



About the F25 application form

Application to vary a transitional instrument to remove an ambiguity or uncertainty

Who can use this form

Use this form if you want to vary a transitional instrument to remove an ambiguity or uncertainty and you are a person covered by that instrument.

About applications to vary a transitional instrument

Transitional instruments can now only be varied in limited circumstances. A person covered by the relevant transitional instrument may apply to the Fair Work Commission (Commission) to vary the instrument to:

- remove an ambiguity or uncertainty in the instrument;
- resolve an uncertainty or difficulty relating to the interaction between the instrument and a modern award; or
- remove terms that are inconsistent with the general protections provisions (Part 3-1) in the [Fair Work Act 2009](#) (FW Act) or to vary terms so that they are consistent with Part 3-1 of the FW Act.

The types of transitional instruments (such as, pre-reform certified agreements) that may be varied for one of the reasons listed above are set out in item 2, Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendment Act 2009* (TPCA Act).

Lodgment and service of your completed form

1. **Lodge your application** along with any accompanying documents with the Commission. You can lodge your objection by post, by fax, by email or in person at the [Commission office](#) in your state or territory.
2. You must **serve a copy of this application and any supporting documents** on each person bound by, or a party to, the transitional instrument as soon as practicable after it is lodged with the Commission (Fair Work Commission Rules, rule 41 and Schedule 1). You can serve a copy of the application and supporting documents by email, express post, or registered post.

Where to get help

Commission staff & resources

Commission staff cannot provide legal advice. However, staff can give you information on:

- processes in the Commission
- how to make an application to the Commission
- how to fill out forms
- where to find useful documents such as legislation and decisions
- other organisations that may be able to assist you.

The Commission's website www.fwc.gov.au also contains a range of information that may assist.

Throughout this form



This icon appears throughout the form. It indicates information to help you answer the question following.

Legal or other representation

Representation is where another person (such as a family member or friend, lawyer or paid agent, or an employee of a union or employer organisation) speaks or acts on a person's behalf, or assists a person in certain other ways in relation to a matter before the Commission. There is no requirement to be represented at the Commission.

There are some restrictions on representation by a lawyer or paid agent.

Generally, a person must give notice to the Commission (by lodging a Form F53 – Notice that a person: (a) has a lawyer or paid agent; or (b) will seek permission for a lawyer or paid agent to participate in a conference or hearing) and seek permission from the Commission Member dealing with the matter if they wish to have a lawyer or paid agent represent them by participating in a conference or a hearing.

Apart from participating in a conference or hearing, a person's lawyer or paid agent can represent them without permission, unless the Commission decides otherwise. For example, the lawyer or paid agent can prepare and lodge written applications, responses and submissions with the Commission, and communicate in writing with the Commission and other parties to the matter on the person's behalf.

The requirement to give notice and seek permission for a lawyer or paid agent to participate in a conference or hearing, does not apply if the lawyer or paid agent is:

- an employee or officer of the person **or**
- a bargaining representative that is representing the person **or**
- an employee or officer of an employee or employer organisation, or an association of employers or a peak council, that is representing the person.

Rule 12(2) of the [Fair Work Commission Rules 2013](#) sets out further exceptions to the requirement to give notice and seek permission.

For more information about representation by lawyers and paid agents, see section 596 of the [Fair Work Act 2009](#), rules 11, 12 and 12A of the [Fair Work Commission Rules 2013](#) and the Commission's [practice note on representation by lawyers and paid agents](#).

If you decide to represent yourself in proceedings you will need to make sure you are well prepared.

Glossary of common terms

Applicant – This is the person or organisation that is making an application.

Lawyer – This is a person who is admitted to the legal profession by a Supreme Court of a State or Territory.

Paid agent – In relation to a matter before the Commission, is an agent (other than a bargaining representative) who charges or receives a fee to represent a person in the matter.

Party – A party is a person or organisation involved in a matter or case that is brought to the Commission.

Respondent – The person or business responding to an application made by an Applicant.

Service – Serving a document means giving a copy of the document to a person or organisation, usually to the other party to the matter. You can serve a document in a number of ways, including by email, fax, express or registered post, or in person. Parts 7 and 8 of the [Fair Work Commission Rules 2013](#) deal with service.

Privacy

The Commission collects the information (including personal information) provided to it in this form for inclusion on the case file, and may disclose this information to the other parties to this matter and to other persons. For more details of the Commission's collection, use and disclosure of this information, please see the [Privacy notice](#) for this form, or ask for a hard copy to be provided to you.



Remove this cover sheet and keep it for future reference – it contains useful information

Form F25 – Application to vary a transitional instrument to remove an ambiguity or uncertainty

Fair Work (Transitional Provisions and Consequential Amendments) Act 2009, Schedule 3, item 10

This is an application to vary a transitional instrument to remove an ambiguity or uncertainty under item 10 of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

The Applicant



These are the details of the person who is lodging the application with the Commission.

Title	[] Mr [] Mrs [] Ms [] Other please specify:		
First name(s)			
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

If the Applicant is an organisation please also provide the following details

Legal name of organisation	
Trading name of organisation	
ABN/ACN	
Contact person	

Do you need an interpreter?



If you have trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help for non-English speakers](#) on our website.

Yes – Specify language

No

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

Yes – Specify the help required

No

Do you have a representative?



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

Yes – Provide representative’s details below

No – Go to question 1

Your representative



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

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

Is your representative a lawyer or paid agent?

Yes

No

1. Preliminary

1.1 What is the industry of the employer?



Please specify the industry.

1.2 What is the name of the transitional instrument?



Please include any identification code or reference number if it is known.

2. Variation sought

2.1 On what basis do you wish to vary the transitional instrument (see item 10, Schedule 3, TCPA Act)?

- to remove an ambiguity or uncertainty in the instrument
- to resolve an uncertainty or difficulty relating to the interaction between the instrument and a modern award
- to remove terms of the instrument that are inconsistent with Part 3-1 (which deals with the general protections in the FW Act)
- to vary terms of the instrument to make them consistent with Part 3-1 of the FW Act (which deals with the general protections in the FW Act)

2.2 Please specify the terms of the variation that you seek.



Using numbered paragraphs, set out the variation.

Attach additional pages if necessary.

2.3 On what basis do you wish to vary the application? Please set out the grounds on which you rely in making this application.



Using numbered paragraphs please set out the grounds on which you rely in applying to vary the transitional instrument.

Attach additional pages if necessary.

Signature



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

Signature or common seal	
Name	
Date	
Capacity/Position	

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS