



## About the F8 application form

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### General protections application involving dismissal

#### About general protections disputes involving dismissal

The general protections provisions of the [Fair Work Act 2009](#) aim to protect workplace rights and freedom of association and to provide protection from workplace discrimination.

An employee may allege that their employer contravened one or more of the general protections provisions in dismissing the employee from their employment. In some circumstances, a demotion, a forced resignation or constructive dismissal may be considered a dismissal. The meaning of **dismissed** can be found at section 386 of the [Fair Work Act 2009](#).

If you make such a claim, the Fair Work Commission (Commission) will try to assist the parties to settle the dispute by conducting a conference.

If the dispute remains unresolved after the conference, the Commission will issue a certificate. You may then choose to make a general protections court application within 14 calendar days of the date the certificate is issued, or such further time as the court allows. Alternatively, if both parties to the dispute consent, you can apply for the Commission to conduct a consent arbitration which will determine the matter, subject to any appeal. An application for consent arbitration needs to be lodged with the Commission within 14 calendar days of the date the certificate is issued.

If the parties have notified the Commission that they consent to arbitration, you cannot also make a general protections court application. If you are pursuing a general protections court application, the parties cannot also seek to have the Commission arbitrate the matter.

For more information see the Commission's [General Protections Guides](#) and [General Protections Benchbook](#).

#### Who can use this form

Use this form if you:

- were an employee **and**
- have been dismissed **and**
- believe that there has been a breach of the general protections provisions that apply to you.

**Note:** If you believe there has been a breach of the general protections provisions that apply to you but you have not been dismissed, you should lodge your application using Form F8C (or you may make an application directly to a court).

You should also use this form if you are an industrial association making an application on behalf of an employee who has been dismissed and believe that there has been a breach of the general protections provisions that apply to them.

## Lodging your completed form

1. **Lodge your application**, along with any supporting documents, with the Commission within **21 calendar days** after your dismissal took effect. You can lodge your application online using the Commission's [Online Lodgment Service \(OLS\)](#) or by post, fax or email, or in person at the [Commission's office](#) in your state or territory.

**Note:** The Commission will provide a copy of your application and any other documents you lodge with the application (except the Fee Waiver form, where relevant) to the employer.

2. **Pay your application fee** at the same time as you lodge your application. The current application fee is available on the [Lodge an application](#) page on the Commission's website.

If payment of the fee will cause you financial hardship, you can apply to have the fee waived. You must apply to have the fee waived at the same time as you lodge your application. Download the [Fee waiver form](#) from the Commission's website.

## Where to get help

### Commission staff & resources

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

- Commission processes
- 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](http://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 complete the form.

### Legal or other representation

Representation is where another person (such as a lawyer or paid agent, union official, family member or friend) speaks or acts on your behalf, or assists you in certain other ways in relation to your matter. There is no requirement for you to be represented at the Commission.

You will need permission from the Commission Member dealing with your matter if you wish to be represented by a lawyer or paid agent at a conference or a hearing, unless the lawyer or paid agent is

an employee or officer of a union or a peak union body that is representing you. If you want to seek permission, you must lodge a Form F53 – Notice that a person: (a) has a lawyer or paid agent; or (b) will seek permission for lawyer or paid agent to participate in a conference or hearing.

You do not need permission to have a lawyer or paid agent prepare and lodge this application with the Commission.

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](#).

## Glossary of common terms

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

**Jurisdictional objection** – This is a type of objection a Respondent can raise to an application. A Respondent can make this kind of objection if they think that the Commission, for a technical or legal reason, cannot hear the matter.

**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 an Applicant, Respondent or another person or organisation involved in a matter or case that is brought to the Commission.

**Respondent** – The person or organisation 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 in order to deal with the general protections application involving dismissal. The information will be included on the case file, and the Commission may disclose the 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 F8 – General protections application involving dismissal

*Fair Work Act 2009, s.365*

This is an application for the Fair Work Commission (Commission) to deal with a general protections dispute involving dismissal under Part 3-1 of the [Fair Work Act 2009](#).

### The Applicant (you)



These are the details of the person who has been dismissed. Make sure you provide a telephone number for the conciliation conference.

<b>Title</b>	[ ] Mr [ ] Mrs [ ] Ms [ ] Other please specify: <a href="#">Tick the box or write in the title that you use.</a>		
<b>First name(s)</b>	<a href="#">Write your first name or names here.</a>		
<b>Surname</b>	<a href="#">Write your surname here.</a>		
<b>Postal address</b>	<a href="#">Write your postal address here.</a>		
<b>Suburb</b>	<a href="#">Write the suburb here.</a>		
<b>State or territory</b>	<a href="#">Write your state/territory here.</a>	<b>Postcode</b>	<a href="#">Write your postcode here.</a>
<b>Phone number</b>	<a href="#">Write your landline number (if you have one).</a>	<b>Fax number</b>	<a href="#">Write your fax number here. If you include a fax number, the Commission may send you documents by fax.</a>
<b>Mobile number</b>	<a href="#">Write your mobile number here. If you include a mobile number, the Commission may send you reminders via SMS.</a>		
<b>Email address</b>	<a href="#">Write your email address here. If you include an email address, the Commission may send you documents by email.</a>		

**Note:** If you provide a mobile number the Commission may send reminders to you via SMS.

**If the Applicant is an industrial association please also provide the following information**



If the Applicant is an industrial association, note that “you” in this form refers to the employee whose industrial interests the Applicant is entitled to represent.

<b>Name of association</b>	<a href="#">Do not fill in this section.</a>
<b>Contact person</b>	

<b>Phone number</b>	
<b>Email address</b>	

**How would you prefer us to communicate with you? Choose how you want to be contacted**

- Email (you will need to make sure you check your email account regularly)
- Post

**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

If English is not your first language and you need an interpreter, tick 'Yes.' Then write your first language. This is free.

**Do you need any special assistance at the hearing or conference (eg a hearing loop)?**

- Yes – Please specify the assistance required
- No

If you have any special needs (for example, you have a disability) tick 'Yes'. Then write the type of special assistance that you need.

**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 a family member or friend. There is no requirement to have a representative. **Only tick 'Yes' if you have someone representing you (for example, a lawyer or a union official).**

- Yes – Provide representative's details below
- No

**Your representative**



These are the details of the person or organisation who is representing you (if any). **This section will be filled in if you have someone representing you. The person representing you will fill this in.**

<b>Name of person</b>	
<b>Firm, union or company</b>	
<b>Postal address</b>	

<b>Suburb</b>			
<b>State or territory</b>		<b>Postcode</b>	
<b>Phone number</b>		<b>Fax number</b>	
<b>Email address</b>			

**Is your representative a lawyer or paid agent?**

Yes

No

### The Respondent (the employer)



These are the details of the employer that dismissed you.

You should provide the legal name of the employer. The legal name is not the trading name or business name of the employer. The employer will usually be a person or a company (with a name ending in Pty Ltd or Ltd), or in some instances a partnership, an incorporated association, or a public sector employer. Your pay slips, PAYG payment summary, appointment letter or employment contract should give the legal name of the employer.

Note that the Commission will send a copy of your application to the contact person you name below.

<b>Legal name of employer</b>	Write the legal name of your employer. If your company is a Pty Ltd this is usually the legal name. If your employer is a sole trader then this will be his or her name. You should find this name on your payslips, letter of offer or contract of employment. If you are unsure, get legal advice.
<b>Employer's ACN (if a company)</b>	Write the Australian Company Number of your employer. This number should be on your payslips, your tax records or your letter of offer or on company letterhead or cards. If you are unsure, get legal advice.
<b>ABN</b>	Write the Australian Business Number of your employer. This number should be on your payslips, your tax records or your letter of offer or on company letterhead or cards. If you are unsure, get legal advice.
<b>Contact person</b>	Write the person who you think the Fair Work Commission should contact. This could be the owner of the company, the manager or your supervisor.
<b>Postal address</b>	Write the employer's postal address here.
<b>Suburb</b>	Write the name of the suburb here.

<b>State or territory</b>	Write the state or territory	<b>Postcode</b>	Write the postcode here.
<b>Phone number</b>	Write the telephone number of the contact person here.	<b>Fax number</b>	Write the fax number of the contact person here.
<b>Email address</b>	Write the email address of the contact person here.		

## 1. General protections dismissal

### 1.1 What date did you begin working for the employer?

Write the date you started work.

### 1.2 What date were you notified of your dismissal?

Write the date you were told you were dismissed.

### 1.3 What date did your dismissal take effect?

Write the last day that you worked.

### 1.4 Are you making this application within 21 calendar days of your dismissal taking effect?

Tick yes if you are making the application within 21 calendar days after the date of dismissal. If you are making an application out of time, you should get legal advice urgently.

Yes

No



For information about the timeframe for lodgment of general protections applications involving dismissal, see section 366(1) of the [Fair Work Act 2009](#).

If you answered **No** – Explain the reason for the delay, including any steps you have taken to dispute the dismissal or any other reason you think the Commission should take into account in considering whether to accept your application out of time.

If it is more than 21 days after the date you gave in question 1.3, you should complete this section.

Explain why there was a delay and attach any evidence that supports your delay. For example, if your delay was due to:

- illness, attach records such as hospital records, or medical certificate
- technical issues involving the Fair Work Commission, attach documents such as an image of the error on the Commission website.

**1.5 To the best of your knowledge, how many employees were employed in your workplace when you were dismissed?**

- 1-14
- 15-49
- 50-99
- 100 or more
- I don't know

**1.6 Have you made another claim to the Commission or to any other organisation regarding your dismissal (eg an unfair dismissal application)?**

If you have already made an application somewhere else, get legal advice.



The Commission cannot consider your general protections application involving dismissal if you have made another claim in relation to your dismissal, such as an unfair dismissal application or a complaint to the Australian Human Rights Commission. If you answer yes to this question, you will need to decide which claim is the most appropriate one. If you're unsure which is the best option for you, read the **where to get help** section in the cover sheet of this form.

- Yes
- No

## 2. Remedy

**2.1 What outcome are you seeking by lodging this application?**

Explain what you want. For example, do you want:

- to get your job back (this is called 'reinstatement')
- compensation, for example, lost wages

a statement of service or reference.

## 3. Alleged contravention

**3.1 Describe the actions of the employer, including any reasons given for your dismissal, that have led you to make this application.**

Using numbered paragraphs, describe the relevant facts and circumstances. Specify the reason(s), if any, given by the employer for your dismissal. Attach any letter of dismissal and/or separation certificate given to you by the employer. Note that the Commission will send copies of any documents you provide to the employer. Attach extra pages if necessary.



Describe:

- what your employer said and did
- why you are making this application if you were told that you were being dismissed or made redundant and the reason given - if you were not given a reason write “no reason given”.

You can attach more pages if you need more room.

Put events in a logical order, for example in date order.

Get someone else to read over what you have written to make sure what you have written is clear.

Divide your explanation into paragraphs and number each one in order.

Attach copies or print outs of any letters, notes, emails, text messages or messages online, (for example, on Facebook) from your employer, telling you why you were dismissed or made redundant.

If you are unsure about what to include, you should get legal advice.

**3.2 Which section(s) of the Fair Work Act 2009 did the employer contravene when they took, threatened or organised the above actions against you?**



A general protections application should only be made if your employer took adverse action against you **because** you have the protections described in one or more sections of the [Fair Work Act 2009](#) listed below. See the [General Protections Benchbook](#) for information about each of the protections below.

Tick one or more of the boxes below that apply to you. If you are unsure, get legal advice.

**Division 3 – Workplace rights**

- s.340 Protection
- s.343 Coercion
- s.344 Undue influence or pressure

**Division 4 – Industrial activities**

- s.346 Protection
- s.348 Coercion

**Division 5 – Other protections**

- s.351 Discrimination

Please specify the attribute as set out in section s.351(1):

- s.352 Temporary absence – illness or injury

**Division 6 – Sham arrangements**

- s.358 Dismissing to engage as an independent contractor

**3.3 Explain how the actions you have described in question 3.1 have contravened the section(s) of the Fair Work Act 2009 you identified in question 3.2.**

Explain how your employer's action (described in 3.1) is connected to your general protections right (selected in section 3.2).

For example:

- the employer dismissed me because I asked about my pay, this is a protected workplace right under section 340 of the Fair Work Act.

You can attach more pages if you need more room.

Put events in a logical order, for example in date order.

If you are not sure how your employer's actions relate to your general protections right, you should get legal advice.

Attach extra pages if necessary.

### **Disclosure of information**

The Commission will provide a copy of this application and any attachments to the other parties in this matter. This includes:

- the employer
- any legal representatives.

## Consent to contact by researchers



The Commission undertakes research with participants in general protections dismissal matters to ensure a high quality process. Some research may be undertaken by external providers on behalf of the Commission.

Do you consent to the contact details provided on page 1 of this form being provided to an external provider of research services for the sole purpose of inviting you to participate in research?

Tick this box if you do not object to your contact details being provided to an external provider.

Yes

No

## 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.

<b>Signature</b>	Sign the form here.
<b>Name</b>	Write your name here.
<b>Capacity/ Position</b>	If you are representing yourself, write 'Applicant'. If you have a representative, they will write their title here, for example 'lawyer' or 'union representative'
<b>Date</b>	Write the date you sign here.

If you are not the Applicant and are completing and signing this form on the Applicant's behalf, include an explanation of your authority to do so in the Capacity/Position section above.

**PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS**

## Application fee

Your name:

[Write your name here.](#)

The current application fee is available on the [Lodge an application](#) page on the Commission's website [www.fwc.gov.au](http://www.fwc.gov.au).

The *Fair Work Act 2009* requires a fee to be paid on lodgment of this application with the Commission. Where applicable, any refund of the application fee will be forwarded by cheque to you at the address provided on this application form.

## Financial hardship

If paying the fee will cause you financial hardship, you can apply to have the fee waived. If you are applying to have the fee waived you must complete and lodge the Fee Waiver form at the same time as you lodge your application. Note that the Commission will not forward a copy of the Fee Waiver form to the employer. The [Fee waiver form](#) can be downloaded from the Commission's website [www.fwc.gov.au](http://www.fwc.gov.au).

## Payment options

[Tick the method you are using to pay the application fee. If you cannot pay the application fee, it is possible to apply for the Fair Work Commission to waive \(cancel\) the fee. You will need to fill in a Fee Waiver form. See the note above under the heading Financial hardship.](#)

I have completed the Fee Waiver form and have attached it to my application.

I am paying by cash – Cash payments can only be made in person at one of the Fair Work Commission offices. Payment should be made at the same time as the application is lodged.

I have attached a cheque or money order to this application – Cheques and money orders should be made payable to the Collector of Public Monies, FWC. Please note that the cheque or money order must be for the exact amount of the application fee, if it is not it may cause the processing of your application to be delayed.

I am paying by credit card – Please see below:

**If paying by credit card, please provide the payer's details below and a Commission officer will contact the payer within 3 business days from the date of lodgment.**

## Payer details

[If you are paying the fee, tick 'You'. If your representative, for example lawyer or union representative is paying the fee, tick 'Your representative'. If someone else is paying the fee tick 'Other – Please complete the details' and complete the section below.](#)

Who is making the payment?

You

Your representative

Other – Please complete the details

Full name of payer	
Postal address	

Phone number		Email address	
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**PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS**