

- (3) The employer must lodge a declaration by the employer in relation to:
- (a) whether the employer supports or opposes approval of the variation of the agreement; and
 - (b) whether the employer disagrees with one or more statements in the employee organisation's declaration;
- with the FWC within 7 days after the day on which the employer was served with the employee organisation's declaration.

Note: The declaration must be in the approved form: see rule 9.

43 Application for approval of a variation of a multi-enterprise agreement to remove employer and employees

- (1) This rule applies if an application is made under section 216EA of the Act for approval of a variation of a multi-enterprise agreement.

Applicant

- (2) The application must be accompanied by:
- (a) a signed copy of the variation; and
 - (b) a copy of the agreement as proposed to be varied.

Note 1: The application must be in the approved form: see rule 9.

Note 2: For requirements for signing, see regulation 2.10G of the *Fair Work Regulations 2009*.

Employer that will cease to be covered by the agreement

- (3) The employer that will cease to be covered by the agreement if the variation is approved must lodge a declaration by the employer, in support of the application for approval of the variation, with the FWC within 14 days after the day on which the variation is made.

Note: The declaration must be in the approved form: see rule 9.

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Rule 44

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- (4) The declaration must be accompanied by copies of any documents provided to the affected employees to inform them of the time, place and method for the vote.

Note: For the definition of *document*, see the *Acts Interpretation Act 1901* (as applying to these Rules under section 40A of the Act).

Employee organisations covered by the agreement

- (5) Each employee organisation that is covered by the agreement and is entitled to represent the industrial interests of one or more of the affected employees must lodge a declaration by the organisation in relation to:
- (a) the vote on the variation; and
 - (b) whether the organisation agrees to the variation of the agreement; and
 - (c) whether the organisation disagrees with one or more statements in the employer's declaration;

with the FWC within 7 days after the day on which the organisation was served with the employer's declaration.

Note: The declaration must be in the approved form: see rule 9.

44 Documents lodged with an application about a variation of an enterprise agreement or a related declaration must be served with the application or declaration

If a person is required to serve:

- (a) an application for approval of a variation of an enterprise agreement; or
- (b) an application for a variation of an enterprise agreement; or
- (c) a declaration in support of, or in relation to, such an application;

the person must serve with the application or declaration copies of any documents that were lodged with the application or declaration.

Note 1: The rules in this Division provide for documents that must accompany such an application (in addition to the documents that are required under the Act to accompany the application) or declaration.

Note 2: For how to serve the application or declaration and documents, see rules 21 and 22.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 3 Enterprise Agreements

Division 3 Termination of enterprise agreements

Rule 45

Division 3—Termination of enterprise agreements

45 Application for approval of the termination of an enterprise agreement

An application under section 222 of the Act for approval of the termination of an enterprise agreement must be accompanied by a declaration by the applicant setting out the basis on which the FWC can be satisfied that the requirements of section 223 of the Act have been met.

Note 1: The application and the declaration must be in the approved form: see rule 9.

Note 2: This rule is made for the purposes of subsection 222(2) of the Act. Section 223 of the Act sets out the circumstances in which the FWC must approve the termination.

46 Application for the termination of an enterprise agreement after its nominal expiry date

- (1) An application under section 225 of the Act for the termination of an enterprise agreement after its nominal expiry date must be accompanied by a declaration by the applicant setting out the basis on which the FWC can be satisfied that the requirements of section 226 of the Act have been met.

Note 1: The application and the declaration must be in the approved form: see rule 9.

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

- (2) Each employee, employer or employee organisation that:
- (a) is covered by the agreement; and
 - (b) wants to advise the FWC of its views on the termination of the agreement;
- must lodge a declaration by it to that effect with the FWC before the FWC approves the termination of the agreement.

Note: The declaration must be in the approved form: see rule 9.

Division 4—Bargaining

47 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 1: The application must be in the approved form: see rule 9.

Note 2: 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.

48 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.

Note: The application must be in the approved form: see rule 9.

49 Application for the FWC to deal with a bargaining dispute

An application under section 240 of the Act for the FWC 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.

Note: The application must be in the approved form: see rule 9.

50 Application for a supported bargaining authorisation

- (1) An application under section 242 of the Act for a supported bargaining authorisation in relation to a proposed multi-enterprise agreement must be accompanied by a draft authorisation that specifies:
 - (a) the employers that will be covered by the agreement; and
 - (b) the employees who will be covered by the agreement.

Note: The application must be in the approved form and specify those employers and employees: see rule 9 and subsection 242(2) of the Act.

- (2) The applicant must serve a copy of the draft authorisation with the application.

51 Application for a variation of a supported bargaining authorisation to remove or add an employer

An application under subsection 244(1) or (3) of the Act for a variation of a supported bargaining authorisation must be accompanied by a copy of the authorisation to be varied.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 3 Enterprise Agreements

Division 4 Bargaining

Rule 52

52 Application for a variation of a single interest employer authorisation to remove or add an employer

An application under subsection 251(1) or (3) of the Act for a variation of a single interest employer authorisation must be accompanied by a copy of the authorisation to be varied.

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
Regulated labour hire arrangement orders **Part 4**

Rule 52

Part 4—Regulated labour hire arrangement orders

Note: This Part is reserved for potential future use.

EXPOSURE DRAFT

Chapter 2 Matters under the Act
Part 5 Transfer of business

Rule 63

Part 5—Transfer of business

63 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 transferable instrument to which the application relates.

Note: The application must be in the approved form: see rule 9.

- (2) An application under section 320 of the Act to vary a transferable instrument must be accompanied by a copy of the transferable instrument.

Note: The application must be in the approved form: see rule 9.

- (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.

Note: The application must be in the approved form: see rule 9.

- (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.

Note: The application must be in the approved form: see rule 9.

Part 6—Fixed term contracts

64 Application for the FWC to deal with a dispute about fixed term contracts

An application under section 333L of the Act to deal with a dispute about the operation of Division 5 of Part 2.9 of the Act must be accompanied by copies of any written contracts of employment that relate to the dispute.

Note: The application must be in the approved form: see rule 9.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 7 General protections, unfair dismissal and unlawful termination

Division 1 General protections

Rule 65

Part 7—General protections, unfair dismissal and unlawful termination

Division 1—General protections

65 Response to a general protections application

- (1) A respondent to a general protections application must lodge with the FWC a response by the respondent to the application within 7 days after the day on which the respondent was served with the application.

Note: The response must be in the approved form: see rule 9.

- (2) The response must include details of any jurisdictional objection to the application that the respondent wants to raise.

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
General protections, unfair dismissal and unlawful termination **Part 7**
Unfair dismissal **Division 2**

Rule 66

Division 2—Unfair dismissal

66 Employer response to an unfair dismissal application

- (1) A respondent to an unfair dismissal application must lodge with the FWC a response by the respondent to the application, together with any supporting documents, within 7 days after the day on which the respondent was served with the application.

Note: The response must be in the approved form: see rule 9.

- (2) If the respondent wants to raise:
 - (a) an objection to the application in relation to a matter mentioned in section 396 of the Act; or
 - (b) any jurisdictional objection to the application;the response must include details of the objection to the application.

Note 1: Section 396 of the Act provides that the FWC must decide certain matters relating to an unfair dismissal application before considering whether the termination is harsh, unjust or unreasonable.

Note 2: In 2024, information about the grounds on which a respondent can object to an unfair dismissal application was available on the FWC's website (<http://www.fwc.gov.au>).

67 Order for security for payment of unfair dismissal matter costs

- (1) A respondent or applicant in a matter before the FWC arising under Part 3-2 (unfair dismissal) of the Act may apply to the FWC 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 rule 9.

Note 2: This rule is made for the purposes of section 404 of the Act.

Note 3: The FWC will not ordinarily make such an order before the conclusion of conciliation.

- (2) If an order is made, the person to whom the order applies must pay the amount of security at the time, and in the manner and form, required by the order.
- (3) If the FWC 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 FWC 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 that the FWC may exercise, if the FWC 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 FWC may order that the matter be:
 - (a) adjourned until security is provided; or
 - (b) adjourned indefinitely.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 7 General protections, unfair dismissal and unlawful termination

Division 3 Unlawful termination

Rule 68

Division 3—Unlawful termination

68 Employer response to an unlawful termination FWC application

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

Note: The response must be in the approved form: see rule 9.

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
General protections, unfair dismissal and unlawful termination **Part 7**
General rules **Division 4**

Rule 69

Division 4—General rules

69 Telephone applications—application under section 365 of the Act, unfair dismissal application or unlawful termination FWC application

- (1) This rule applies to a person wanting to make:
 - (a) an application under section 365 of the Act (for the FWC to deal with a dismissal dispute); or
 - (b) an unfair dismissal application; or
 - (c) an unlawful termination FWC application.
- (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: In 2024, the telephone numbers approved by the General Manager for making a telephone application were available on the FWC's website (<http://www.fwc.gov.au>).

- (3) The FWC 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 days after the day on which the FWC gives the written application to the person:
 - (a) complete and sign the written application; and
 - (b) lodge it with the FWC; and
 - (c) either pay the application fee or apply for a waiver of that fee.
- Note: For the application fee, see regulations 3.02, 3.07 and 6.05 of the *Fair Work Regulations 2009*.
- (5) If the person applies for a waiver, and the FWC refuses that application, the person must pay the application fee within 7 days after the day on which the person was notified of the refusal by the FWC.
 - (6) The person is taken to have made the application on the day on which the person telephones the FWC to make the application in accordance with subrule (2) if:
 - (a) the person complies with subrule (4) within the required period; and
 - (b) if subrule (5) applies—complies with subrule (5) within the required period.

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

- (1) This rule applies if:
 - (a) 2 or more general protections applications; or
 - (b) 2 or more unfair dismissal 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 65, 66, and 68, lodge one response by the respondent in respect of the applications if:
 - (a) the applications allege the same or substantially similar conduct; and

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 7 General protections, unfair dismissal and unlawful termination

Division 4 General rules

Rule 71

- (b) the substance of the respondent's response is substantially the same for each application.

71 Service of applications by the FWC

- (1) This rule applies to an application that is:
 - (a) a general protections application; or
 - (b) an unfair dismissal application; or
 - (c) an unlawful termination FWC application.
- (2) If the FWC is required to serve the application on a respondent in the matter, the FWC must:
 - (a) instead serve the application excluding the part of the application that deals with the application fee; and
 - (b) serve with the application copies of any documents that were lodged with the application.

72 Accompanying documents must be served with response to application

If a person is required to serve:

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

the person must serve with the response copies of any documents that were lodged with the response.

Note: For how to serve the response and documents, see rules 21 and 22.

Part 8—Industrial action

73 Application for an order to stop etc. unprotected industrial action

- (1) An application under section 418 or 419 of the Act for an order that industrial action stop, not occur or not be organised (as the case may be) for a specified period must be accompanied by a draft order in the terms sought by the applicant.

Note: The application must be in the approved form: see rule 9.

- (2) The draft order must be lodged:
 - (a) electronically in Word or PDF format; or
 - (b) if the applicant is unable to lodge electronically—in hard copy form.

74 Application for an order suspending or terminating protected industrial action

- (1) An application under section 423, 424, 425 or 426 of the Act for an order suspending or terminating protected industrial action must be accompanied by a draft order in the terms sought by the applicant.

Note: The application must be in the approved form: see rule 9.

- (2) The draft order must be lodged:
 - (a) electronically in Word or PDF format; or
 - (b) if the applicant is unable to lodge electronically—in hard copy form.

75 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 a copy of the suspension order.

Note: The application must be in the approved form: see rule 9.

76 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) a draft order in the terms sought by the applicant or applicants; and
 - (b) a declaration for each employer of the employees who are to be balloted, by each applicant, setting out the basis on which the FWC can be satisfied that the requirements of section 437 and paragraph 443(1)(b) of the Act have been met in relation to the employer; and
 - (c) if the application names a person to be the protected action ballot agent for the protected action ballot and the person is not an eligible protected action ballot agent—a declaration by the person in relation to whether the person is a fit and proper person to conduct the ballot.

Note 1: The application and the declaration must be in the approved form: see rule 9.

EXPOSURE DRAFT

Rule 77

Note 2: For example, if an application is jointly made by 2 applicants and there are 5 employers of the employees who are to be balloted, each applicant is required to make 5 declarations under paragraph (b) (one for each employer).

- (2) The draft order must be lodged:
- (a) electronically in Word or PDF format; or
 - (b) if the applicant is, or the applicants are, unable to lodge electronically—in hard copy form.

Note: The template for the draft order is attached to the application’s approved form.

- (3) The applicant or applicants must serve a copy of the draft order with the application.

Note: For service of the application, see rules 21 and 22. Service is the procedure for complying with the requirement in section 440 of the Act to give copies of the application within 24 hours after making the application.

Service on the Australian Electoral Commission

- (4) The application and the copy of the draft order may be served on the Australian Electoral Commission by emailing the document to the email address secret.ballots@aec.gov.au.
- (5) The person serving the documents on the Australian Electoral Commission must:
- (a) either:
 - (i) retain the email as a “sent item”, showing the email address to which the email was sent and the date and time that it was sent; or
 - (ii) retain a “delivered” statement or a “read receipt” showing the email address to which the email was sent and the date and time that it was delivered or read; and
 - (b) produce the retained document if required by the FWC.

77 Application to vary or revoke a protected action ballot order

An application under:

- (a) section 447 of the Act to vary a protected action ballot order; or
 - (b) section 448 of the Act to revoke a protected action ballot order;
- must be accompanied by a copy of the protected action ballot order.

Note: The application must be in the approved form: see rule 9.

78 Application to extend the 30-day period for protected action

An application under subsection 459(3) of the Act, to extend the 30-day period during which industrial action by employees must commence in order to be authorised by a protected action ballot, must be accompanied by:

- (a) a copy of the protected action ballot order; and
- (b) a copy of the declaration of the results of the ballot.

Note: The application must be in the approved form: see rule 9.

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
Industrial action **Part 8**

Rule 79

79 Application for an order in relation to partial work bans

An application under subsection 472(4) of the Act for an order relating to partial work bans must be accompanied by a copy of the written notice given to the employee by the employer under paragraph 471(1)(c) of the Act.

Note 1: The application must be in the approved form: see rule 9.

Note 2: 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.

EXPOSURE DRAFT

Rule 80

Part 9—Right of entry

80 Application for an order for access to non-member records

- (1) This rule applies to an application under section 483AA of the Act for an order in relation to an occupier or affected employer and non-member records.

Note: The application must be in the approved form: see rule 9.

- (2) If the applicant is required to serve the application, the applicant must serve with the application a notice that sets out the effect of subrule (3).

Note: For service of the application, see rules 21 and 22.

- (3) The occupier or affected employer must, within 24 hours after being served with the application:

- (a) display the application at the occupier's or the affected employer's premises at a location where notices to employees are generally displayed; or
- (b) make a copy of the application available to employees through the usual means that are adopted by the occupier or affected employer for communicating with employees.

81 Application for an 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 official who is to hold the permit, of appropriate training about the rights and responsibilities of a permit holder under the Act.

Note: The application must be in the approved form: see rule 9.

- (2) For the purposes of deciding whether the official is a fit and proper person taking into account the permit qualification matters, the FWC may require the official to:

- (a) apply for a National Police Certificate issued by the Australian Federal Police, or by a police force or police service of a State or Territory, in respect of the official and provide the certificate to the FWC; or
- (b) provide to the FWC an authorisation signed by the official authorising the FWC to apply for such a certificate (together with all relevant details in relation to the official required to be included in such an application).

- (3) The FWC may, before it considers the application, publish all of the following on the FWC's website:

- (a) the name of:
 - (i) the organisation applying for the entry permit; and
 - (ii) the official of the organisation who is to hold the permit;
- (b) that the organisation has applied for the entry permit to be issued to the official;
- (c) that submissions may be made to the FWC, within a specified time, as to whether the official is a fit and proper person to be issued with the entry permit.

82 Application for an affected member certificate

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

Note: The application must be in the approved form: see rule 9.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 10 Sexual harassment and bullying

Division 1 Sexual harassment in connection with work

Rule 83

Part 10—Sexual harassment and bullying

Division 1—Sexual harassment in connection with work

83 Making a sexual harassment FWC application

- (1) A sexual harassment FWC application may be made by:
- (a) 2 or more persons of the kind referred to in subrule (2) acting jointly; or
 - (b) a single industrial association that is entitled to represent the industrial interests of 2 or more aggrieved persons;
- but only if the application is made in relation to the same alleged contravention, or related alleged contraventions, of Division 2 of Part 3-5A of the Act.

Note 1: The application must be in the approved form: see rule 9.

Note 2: This rule is made for the purposes of paragraph 527F(4)(a) of the Act. For the meaning of *aggrieved person*, see subsection 527F(1) of the Act.

- (2) For the purposes of paragraph (1)(a), the persons are as follows:
- (a) an aggrieved person;
 - (b) an industrial association that is entitled to represent the industrial interests of an aggrieved person.

84 Response to a sexual harassment FWC application

- (1) A person named in a sexual harassment FWC application as:
- (a) a person allegedly engaging in sexual harassment; or
 - (b) an employer or principal of:
 - (i) an aggrieved person in respect of the application; or
 - (ii) a person allegedly engaging in sexual harassment;
- must lodge a response by the person to the application with the FWC within 7 days after the day on which the person was served with the application.

Note 1: The response must be in the approved form: see rule 9.

Note 2: For the meaning of *aggrieved person*, see subsection 527F(1) of the Act.

- (2) However, the person may lodge one response by the person in respect of 2 or more sexual harassment FWC applications if:
- (a) the applications are lodged at the same time; and
 - (b) the applications are in respect of the same alleged contraventions, or related alleged contraventions, of Division 2 of Part 3-5A of the Act.

85 Order for joinder or withdrawal of parties to disputes commenced by a sexual harassment FWC application

- (1) Subject to subrule (3), a party (the *requesting party*) to a dispute before the FWC commenced by a sexual harassment FWC application may apply to the FWC for either of the following orders:
- (a) an order that any of the following be joined as a party to the dispute:
 - (i) one or more aggrieved persons in relation to alleged contraventions of Division 2 of Part 3-5A of the Act;

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
Sexual harassment and bullying **Part 10**
Sexual harassment in connection with work **Division 1**

Rule 85

- (ii) one or more industrial associations each of which is entitled to represent the industrial interests of one or more aggrieved persons in relation to alleged contraventions of Division 2 of Part 3-5A of the Act;
 - (iii) if an aggrieved person in relation to the dispute alleges that they have been sexually harassed in contravention of Division 2 of Part 3-5A of the Act, other than because of the operation of subsection 527E(1) of the Act, by a person who is an employee or agent of another person (the *principal*)—the principal;
 - (iv) if a party to the dispute alleges another party (the *principal*) has contravened Division 2 of Part 3-5A of the Act because of the operation of subsection 527E(1) of the Act—an employee or agent mentioned in that subsection in relation to the principal;
- (b) an order for the withdrawal of a person as a party to the dispute.

Note 1: The application must be in approved form F1—Application (no specific form provided): see rule 9.

Note 2: This rule is made for the purposes of paragraphs 527F(4)(b) and (c) of the Act. For the meaning of *aggrieved person*, see subsection 527F(1) of the Act.

- (2) If a person named in the application as a person to be joined or withdrawn as a party to the dispute is not the requesting party, the requesting party must:
- (a) serve a copy of the application on the person as soon as practicable after making the application; and
 - (b) if an order is made in respect of the person—serve a copy of the order on the person as soon as practicable after the order is made.
- (3) Subrule (1) does not apply if subsection 527S(1) of the Act applies to the dispute.

EXPOSURE DRAFT

Chapter 2 Matters under the Act
Part 10 Sexual harassment and bullying
Division 2 Bullying at work

Rule 86

Division 2—Bullying at work

86 Response to an application for an order to stop bullying at work

Person named as employer or principal

- (1) The person named as an employer or principal in an application made under section 789FC of the Act for an order to stop bullying at work must lodge with the FWC a response by the person to the application within 7 days after the day on which the person was served with the application.

Note 1: The response must be in the approved form: see rule 9.

Note 2: A person can be named in an application as an employer or principal of both the applicant and the person alleged to have engaged in bullying behaviour. This subrule requires the employer or principal to lodge a response in either case.

- (2) The person may lodge one response by the person in respect of 2 or more applications made under section 789FC of the Act if:
 - (a) the applications:
 - (i) are lodged at the same time; and
 - (ii) concern the same or substantially similar conduct; and
 - (iii) name the person as the employer or principal; and
 - (b) the substance of the response of the person is the same for each of the applications.

Person named as allegedly engaging in bullying behaviour

- (3) If a person named in an application under section 789FC of the Act as allegedly engaging in bullying behaviour wants to lodge a response to the application, the person must lodge with the FWC a response by the person within 7 days after the day on which the person was served with the application.

Note: A person named as allegedly engaging in bullying behaviour is not required to lodge this response. If the person chooses to lodge this response, the response must be in the approved form: see rule 9.

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
Sexual harassment and bullying **Part 10**
Sexual harassment at work (continued application of section 789FC of the Act) **Division 3**

Rule 87

Division 3—Sexual harassment at work (continued application of section 789FC of the Act)

87 Response to an application for an order to stop sexual harassment at work

Person named as employer or principal

- (1) The person named as an employer or principal in an application made under section 789FC of the Act for an order to stop sexual harassment at work must lodge with the FWC a response by the person to the application within 7 days after the day on which the person was served with the application.

Note 1: The response must be in the approved form: see rule 9.

Note 2: A person can be named in an application as an employer or principal of both the applicant and the person alleged to have engaged in sexual harassment. This subrule requires the employer or principal to lodge a response in either case.

Note 3: An application made under section 789FC of the Act includes an application made on or after 6 March 2023 under that section (as in force immediately before 6 March 2023) in relation to:

- (a) the sexual harassment of a worker at work before 6 March 2023; or
- (b) the sexual harassment of a worker at work on or after 6 March 2023, if the sexual harassment is part of a course of conduct that begins before 6 March 2023.

See clause 60 of Schedule 1 to the Act.

- (2) The person may lodge one response by the person in respect of 2 or more applications made under section 789FC of the Act if:
- (a) the applications:
 - (i) are lodged at the same time; and
 - (ii) concern the same or substantially similar conduct; and
 - (iii) name the person as the employer or principal; and
 - (b) the substance of the response of the person is the same for each of the applications.

Person named as allegedly engaging in sexual harassment

- (3) If a person named in an application under section 789FC of the Act as allegedly engaging in sexual harassment wants to lodge a response to the application, the person must lodge with the FWC a response by the person within 7 days after the day on which the person was served with the application.

Note: A person named as allegedly engaging in sexual harassment is not required to lodge this response. If the person chooses to lodge this response, the response must be in the approved form: see rule 9.

EXPOSURE DRAFT

Chapter 2 Matters under the Act
Part 10 Sexual harassment and bullying
Division 4 General rules

Rule 88

Division 4—General rules

88 Service by the FWC of sexual harassment and bullying applications

If the FWC is required to serve on a person:

- (a) a sexual harassment FWC application; or
- (b) an application made under section 789FC of the Act for an order to stop bullying at work; or
- (c) an application made under section 789FC of the Act for an order to stop sexual harassment at work;

the FWC must instead serve on the person a copy of the application excluding the part of the application that deals with:

- (d) the application fee; and
- (e) if the FWC considers it appropriate to exclude the contact details of the applicant or an aggrieved person—those contact details.

Note: An application made under section 789FC of the Act includes an application made on or after 6 March 2023 under that section (as in force immediately before 6 March 2023) in relation to:

- (a) the sexual harassment of a worker at work before 6 March 2023; or
- (b) the sexual harassment of a worker at work on or after 6 March 2023, if the sexual harassment is part of a course of conduct that begins before 6 March 2023.

See clause 60 of Schedule 1 to the Act.

EXPOSURE DRAFT

Matters under the Act **Chapter 2**
Regulated workers **Part 11**

Rule 88

Part 11—Regulated workers

Note: This Part is reserved for potential future use.

EXPOSURE DRAFT

Chapter 2 Matters under the Act

Part 12 Disputes under dispute procedures in awards, enterprise agreements etc.

Rule 119

Part 12—Disputes under dispute procedures in awards, enterprise agreements etc.

119 Application for the FWC to deal with a dispute

- (1) An application under section 739 of the Act for the FWC 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 FWC is required or allowed to deal with the dispute.

Note: The application must be in the approved form: see rule 9.

- (2) If the respondent wants to respond to the application, the respondent must:
 - (a) lodge a response by the person, in writing, with the FWC as soon as practicable after the respondent is served with the application; and
 - (b) serve a copy of the response on the applicant as soon as practicable after lodging the response with the FWC.

Chapter 3—Matters under the Transitional Act

Part 1—Termination of transitional instruments

120 Application for approval of the termination of a collective agreement-based transitional instrument

- (1) An application under section 222 of the Act for approval of the termination of a collective agreement-based transitional instrument must be accompanied by a declaration by the applicant setting out the basis on which the FWC can be satisfied that the requirements of section 223 of the Act have been met.

Note 1: The application must be in the approved form: see rule 9.

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

Note 3: An application may be made under section 222 of the Act for approval of the 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) The applicant must serve a copy of the declaration with the application.

121 Application for the termination of a collective agreement-based transitional instrument after its nominal expiry date

- (1) An application under section 225 of the Act for the termination of a collective agreement-based transitional instrument after its nominal expiry date must be accompanied by a declaration by the applicant setting out the basis on which the FWC can be satisfied that the requirements of section 226 of the Act have been met.

Note 1: The application must be in the approved form: see rule 9.

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

Note 3: An application may be made under section 225 of the Act for approval of the termination of a collective agreement-based transitional instrument by virtue of the extended operation given to that section by item 16 of Schedule 3 to the Transitional Act. Item 16 provides that Subdivision D of Division 7 of Part 2-4 of the Act (which deals with termination of enterprise agreements after their nominal expiry date) 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) The applicant must serve a copy of the declaration with the application.

EXPOSURE DRAFT

Rule 122

122 Application for approval of the termination of an 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, made in accordance with subitem 17(1) of Schedule 3 to that Act, to terminate the agreement.

Note: The application must be in the approved form: see rule 9.

- (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 that has passed its nominal expiry date must be accompanied by:
- (a) a declaration made by the applicant that:
 - (i) identifies the transitional instrument and that states that the employer or employee wants to terminate the transitional instrument (as required under paragraph 19(2)(a) of Schedule 3 to the Transitional Act); and
 - (ii) sets out the basis on which the FWC can be satisfied that the requirements of subitem 19(3) of Schedule 3 to the Transitional Act have been met; and
 - (b) a copy of the written notice that was given in accordance with subitem 19(3) of Schedule 3 to the Transitional Act.

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

Employer applying for approval of the termination of more than one individual agreement-based transitional instrument

- (3) If an employer is seeking approval of the termination of more than one individual agreement-based transitional instrument, the employer may, instead of lodging an application in the approved form in relation to each instrument, lodge:
- (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 the 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; and
 - (c) if the application is made under item 17 of Schedule 3 to the Transitional Act—a copy of each written agreement made under subitem 17(1) of Schedule 3 to the Transitional Act to terminate an instrument listed in the schedule lodged with the application; and
 - (d) if the application is made under item 19 of Schedule 3 to the Transitional Act:

EXPOSURE DRAFT

Matters under the Transitional Act **Chapter 3**
Termination of transitional instruments **Part 1**

Rule 122

- (i) one declaration by the applicant made in accordance with paragraph (2)(a) of this rule in relation to all the instruments; and
- (ii) a copy of the written notice given in accordance with subitem 19(3) of Schedule 3 to that Act for each instrument.

Service of application and accompanying documents

- (4) Subject to subrule (5), the applicant must serve with the application copies of any documents that were lodged with the application.
- (5) If the application is lodged in accordance with subrule (3), the employer must not serve the documents on a party to one of the instruments in such a way as to reveal the identity of any other persons mentioned in the schedule lodged with the application.

Note: For service of the application, see rules 21 and 22.

EXPOSURE DRAFT

Chapter 3 Matters under the Transitional Act

Part 2 Disputes relating to the continued operation of the Workplace Relations Act 1996

Rule 123

Part 2—Disputes relating to the continued operation of the Workplace Relations Act 1996

123 Application for the FWC to deal with a dispute

An application permitted by Schedule 19 to the Transitional Act for the FWC to deal with a dispute must be accompanied by a copy of the dispute settling procedure under which the FWC is empowered to deal with the dispute in accordance with subitem 1(1) of Schedule 19 to that Act.

Chapter 4—Matters under the Registered Organisations Act

124 Application for registration of an organisation

An application for registration of an organisation under section 18 of the Registered Organisations Act must be signed by at least 2 persons who are authorised to sign the application under the *Fair Work (Registered Organisations) Regulations 2009*.

Note 1: The application must be in the approved form: see rule 9.

Note 2: For authorisation to sign the application, see regulation 12 of the *Fair Work (Registered Organisations) Regulations 2009*.

125 Application for a representation order

An applicant that has lodged an application for a representation order under section 137A of the Registered Organisations Act must apply to the FWC under rule 8 for directions about the procedure to be followed in relation to service of the application.

Note: The application must be in the approved form: see rule 9.

126 Application for a conscientious objection certificate

An application under section 180 of the Registered Organisations Act must be accompanied by a declaration by the applicant verifying the information provided in the application.

Note 1: The application must be in the approved form: see rule 9.

Note 2: Section 180 of the Registered Organisations Act provides for the issue or renewal of a certificate stating that a person's conscientious beliefs do not allow the person to be a member of a registered organisation.

EXPOSURE DRAFT

Chapter 5 Matters under other Acts

Rule 127

Chapter 5—Matters under other Acts

127 Application for a WHS entry permit

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.

Chapter 6—Appeals and reviews

128 Appeals

- (1) A person seeking to institute an appeal under section 604 of the Act against a decision of:
- (a) a single FWC 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: The notice of appeal must be in the approved form: see rule 9.

Note 2: Section 604 of the Act allows a person aggrieved by a decision of the FWC (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 Registered Organisations Act, to appeal the decision, with the permission of the FWC.

- (2) The notice of appeal must be lodged:
- (a) within 21 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 days after the date of the order; or
 - (c) within such further time allowed by the FWC 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 days after the day on which the appellant lodged the notice of appeal, lodge with the FWC:
- (a) one copy of an appeal book, electronically in PDF format; or
 - (b) if the appellant is unable to lodge electronically—3 copies of an appeal book in hard copy form.
- (4) The appeal book must contain:
- (a) any order made by the FWC to which the appeal relates; and
 - (b) the statement of the reasons for the decision being appealed against; and
 - (c) if a copy of the transcript of the evidence and argument in the matter from which the appeal is brought is available from the FWC’s transcription service provider and the FWC has not exempted the appellant under subrule (7)—a copy of the transcript or the relevant extract from the transcript; and
 - (d) a copy of 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.
- (5) The appeal book must be paginated in continuous Arabic numerals, starting with “1” on the first page of the document (reckoned inclusive of all pages of the document, including any title pages or tables of contents).

EXPOSURE DRAFT

Chapter 6 Appeals and reviews

Rule 129

- (6) As soon as practicable after lodging the appeal book, the appellant must serve a copy of the appeal book on each other party to the matter from which the appeal is brought.
- (7) For the purposes of paragraph (4)(c), the FWC may exempt an appellant from the requirement to provide a copy of the transcript, or the relevant extract of a transcript, if:
- (a) the FWC has not given the appellant a copy of the transcript; and
 - (b) the appellant has not purchased a copy of the transcript from the FWC's transcription service provider; and
 - (c) the FWC has given the appellant access to the audio recording of the evidence and argument in the matter; and
 - (d) the FWC is satisfied that it is appropriate to do so, taking into account the subject matter of the appeal.

Note 1: If the FWC orders a transcript of the evidence and argument in the matter, the FWC will usually give a copy free of charge to each party to the matter. A copy of the transcript may also be purchased from the FWC's transcription service provider.

Note 2: A party to a matter may apply for access to the FWC's audio recording of a proceeding by submitting an audio request form. In 2024, this form was available on the FWC's website (<http://www.fwc.gov.au>).

129 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 128.

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

Chapter 7—Miscellaneous

130 Access to certain applications and declarations

- (1) Subject to an order of the FWC under subsection 593(3) or 594(1) of the Act, the FWC may, on application by any person, provide the person with access to the following (excluding any personal information that the FWC considers is appropriate to exclude):
 - (a) an application to which rule 32 applies and each declaration under subrule 32(3) that relates to the application;
 - (b) an application to which rule 33 applies and each declaration under paragraph 33(2)(a) or (b) that relates to the application;
 - (c) an application to which rule 34 applies and each declaration under paragraph 34(2)(a) that relates to the application;
 - (d) an application to which rule 37 applies and each declaration under subrule 37(2) that relates to the application;
 - (e) an application to which rule 38 applies and the declaration under subrule 38(2) that relates to the application;
 - (f) an application to which rule 39 applies and each declaration under subrule 39(2) or (3) that relates to the application;
 - (g) an application to which rule 40 applies and the declaration under subrule 40(2) that relates to the application;
 - (h) an application to which rule 41 applies and the declaration under subrule 41(2) that relates to the application;
 - (i) an application to which rule 42 applies and each declaration under subrule 42(2) or (3) that relates to the application;
 - (j) an application to which rule 43 applies and the declaration under subrule 43(3) or (5) that relates to the application;
 - (k) an application to which rule 45 applies and the declaration under that rule that relates to the application;
 - (l) an application to which rule 46 applies and the declaration under subrule 46(1) that relates to the application;
 - (m) an application to which rule 120 applies and the declaration under subrule 120(1) that relates to the application;
 - (n) an application to which rule 121 applies and the declaration under subrule 121(1) that relates to the application;
 - (o) an application made under section 227A of the Act.

Note: The application for access must be in approved form F1—Application (no specific form provided): see rule 9.

- (2) To avoid doubt, this rule does not limit any other power that the FWC may exercise to provide access to documents.

EXPOSURE DRAFT

Chapter 7 Miscellaneous

Rule 131

131 Recovery of the FWC's costs for copies of documents

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

132 Seal of the FWC

- (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.

EXPOSURE DRAFT

Application, saving and transitional provisions **Chapter 8**
Transition from the Fair Work Commission Rules 2013 **Part 1**

Rule 133

Chapter 8—Application, saving and transitional provisions

Part 1—Transition from the Fair Work Commission Rules 2013

133 Transition from the *Fair Work Commission Rules 2013*

- (1) These Rules apply to an application made or a matter started in the FWC 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 FWC may order that a provision of the *Fair Work Commission Rules 2013*, as in force immediately before the commencement of these Rules, is to apply, with or without modification, to a step mentioned in subrule (2).
- (4) Otherwise, despite the repeal of the *Fair Work Commission Rules 2013* by these Rules, the *Fair Work Commission Rules 2013*, as in force immediately before the commencement of these Rules, continues to apply in relation to a matter started in the FWC before that commencement.

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Schedule 1—Serving documents lodged with the FWC

Note: See rule 21.

1 Instructions for serving documents lodged with the FWC

The following table provides instructions for serving documents lodged with the FWC.

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F1	Application for which there is no specific approved form	Application (no specific form provided)	Subrule 9(3)	Applicant	Respondent	As soon as practicable after lodgment with the FWC
F2	Unfair dismissal	Unfair dismissal application	Section 394 of the Act and rule 71	FWC	Respondent	As soon as practicable after lodgment with the FWC
F3	Unfair dismissal	Employer response to unfair dismissal application	Rules 66, 70 and 72	Respondent	Applicant	Within 7 days after the day on which the respondent was served with the unfair dismissal application
F5	Unfair dismissal	Application for security for payment of costs	Section 404 of the Act and subrule 67(1)	Applicant for order to provide security for payment of costs	Respondent against whom an order is sought	As soon as practicable after lodgment with the FWC
F6	Costs	Application for costs	Sections 375B, 376, 400A, 401, 611, 779A 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 FWC
F7	Appeal	Notice of appeal	Section 604 of the Act and rule 128	FWC	Each party to the matter from which the appeal is brought other than the appellant	As soon as practicable after lodgment with the FWC
F8	Dispute resolution	General protections application involving dismissal	Section 365 of the Act and rule 71	FWC	Respondent	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F8A	Dispute resolution	Response to a general protections application involving dismissal	Rules 65, 70 and 72	Respondent	Applicant	Within 7 days after the day on which the respondent was served with the general protections application involving dismissal
F8C	Dispute resolution	General protections application not involving dismissal	Section 372 of the Act and rule 71	FWC	Respondent	As soon as practicable after lodgment with the FWC
F8D	Dispute resolution	Response to a general protections application not involving dismissal	Rules 65, 70 and 72	Respondent	Applicant	Within 7 days after the day on which the respondent was served with the general protections application not involving dismissal
F9	Dispute resolution	Application for the FWC to deal with an unlawful termination dispute	Section 773 of the Act and rule 71	FWC	Respondent	As soon as practicable after lodgment with the FWC
F9A	Dispute resolution	Employer's response to an application for the FWC to deal with an unlawful termination dispute	Rules 68, 70 and 72	Respondent	Applicant	Within 7 days after the day on which the respondent was served with the unlawful termination FWC application
F10	Dispute resolution	Application for the FWC to deal with a dispute in accordance with a dispute settlement procedure	Section 739 of the Act, Schedule 19 to the Transitional Act,	Applicant	Respondent	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
			subrule 119(1) and rule 123			
F10A	Dispute resolution	Application for the FWC to deal with a dispute about casual conversion	Section 66M of the Act	FWC	Respondent	As soon as practicable after lodgment with the FWC
F10B	Dispute resolution	Application to resolve a dispute about extension of a period of unpaid parental leave	Section 76B of the Act and rule 30	FWC	Employer	As soon as practicable after lodgment with the FWC
F10C	Dispute resolution	Application to resolve a dispute about flexible working arrangements	Section 65B of the Act and rule 27	FWC	Employer	As soon as practicable after lodgment with the FWC
F10DA	Dispute resolution	Application for the FWC to deal with a dispute about fixed term contracts	Section 333L of the Act and rule 64	Applicant	Employer	As soon as practicable after lodgment with the FWC
F10DB	Dispute resolution	Notification of agreement to arbitration of a dispute about fixed term contracts	Section 333L of the Act	Party making the notification	The other party to the dispute	As soon as practicable after lodgment with the FWC
F11	Dispute resolution	Application for the FWC to deal with a bargaining dispute	Section 240 of the Act and rule 49	Applicant	All of the following: (a) each respondent named in the application; (b) all other bargaining representatives who are seeking to make an enterprise agreement	As soon as practicable after lodgment with the FWC
F12	Dispute resolution	Application for the FWC to deal with a right of entry dispute	Section 505 of the Act	Applicant	Respondent	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F13	Dispute resolution	Application for the FWC to deal with a stand down dispute	Section 526 of the Act	Applicant	Respondent	As soon as practicable after lodgment with the FWC
F14	Dispute resolution	Application for an order to stop etc. (unprotected) industrial action	Sections 418 and 419 of the Act and rule 73	Applicant	Each person against whom orders are sought	As soon as practicable after lodgment with the FWC
F16	Enterprise agreement	Application for approval of an enterprise agreement (other than a greenfields agreement)	Section 185 of the Act and rule 32	Applicant	All of the following: (a) each employer that is covered by the agreement; (b) each employee organisation that was a bargaining representative; (c) any other employee bargaining representative of whom the applicant is aware	As soon as practicable after lodgment with the FWC
F17A	Enterprise agreement	Employer's declaration in support of an application for approval of an enterprise agreement (other than a greenfields agreement)—notification time before 6 June 2023	Section 185 of the Act and subrule 32(3)	Employer	All of the following: (a) each other employer that is covered by the agreement; (b) each employee organisation that was a bargaining representative;	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					(c) any other employee bargaining representative of whom the employer (referred to in column 5) is aware	
F17B	Enterprise agreement	Employer’s declaration in support of an application for approval of a single-enterprise agreement (other than a greenfields agreement)— notification time on or after 6 June 2023	Section 185 of the Act and subrule 32(3)	Employer	All of the following: (a) each other employer that is covered by the agreement; (b) each employee organisation that was a bargaining representative; (c) any other employee bargaining representative of whom the employer (referred to in column 5) is aware	As soon as practicable after lodgment with the FWC
F17C	Enterprise agreement	Employer’s declaration in support of an application for approval of a multi-enterprise agreement (other than a greenfields agreement)— notification time on or after 6 June 2023	Section 185 of the Act and subrule 32(3)	Employer	All of the following: (a) each other employer that is covered by the agreement; (b) each employee organisation that was a bargaining representative;	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					(c) any other employee bargaining representative of whom the employer (referred to in column 5) is aware	
F18	Enterprise agreement	Declaration of employee organisation in relation to an application for approval of an enterprise agreement (other than a greenfields agreement)	Section 185 of the Act and subrule 32(5)	Employee organisation	All of the following: (a) each other employer that is covered by the agreement; (b) each employee organisation that was a bargaining representative; (c) any other employee bargaining representative of whom the employee organisation (referred to in column 5) is aware	As soon as practicable after lodgment with the FWC
F18A	Enterprise agreement	Declaration of employee bargaining representative in relation to an application for approval of an enterprise agreement (other than a greenfields agreement)	Section 185 of the Act and subrule 32(6)	Employee bargaining representative	All of the following: (a) each employer that is covered by the agreement; (b) each employee organisation that was a bargaining representative;	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
					(c) any other employee bargaining representative of whom the employee bargaining representative (referred to in column 5) is aware	
F19	Enterprise agreement	Application for approval of greenfields agreement made under subsection 182(3) of the Act	Section 185 of the Act and rule 33	Applicant	Each employer and each employee organisation that is covered by the agreement	As soon as practicable after lodgment with the FWC
F20	Enterprise agreement	Employer's declaration in support of application for approval of greenfields agreement made under subsection 182(3) of the Act	Section 185 of the Act and subrule 33(2)	Applicant	Each other employer and each employee organisation that is covered by the agreement	As soon as practicable after lodgment with the FWC
F21	Enterprise agreement	Declaration of an employee organisation in relation to an application for approval of a greenfields agreement made under subsection 182(3) of the Act	Section 185 of the Act and subrule 33(2)	Applicant	Each other employer and each employee organisation that is covered by the agreement	As soon as practicable after lodgment with the FWC
F21A	Enterprise agreement	Application for approval of greenfields agreement made under subsection 182(4) of the Act	Section 185A of the Act and rule 34	Applicant(s)	Each employee organisation that is a bargaining representative for the agreement	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F21B	Enterprise agreement	Employer's declaration in support of application for approval of greenfields agreement made under subsection 182(4) of the Act	Section 185A of the Act and subrule 34(2)	Applicant(s)	Each employee organisation that is a bargaining representative for the agreement	As soon as practicable after lodgment with the FWC
F21C	Enterprise Agreement	Declaration of an employee organisation in relation to an application for approval of a greenfields agreement made under subsection 182(4) of the Act	Section 185A of the Act and subrule 34(3)	Employee organisation	All of the following: (a) each employer that is covered by the agreement; (b) each other employee organisation that is a bargaining representative for the agreement	As soon as practicable after lodgment with the FWC
F23	Enterprise agreement	Application under section 210 for approval of a variation of an enterprise agreement	Section 210 of the Act and rule 37	Applicant	Each employer and each employee organisation that is covered by the enterprise agreement	As soon as practicable after lodgment with the FWC
F23AA	Enterprise agreement	Employer's declaration in support of an application under section 210 for approval of a variation of an enterprise agreement—employer requested before 6 June 2023 that employees approve the variation	Section 210 of the Act and subrule 37(2)	Employer	Each other employer and each employee organisation that is covered by the enterprise agreement	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F23AB	Enterprise agreement	Employer’s declaration in support of an application under section 210 for approval of a variation of a single-enterprise agreement—employer requested on or after 6 June 2023 that employees approve the variation	Section 210 of the Act and subrule 37(2)	Employer	Each other employer and each employee organisation that is covered by the enterprise agreement	As soon as practicable after lodgment with the FWC
F23AC	Enterprise agreement	Employer’s declaration in support of an application under section 210 for approval of a variation of a multi-enterprise agreement—employer requested on or after 6 June 2023 that employees approve the variation	Section 210 of the Act and subrule 37(2)	Employer	Each other employer and each employee organisation that is covered by the enterprise agreement	As soon as practicable after lodgment with the FWC
F23B	Enterprise agreement	Declaration of employee organisation in relation to an application under section 210 for approval of a variation of an enterprise agreement	Section 210 of the Act and subrule 37(4)	Employee organisation	Each employer and each other employee organisation that is covered by the enterprise agreement	As soon as practicable after lodgment with the FWC
F23C	Enterprise agreement	Application for the FWC to vary an enterprise agreement to resolve an uncertainty or difficulty about the definition of casual employee or casual conversion rights	Clause 45 of Schedule 1 to the Act	Applicant	Each employer and each employee organisation covered by the enterprise agreement	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F23D	Enterprise agreement	Application by an employer for approval of a variation of a supported bargaining agreement to add an employer and employees	Section 216AA of the Act and rule 38	Applicant	Each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23DA	Enterprise agreement	Employer's declaration in relation to a variation of a supported bargaining agreement to add an employer and employees	Sections 216AA and 216B of the Act and subrules 38(2) and 39(3)	Employer	Each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23E	Enterprise agreement	Application by an employee organisation for a variation of a supported bargaining agreement to add an employer and employees	Section 216B of the Act and rule 39	Applicant	All of the following: (a) the employer that will become covered by the agreement if the variation is made; (b) each other employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23EA	Enterprise agreement	Declaration of an employee organisation in relation to a variation of a supported bargaining agreement to add an employer and employees	Sections 216AA and 216B of the Act and subrules 38(4) and 39(2)	Employee organisation	All of the following: (a) the employer that will become covered by the agreement if the variation is approved or made (as the case may be);	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
					(b) each other employee organisation covered by the agreement	
F23F	Enterprise agreement	Application by an employer for approval of a variation of a single interest employer agreement to add an employer and employees	Section 216DA of the Act and rule 41	Applicant	Each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23FA	Enterprise agreement	Employer's declaration in relation to a variation of a single interest employer agreement to add an employer and employees	Sections 216DA and 216DB of the Act and subrules 41(2) and 42(3)	Applicant	Each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23G	Enterprise agreement	Application by an employee organisation for approval of a variation of a single interest employer agreement to add an employer and employees	Section 216DB of the Act and rule 42	Applicant	All of the following: (a) the employer that will become covered by the agreement if the variation is approved; (b) each other employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23GA	Enterprise agreement	Declaration of an employee organisation in relation to a variation of a single interest employer agreement to add an employer and employees	Sections 216DA and 216DB of the Act and subrules 41(4) and 42(2)	Applicant	All of the following: (a) the employer that will become covered by the agreement if the variation is approved;	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					(b) each other employee organisation covered by the agreement	
F23H	Enterprise agreement	Application for approval of a variation of a multi-enterprise agreement to remove an employer and employees	Section 216EA of the Act and rule 43	Applicant	All of the following: (a) the employer that will cease to be covered by the agreement if the variation is approved; (b) each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23HA	Enterprise agreement	Employer's declaration in support of approval of a variation of a multi-enterprise agreement to remove an employer and employees	Section 216EA of the Act and subrule 43(3)	Applicant	Each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23HB	Enterprise agreement	Declaration of employee organisation in relation to approval of a variation of a multi-enterprise agreement to remove an employer and employees	Section 216EA of the Act and subrule 43(5)	Employee organisation	All of the following: (a) the employer that will cease to be covered by the agreement if the variation is approved; (b) each other employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F23I	Enterprise agreement	Application by an employer for approval of a variation of a cooperative workplace agreement to add an employer and employees	Section 216CA of the Act and rule 40	Applicant	Each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23IA	Enterprise agreement	Employer's declaration in support of an employer's application for approval of a variation of a cooperative workplace agreement to add an employer and employees	Section 216CA of the Act and subrule 40(2)	Applicant	Each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F23IB	Enterprise agreement	Declaration of employee organisation in relation to an employer's application for approval of a variation of a cooperative workplace agreement to add an employer and employees	Section 216CA of the Act and subrule 40(4)	Employee organisation	All of the following: (a) the employer that made the application; (b) each other employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F24	Enterprise agreement	Application for termination of an enterprise agreement by agreement	Section 222 of the Act and rule 45	Applicant	Each employer and each employee organisation covered by the enterprise agreement	As soon as practicable after lodgment with the FWC
F24A	Enterprise agreement	Declaration in support of termination of an enterprise agreement	Section 222 of the Act and rule 45	Applicant	Each employer and each employee organisation covered by the enterprise agreement	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F24B	Enterprise Agreement	Application for termination of an enterprise agreement after the nominal expiry date	Section 225 of the Act and rule 46	Applicant	Each employer and each employee organisation covered by the enterprise agreement	As soon as practicable after lodgment with the FWC
F24C	Enterprise Agreement	Declaration in relation to termination of an enterprise agreement after the nominal expiry date	Section 225 of the Act and subrule 46(1)	Applicant	Each employer and each employee organisation covered by the enterprise agreement	As soon as practicable after lodgment with the FWC
F24D	Enterprise agreement	Declaration in response to application for termination of an enterprise agreement after the nominal expiry date	Section 225 of the Act and subrule 46(2)	The person making the declaration	Each employer and each employee organisation covered by the enterprise agreement	As soon as practicable after lodgment with the FWC
F25	Transitional instrument	Application to vary a transitional instrument to remove an ambiguity or uncertainty	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 FWC
F28	Transitional instrument	Application for termination of collective agreement-based transitional instrument	Items 15 and 16 of Schedule 3 to the Transitional Act and rules 120 and 121	Applicant	Each employer and each employee organisation bound by the collective agreement-based transitional instrument	As soon as practicable after lodgment with the FWC
F29	Transitional instrument	Application for approval of termination of an individual-agreement based transitional instrument	Items 17 and 19 of Schedule 3 to the Transitional Act and rule 122	Applicant	The other party to the individual agreement-based transitional instrument	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F30	Bargaining	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 FWC
F31	Bargaining	Application for a scope order	Section 238 of the Act and rule 48	Applicant	Each respondent listed in the application	As soon as practicable after lodgment with the FWC
F32	Bargaining	Application for a bargaining order	Section 229 of the Act and rule 47	Applicant	Each respondent listed in the application and any other bargaining representative	As soon as practicable after lodgment with the FWC
F33	Bargaining	Application for an intractable bargaining declaration	Section 234 of the Act	Applicant	Each bargaining representative for the proposed agreement	As soon as practicable after lodgment with the FWC
F34	Bargaining	Application for a protected action ballot order	Sections 437 and 440 of the Act and rule 76	Applicant	All of the following: (a) the employer or employers of the employees who are to be balloted; (b) the person or entity that the application specifies as being the person or entity that the applicant wishes to be the protected action ballot agent for the protected action ballot; (c) any proposed independent advisor for	Within 24 hours after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
					the protected action ballot	
F34A	Bargaining	Application to extend the 30-day period for protected action	Subsection 459(3) of the Act and rule 78	Applicant	Respondent	As soon as practicable after lodgment with the FWC
F34B	Bargaining	Declaration in support of an application for a protected action ballot order	Section 437 of the Act and subrule 76(1)	Applicant	All of the following: (a) the employer the declaration is in relation to; (b) the person or entity that the application names as being the person or entity that the applicant wishes to be the protected action ballot agent for the protected action ballot; (c) any proposed independent advisor for the protected action ballot	Within 24 hours after lodgment with the FWC
F35	Bargaining	Application for variation of a protected action ballot order	Section 447 of the Act and rule 77	Applicant	All of the following: (a) the respondents; (b) the protected action ballot agent; (c) the independent advisor for the ballot (if any)	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F36	Bargaining	Application for revocation of a protected action ballot order	Section 448 of the Act and rule 77	Applicant	All of the following: (a) each employer that the protected action ballot order applies to; (b) the protected action ballot agent; (c) the independent advisor for the ballot (if any)	As soon as practicable after lodgment with the FWC
F37	Bargaining	Application for an order for suspension or termination of protected industrial action	Sections 423 to 426 of the Act	Applicant	Each respondent	As soon as practicable after lodgment with the FWC
F38	Bargaining	Application for an order for extension of a suspension of protected industrial action	Section 428 of the Act and rule 75	Applicant	Each respondent	As soon as practicable after lodgment with the FWC
F39	Bargaining	Application for an order in relation to partial work bans	Section 472 of the Act and rule 79	Applicant	Respondent	As soon as practicable after lodgment with the FWC
F40	Transfer of business	Application for orders in relation to a transfer of business	Sections 318 and 319 of the Act and subrule 63(1)	Applicant	All of the following: (a) the other parties to the transferable instrument; (b) any employee organisation that ordinarily represents the industrial interests of the transferring employee;	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					(c) the new employer or a person who is likely to be the new employer	
F40A	Transfer of business	Application for orders in relation to a transfer of business	Sections 768BA, 768BD and 768BG of the Act and subrule 63(4)	Applicant	All of the following: (a) the other parties to the copied State instrument; (b) any employee organisation that ordinarily represents the industrial interests of the transferring employees; (c) the new employer	As soon as practicable after lodgment with the FWC
F41	Transfer of business	Application to vary a transferable instrument	Section 320 of the Act and subrule 63(2)	Applicant	All of the following: (a) the other parties to the transferable instrument; (b) if the 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	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F41A	Transfer of business	Application to vary a copied State instrument	Section 768AX of the Act and subrule 63(3)	Applicant	All of the following: (a) the other parties to the copied State instrument; (b) any employee organisation that ordinarily represents the industrial interests of the transferring employees; (c) the new employer	As soon as practicable after lodgment with the FWC
F43	Right of entry	Application for an order for access to non-member records	Section 483AA of the Act and rule 80	Applicant	Subject to an order of the FWC, each occupier and affected employer in relation to which orders are sought	Subject to an order of the FWC, as soon as practicable after lodgment with the FWC
F45A	National Employment Standards	Application to vary redundancy pay	Section 120 of the Act	Applicant	Respondent	As soon as practicable after lodgment with the FWC
F46	Award	Application to make, vary or revoke a modern award	Division 5 of Part 2-3 of the Act and rule 31	Applicant	Each person the FWC directs is to be served	As soon as practicable after lodgment with the FWC
F46A	Equal remuneration	Application for an equal remuneration order	Section 302 of the Act	Applicant	Each person the FWC directs is to be served	As directed by the FWC
F47	Award	Application to vary an award-based transitional 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	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
					continuing Schedule 6 instrument	
F48	Procedural	Application for directions on procedure	Section 589 of the Act and rules 8, 21, 31 and 125	Applicant	If the application is made in relation to a matter that has commenced, each other party in the matter	As soon as practicable after lodgment with the FWC
F50	Procedural	Notice of discontinuance	Section 588 of the Act and rule 10	Applicant	Respondent	As soon as practicable after lodgment with the FWC
F51	Procedural	Application for an order requiring a person to attend before the FWC	Rule 25	Applicant	Subject to an order of the FWC: (a) the person who is required to attend before the FWC; (b) if the application has not been published on the FWC's website—each other party in the matter	Subject to an order of the FWC, as soon as practicable after lodgment with the FWC
F52	Procedural	Application for an order for production of documents, records or information to the FWC	Rule 26	Applicant	Subject to an order of the FWC: (a) the person who is required to produce the documents, records or information; (b) if the application has not been published on	Subject to an order of the FWC, as soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
					the FWC's website— each other party in the matter	
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 596(2) of the Act, subrule 12(1) and rule 14	Person lodging the notice	All parties to the matter other than the person lodging the notice	As soon as practicable after lodgment with the FWC
F54	Procedural	Notice that lawyer or paid agent has ceased to act for a person	Subsection 596(2) of the Act and subrule 12(2)	Person lodging the notice	All parties to the matter other than the person lodging the notice	As soon as practicable after lodgment with the FWC
F71	Registered organisation	Application for a representation order	Section 137A of the Registered Organisations Act and rule 125	Applicant	Each: (a) registered organisation; and (b) transitionally recognised association; and (c) recognised State-registered association; and (d) employer; listed in the application as being likely to have an interest in the matter	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
F72	Stop bullying	Application for an order to stop bullying at work	Section 789FC of the Act and rule 88	FWC	The person named in the application as an employer or principal of the applicant	As soon as practicable after lodgment with the FWC
F72	Stop bullying	Application for an order to stop bullying at work	Section 789FC of the Act and rule 88	FWC	All of the following: (a) each person named in the application as engaging in bullying behaviour; (b) each person named in the application as an employer or principal of a person covered by paragraph (a)	On the next business day after the day on which the person named in the application as the employer or principal of the applicant was served with the application
F72A	Stop sexual harassment	Application for an order to stop sexual harassment that commenced prior to 6 March 2023	Section 789FC of the Act, as that section continues to apply in accordance with clause 60 of Schedule 1 to the Act, and rule 88	FWC	The person named in the application as an employer or principal of the applicant	As soon as practicable after lodgment with the FWC
F72A	Stop sexual harassment	Application for an order to stop sexual harassment that commenced prior to 6 March 2023	Section 789FC of the Act, as that section continues to apply in accordance with clause 60 of Schedule 1 to the Act, and rule 88	FWC	All of the following: (a) each person named in the application as engaging in sexual harassment; (b) each person named in the application as an	On the next business day after the day on which the person named in the application as the employer or principal of the applicant was served with the application

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					employer or principal of a person covered by paragraph (a)	
F73	Stop bullying	Response from an employer/principal to an application for an order to stop bullying at work	Subrules 86(1) and (2)	Person making the response	All of the following: (a) the applicant; (b) each person named in the application as engaging in bullying behaviour; (c) each person named in the application as an employer or principal of the applicant; (d) each person named in the application as an employer or principal of a person covered by paragraph (b)	Within 7 days after the day on which the person was served with the application for an order to stop bullying
F73A	Stop sexual harassment	Response from an employer/principal to an application for an order to stop sexual harassment that commenced prior to 6 March 2023	Subrules 87(1) and (2)	Person making the response	All of the following: (a) the applicant; (b) each person named in the application as engaging in sexual harassment; (c) each person named in the application as an	Within 7 days after the day on which the person was served with the application for an order to stop sexual harassment that commenced prior to 6 March 2023

EXPOSURE DRAFT

Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					employer or principal of the applicant; (d) each person named in the application as an employer or principal of a person covered by paragraph (b)	
F74	Stop bullying	Response from a person named as having engaged in bullying at work	Subrule 86(3)	Person making the response	All of the following: (a) the applicant; (b) each person named in the application as engaging in bullying behaviour; (c) each person named in the application as an employer or principal of the applicant; (d) each person named in the application as an employer or principal of a person covered by paragraph (b)	Within 7 days after the day on which the person was served with the application for an order to stop bullying at work
F74A	Stop sexual harassment	Response from a person named in an application for an order to stop sexual harassment that commenced prior to 6 March 2023	Subrule 87(3)	Person making the response	All of the following: (a) the applicant; (b) each person named in the application as	Within 7 days after the day on which the person was served with the application for an order to stop sexual harassment that

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					engaging in sexual harassment; (c) each person named in the application as an employer or principal of the applicant; (d) each person named in the application as an employer or principal of a person covered by paragraph (b)	commenced prior to 6 March 2023
F75	Sexual harassment dispute	Application for the FWC to deal with a sexual harassment dispute	Section 527F of the Act and rule 83	FWC	All of the following: (a) each person named in the application as allegedly engaging in sexual harassment; (b) each person named in the application as an employer or principal of: (i) an aggrieved person in respect of the application; or (ii) a person covered by paragraph (a)	As soon as practicable after lodgment with the FWC

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Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F76	Sexual harassment dispute	Individual Respondent's response to an application to deal with a sexual harassment dispute	Section 527F of the Act and rule 84	FWC	All of the following: (a) the applicant; (b) each aggrieved person in respect of the application that is not the applicant; (c) each person named in the application as allegedly engaging in sexual harassment; (d) each person named in the application as an employer or principal of: (i) an aggrieved person in respect of the application; or (ii) a person covered by paragraph (c)	As soon as practicable after lodgment with the FWC
F77	Sexual harassment dispute	Response from an employer/principal to an application to deal with a sexual harassment dispute	Section 527F of the Act and rule 84	FWC	All of the following: (a) the applicant; (b) each aggrieved person in respect of the application that is not the applicant;	As soon as practicable after lodgment with the FWC

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Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					(c) each person named in the application as allegedly engaging in sexual harassment; (d) each person named in the application as an employer or principal of: (i) an aggrieved person in respect of the application; or (ii) a person covered by paragraph (c)	
F78	Sexual harassment dispute	Notice of agreement to consent arbitration of a sexual harassment dispute	Section 527S of the Act	Person making the notification	Each other party to the dispute	As soon as practicable after lodgment with the FWC
F81	Transitional instrument	Application to extend the default period for a zombie agreement	Subitems 20A(4) of Schedule 3, 26A(4) of Schedule 3A, and 30(4) of Schedule 7, to the Transitional Act	Applicant	Either: (a) if the application relates to an individual agreement-based transitional instrument or an individual Division 2B State employment agreement—the other	As soon as practicable after lodgment with the FWC

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Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Form	Type of document	Kind of document/form title	Provision	Service by	Service on	Period in which document must be served
					party to the instrument or agreement; or (b) in any other case—each employer covered by the instrument or agreement and each industrial association that is entitled to represent the industrial interests of one or more of the employees covered by the instrument or agreement	
F82	Bargaining	Application for supported bargaining authorisation	Section 242 of the Act and rule 50	Applicant	Each employer specified in the application and any other bargaining representatives for the proposed agreement of which the Applicant is aware	As soon as practicable after lodgment with the FWC
F82A	Bargaining	Application for a variation of a supported bargaining authorisation to add an employer	Subsection 244(3) of the Act and rule 51	Applicant	Each employee organisation and each bargaining representative covered by the authorisation	As soon as practicable after lodgment with the FWC

EXPOSURE DRAFT

Serving documents lodged with the FWC **Schedule 1**

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F82B	Bargaining	Application for a variation of a supported bargaining authorisation to remove an employer	Subsection 244(1) of the Act and rule 51	Applicant	Each employee organisation and each bargaining representative covered by the authorisation	As soon as practicable after lodgment with the FWC
F83	Bargaining	Application for single interest employer authorisation	Section 248 of the Act	Applicant	The bargaining representatives for the proposed agreement	As soon as practicable after lodgment with the FWC
F83A	Bargaining	Application for a variation of a single interest employer authorisation to add an employer	Subsection 251(3) of the Act and rule 52	Applicant	All of the following: (a) the employer to be added to the authorisation; (b) each employee organisation and each bargaining representative covered by the authorisation	As soon as practicable after lodgment with the FWC
F83B	Bargaining	Application for a variation of a single interest employer authorisation to remove an employer	Subsection 251(1) of the Act and rule 52	Applicant	All of the following: (a) the employer to be removed from the authorisation; (b) each employee organisation and each bargaining representative covered by the authorisation	As soon as practicable after lodgment with the FWC

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Schedule 1 Serving documents lodged with the FWC

Clause 1

Instructions as to service						
Column 1 Form	Column 2 Type of document	Column 3 Kind of document/form title	Column 4 Provision	Column 5 Service by	Column 6 Service on	Column 7 Period in which document must be served
F84	Bargaining	Application for a voting request order	Section 240A of the Act	Applicant	Either: (a) if the application relates to a proposed multi-enterprise agreement—each bargaining representative for the Agreement; or (b) if the application relates to a proposed variation of a multi-enterprise agreement—each employer covered by the agreement and each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC
F85	Enterprise agreement	Application for reconsideration of whether an enterprise agreement passes the better off overall test	Section 227A of the Act	Applicant	All of the following: (a) each employer covered by the agreement; (b) each employee organisation covered by the agreement	As soon as practicable after lodgment with the FWC

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Schedule 2—Repeals

Fair Work Commission Rules 2013

1 The whole of the instrument

Repeal the instrument.