

# Instructions for completion

## Application – Fair Work Division

### A small claim proceeding under the Fair Work Act 2009

If your claim is for \$20,000 or less and involves a breach of one of the National Employment Standards, a term of a Modern Award, an enterprise agreement, a workplace determination, a safety net contractual entitlement, a national minimum wage order, an equal remuneration order, or another Fair Work Commission order, or it relates to a dispute about an offer for casual conversion, you can elect to use the small claims procedure of this Court.

In a matter which is dealt with by the Court's small claims procedures:

- (a) the Judge is not bound by any rules of evidence
- (b) the Judge may correct any mistake in the application
- (c) the Judge can act in an informal manner and without regard to legal form and technicalities, and
- (d) neither party can be represented by a lawyer unless the Judge permits this.

If you elect to have your claim dealt with using the small claims procedure you need to tick the relevant box in the application.

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1. This form is used for commencing a proceeding in the Fair Work Division of the Federal Circuit and Family Court of Australia (Division 2).
2. You must complete address for service details in the footer on page 1. All correspondence concerning the application will be sent to the email address or mailing address inserted and all documents in the proceedings will be deemed to have been served on you if emailed or posted to that address. If your address details change, you must file a notice of address for service within seven days, and serve a copy on all other parties: see rule 6.02.
3. You must insert the name/s and address/es of each respondent in the 'Important Notice to Respondent/s' box at the end of the form.
4. Applications in the Fair Work Division of the Court alleging unlawful termination of employment or contravention of general protections under the *Fair Work Act 2009* and applications using the Court's small claims procedures must be accompanied by one of the Fair Work Division claim forms.
5. Where an accompanying claim form is not required, the grounds of this application must be set out in the application and must explain briefly the basis on which the orders are sought. The evidence supporting such applications must be provided by affidavit/s filed with this application: see subrule 4.04(1). The affidavit must include a full narrative of all facts, matters and circumstances, including documentary evidence, upon which you rely. Alternatively in such cases, you may file a pleading by way of a statement of claim or points of claim. Such a pleading should comply with Part 16 of the *Federal Court Rules*. It should identify in summary form the material facts on which you rely, but not the evidence by which those facts are to be proved. All necessary particulars must be given, including any claim of fraud, misrepresentation, breach of trust, wilful default, undue influence and damages.

6. Unless the Court orders otherwise, an application and other documents filed with it may not be served less than seven days before the day fixed for the hearing of the application: see rule 6.19. Service must be by hand, unless the Rules allow otherwise or the Court otherwise orders. The application and other documents must be served on each party and the person against whom orders are sought if that person is not a party.
7. If your application is for interlocutory, interim or procedural orders in a proceeding which has already commenced, you should use the Application in a Proceeding form.
8. If you are completing this application by hand and you need more space in any section, attach extra page/s as required.
9. Once complete, you need to electronically file or file the original and a copy of this application for each party to the matter with the court registry. The Court will keep the original and return the sealed copies to you.
10. You will need to serve a copy on the other party or parties and keep a copy for your records. The Court rules set out how the application may be served on various types of respondents.
11. You must file an affidavit which verifies service of the application and other filed documents on the respondent/s. The Affidavit of Service can be found on the [Court website](#).

**Remove these instruction sheets before filing**

REGISTRY: ..... **Write the location of the registry**

**SMALL CLAIMS LIST** *(delete if not applicable)*

**Write your name here**  
Applicant

**Write your employer's name here**  
Respondent

*\* Repeat as necessary for additional parties*

## Application– Fair Work Division

This application is commenced in the Court's jurisdiction under:

- the Fair Work Act 2009 **Check this box**  
 the Building and Construction Industry (Improving Productivity) Act 2016

### Small claims list

The applicant elects for these proceedings to be dealt with under the Court's small claims procedures.

Yes  **Check this box** No

### First court date **Leave this section blank**

This application is listed for hearing at (court location): **Leave blank**

Court date and time (registry staff to insert): **Leave blank** at **Leave blank** am/pm.

All parties or their legal representatives should attend this hearing. Default orders may be made if any party fails to attend. The Court may hear and determine all interlocutory or final issues, or may give directions for the future conduct of the proceeding.

**Leave blank.**

(for) Registrar

Date: ...../...../.....

Filed on behalf of **Write your name here**

Prepared by **Write your name here** Lawyer's code **Leave blank**

Name of law firm **Leave blank**

Address for service in Australia **Write your postal address here**

State **Write your state** Postcode **Write your postcode**

Email **Write your email address here** DX

Tel **Write your telephone number here** Fax Attention

**Final orders sought by applicant** (select one box only)

The orders sought by the applicant are set out in the claim filed with this application **Check this box**

A claim has not been filed with this application and the orders sought by the applicant are:

(This option is only available if rule 30.07 or 30.15 applies to the proceeding. If so, state precisely each order sought by way of final relief)

1.

2.

3.

**Grounds of application** (select one box only)

The grounds of the application are set out in the claim filed with this application **Check this box**

A claim has not been filed with this application and the grounds of the application are:

(This option is only available if rule 30.07 or 30.15 applies to the proceeding. If so state briefly the grounds of the application)

1.

2.

3.

**Interlocutory, interim or procedural orders sought by applicant**

(complete only if interlocutory, interim or procedural orders are sought) **Check this box**

1.

2.

3.

**Signature of applicant, lawyer or authorised representative**

**Sign here**

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Signed by (print name) **Write your name here**

the applicant **Check this box**

lawyer for the applicant

authorised representative of the applicant

Date: **Write the date here**

## IMPORTANT NOTICE TO RESPONDENT/S

To the respondent (name): **Write your employer's name here. If your employer is a company, write the company name.**

of (address): **Write your employer's address here. If your employer is a company, put the address of its registered office.**

\* If there are two or more respondents, provide details

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You should seek legal advice about this application. You may file a response. If you file a response, you must file and serve the response within 28 days of receiving this application. You may also need to file an affidavit: see rule 4.04 of the *Federal Circuit and Family Court of Australia (Division 2)(General Federal Law) Rules 2021*. If you do not file a response, you must file and serve a notice of address for service before the hearing.

Form approved by the Chief Judge for general federal law proceedings pursuant to subrule 2.04(1) for the purpose of subrules 4.01(1), 30.04(a), 30.05(a), 30.06(a), 30.07, 30.08(a), 30.11(a)

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