



Privacy notice

Form F40A – Application for orders in relation to transfer of business

For privacy inquiries contact:

The Privacy Officer
Fair Work Commission
Email: privacy@fwc.gov.au
Post: GPO Box 1994
Melbourne VIC 3001

Collection of your personal information

When you lodge a Form F40A – Application for orders in relation to transfer of business, the Fair Work Commission (Commission) collects the information in the Form and in any other documents you lodge with the Form. The information collected by the Commission will include personal information about you and any personal information you provide about other individuals.

The Commission also collects personal information about you and other individuals when you or another party to the matter provides the Commission with further information in relation to the application. This includes information in any document lodged with the Commission or in correspondence sent to the Commission, information provided orally to the Commission in discussing the application, and information provided orally or in a document in the course of proceedings before the Commission. Hearings before the Commission are generally audio and video-recorded and these recordings may subsequently be transcribed into written transcript.

The Commission collects the above information for the primary purpose of dealing with the application under Part 6-3A of the *Fair Work Act 2009* (FW Act). The information collected by the Commission will be included in the relevant case file.

Collection of the above information is authorised by section 590 of the FW Act, which states that the Commission may inform itself in relation to any matter before it in such manner as it considers appropriate.

The consequences for you if the Commission did not collect your personal information for the above purpose may include that:

- the Commission would not be able to deal with the application under the FW Act because it would lack the necessary information; and
- the Commission would not be able to contact you in relation to the application.

When you attend the Commission in person, the Commission may also collect personal information about you in CCTV recordings made for security purposes.

Giving notice to individuals from whom you obtain personal information

If you obtain personal information from or about another individual and provide it to the Commission, the Commission will generally not be able to notify the individual that it has collected the personal information.

To ensure that the individual is aware of the Commission's practices in collecting and disclosing personal information, you should provide the individual with a copy of this notice.

Disclosure and publication of your personal information

The Commission will usually disclose the personal information about you and others that it collects in relation to the application to any party to the matter and their nominated representatives (if any). If you provide the Commission with further material in relation to the application, you must send copies to the other parties to the matter (or to their representatives). If you do not do so, we may forward copies to the other parties. If a party or representative is based outside Australia, this may involve disclosure to an overseas recipient.

If you provide the Commission with personal information about someone other than yourself, the Commission may disclose your name to that individual in order to meet its privacy notification obligations.

The Commission publishes daily lists of conferences and hearings on its public website. If the application is listed for conference or hearing, your name may be published in such a list as a party to the proceeding.

Commission hearings are generally open to the public. If the application proceeds to hearing, the Commission or a party may disclose personal information about you and other individuals in the course of the hearing. If a transcript is produced of a hearing, it may be published on the Commission's public website.

A party to a hearing or his or her nominated representative may request access to an audio stream of the audio recording of the hearing via the Commission's External Audio Portal. If the request is granted, the Commission's audio recording may disclose personal information about you and other individuals provided in the course of the hearing.

The Commission publishes its decisions and orders on its public website. If the application is the subject of a decision or an order, your personal information may appear in the decision or order. Commission decisions are also routinely republished on the Austlii website and some decisions may also be reported on or republished on other websites or in workplace relations publications. Personal information in a decision or order may also be published in Commission resources including the Commission's benchbooks and practice notes.

The Commission may also disclose personal information about you and other individuals to members of the public or specified persons or bodies pursuant to:

- the file access policy published on the Commission's [Privacy](#) webpage, which provides that members of the public may be able to inspect documents on certain types of matter (case) files;
- section 655 of the FW Act, which provides that the President may disclose, or authorise the disclosure of, information acquired by the Commission in the performance of its functions if the President reasonably believes that it is necessary or appropriate to do so in the course of performing Commission functions or that it is likely to assist in the administration or enforcement of a Commonwealth or State or Territory law;
- section 112 of the *Building and Construction Industry (Improving Productivity Act) 2016*, which requires the General Manager to notify the Australian Building and Construction Commissioner of every application lodged with the Commission or the General Manager which relates to a matter that involves a building industry participant or building work, and the outcome of each such application;
- an order that requires the Commission to produce documents to a court or tribunal;
- an Australian law under which it may be required or authorised to disclose documents, such as the *Freedom of Information Act 1982*;
- a contract under which the Commission engages a contracted service provider to assist the Commission in performing its operations, such as language interpreters, court recording and transcription service providers, information technology providers and legal advisers; and
- other purposes or circumstances permitted by the *Privacy Act 1988*.

Your personal information may also be accessed by Commission staff or Members on a confidential basis for professional development purposes, conducting research projects related to the Commission's functions, or in order to identify improvements to Commission processes and procedures.

Confidentiality (non-publication) orders

Sections 593(3) and 594(1) of the FW Act allow the Commission in some circumstances to make orders for a hearing to be held in private or orders prohibiting or restricting the publication of: the names and addresses of persons appearing at a hearing or making a submission in relation to a matter; certain information given in evidence in relation to a matter or contained in documents lodged with the Commission, or the whole or any part of the Commission's decision or reasons in relation to a matter.

If you consider that any information in this Form or in relation to the application should be kept confidential, you should make an application under sections 593(3) and/or 594(1) of the FW Act at the time of lodging this Form.

Accessing your personal information

The Commission's [Privacy policy](#) contains information about how you and other individuals can access personal information that is held by the Commission and seek correction of such information.

Complaints

The Commission's [Privacy policy](#) contains information about how you and other individuals can complain about a breach of the Australian Privacy Principles, and how the Commission will deal with the complaint.