

## Form F46 Application to vary a modern award

Fair Work Act 2009, ss.157–160

This is an application to the Fair Work Commission to make a modern award or make a determination varying or revoking a modern award, in accordance with Part 2-3 of the [Fair Work Act 2009](#).

### The Applicant



These are the details of the person who is making the application.

Title	<input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Andrew		
Surname	Molnar		
Postal address	Level 4, 132 – 136 Albert Road		
Suburb	South Melbourne		
State or territory	Victoria	Postcode	3205
Phone number	(03) 9928 5737	Fax number	(03) 9699 8199
Email address	<a href="mailto:andrew@afap.org.au">andrew@afap.org.au</a>		

If the Applicant is a company or organisation please also provide the following details

Legal name of business	Australian Federation of Air Pilots		
Trading name of business			
ABN/ACN			
Contact person	Andrew Molnar		

Does the Applicant need an interpreter?



If the Applicant requires an interpreter (other than a friend or family member) in order to participate in conciliation, a conference or hearing, the Fair Work Commission will provide an interpreter at no cost.

Yes—Specify language

No

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

Yes— Please specify the assistance required

No

Does the Applicant have a representative?



A representative is a person or business who is representing the Applicant. This might be a lawyer, or a representative from a union or employer association. There is no requirement to have a representative.

Yes—Provide representative's details below

No

### Applicant's representative



These are the details of the person or business who is representing the Applicant.

Name of person

Organisation

Postal address

Suburb

State or territory

Postcode

Phone number

Fax number

Email address

### 1. Coverage

1.1 What is the name of the modern award to which the application relates?



Include the Award ID/ Code No. of the modern award

Air Pilots Award 2010

1.2 What industry is the employer in?

Aviation

## 2. Application

2.1 What are you seeking?

Specify which of the following you would like the Commission to make:

- a determination varying a modern award  
 a modern award  
 a determination revoking a modern award

2.2 What are the details of your application?

Clause 16.2 of the Air Pilots Award to be varied as follows:

Where the employer requires a pilot to reach and maintain minimum qualifications for a particular aircraft type in accordance with this award (including qualifications imposed by a regulatory body necessary for a pilot to perform the duties required by the employer), all facilities and other costs associated with attaining and maintaining those qualifications will be the responsibility of the employer.

Attach additional pages, if necessary.

2.3 What are the grounds being relied on?

Using numbered paragraphs, specify the grounds on which you are seeking the proposed variations.



You must outline how the proposed variation etc is necessary in order to achieve the modern awards objective as well as any additional requirements set out in the FW Act.

1. There have been instances recently where an employer has put forward the view that, if the qualifications referred to in clause 16.2 are required by the Civil Aviation Safety Authority, then they are not required by the employer. Accordingly, it is argued that the employer is not responsible for those qualifications.
2. The AFAP disagrees with this position, and says that such a position is unsupported by the history and terms of clause 16.2.
3. Should an ambiguity or an uncertainty be found to exist, the AFAP seeks the amendment to clarify the intended operation of clause 16.2.
4. This application is made pursuant to s.160 of the *Fair Work Act 2009* (Cth) ("**FW Act**"). As the application is one to remove an ambiguity or uncertainty, it only seeks to clarify clause 16.2's intended meaning. The amendment sought will not derogate from the modern awards objective.

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	
Name	Andrew Molnar
Date	16 January 2019
Capacity/Position	Legal Counsel – Australian Federation of Air Pilots



Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS