

Form F48 – Application for directions on procedure

Fair Work Commission Rules 2013, Rule 7

This is an application to the Fair Work Commission for directions about procedure in relation to a matter in accordance with the [Fair Work Act 2009](#).

The Applicant



These are the details of the person who is making this application. The applicant for directions on procedure may be different from the applicant in the matter before the Commission.

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other please specify:		
First name(s)	Jacki		
Surname	Baulch		
Postal address	PO Box 1272		
Suburb	Melbourne		
State or territory	VIC	Postcode	3001
Phone number	0413 759 170	Fax number	
Email address	jbaulch@professionalsaustralia.org.au ;		

If the Applicant is a company or organisation

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

Legal name of Applicant	Association of Professional Engineers, Scientists and Managers, Australia (APESMA)		
Applicant's trading name or registered business name	Professionals Australia		
Applicant's ACN (if a company)			
Applicant's ABN (if applicable)			
Contact person	Jacki Baulch		
Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other please specify:		
First name(s)	Jacki		
Surname	Baulch		
Postal address	PO Box 1272		
Suburb	MELBOURNE		
State or territory	VIC	Postcode	3001

Phone number	0413 759 170	Fax number	
Email address	jbaulch@professionalsaustralia.org.au ; and and Trevor Clarke, Director Industrial and Legal (ACTU) tclarke@actu.org.au		

Second Applicant

Title	[] Mr [] Mrs [] Ms [X] Other please specify:		
First name(s)	Julia		
Surname	Fox		
Postal address	Level 6, 53 Queen Street		
Suburb	MELBOURNE		
State or territory	VIC	Postcode	3000
Phone number	0410 524 093	Fax number	
Email address	julia@sda.org.au		

If the Applicant is a company or organisation

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

Legal name of Applicant	Shop Distributive and Allied Employees' Association (SDA)
Applicant's trading name or registered business name	
Applicant's ACN (if a company)	
Applicant's ABN (if applicable)	
Contact person	Katie Biddlestone
Title	[] Mr [] Mrs [] Ms [X] Other please specify:
First name(s)	Katie
Surname	Biddlestone
Postal address	Level 6, 53 Queens Street
Suburb	MELBOURNE

State or territory	VIC	Postcode	3000
Phone number	0408 220 565	Fax number	
Email address	katie@sda.org.au and Trevor Clarke, Director Industrial and Legal (ACTU) tclarke@actu.org.au		

Third Applicant



These are the details of the person who is making this application. The applicant for directions on procedure may be different from the applicant in the matter before the Commission.

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other please specify:		
First name(s)	Leigh		
Surname	Svendsen		
Postal address	Suite 46, Level 1, 255 Drummond Street		
Suburb	Carlton		
State or territory	VIC	Postcode	3053
Phone number	0418 538 989	Fax number	
Email address	leighs@hsu.net.au		

If the Applicant is a company or organisation

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

Legal name of Applicant	Health Services Union (HSU)
Applicant's trading name or registered business name	
Applicant's ACN (if a company)	
Applicant's ABN (if applicable)	
Contact person	Leigh Svendsen
Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other please specify:

First name(s)	Leigh		
Surname	Svendsen		
Postal address	Suite 46, Level 1, 255 Drummond Street		
Suburb	Carlton		
State or territory	VIC	Postcode	3053
Phone number	0418 538 989	Fax number	
Email address	leighs@hsu.net.au and Trevor Clarke, Director Industrial and Legal (ACTU) tclarke@actu.org.au		

Fourth Applicant



These are the details of the person who is making this application. The applicant for directions on procedure may be different from the applicant in the matter before the Commission.

Title	[X] Mr [] Mrs [] Ms [] Other please specify:		
First name(s)	Tim		
Surname	Kennedy – National Secretary United Workers Union		
Postal address	833 Bourke Street		
Suburb	Docklands		
State or territory	VIC	Postcode	3008
Phone number	0412 199 787	Fax number	03 9235 7770
Email address	Stephen.bull@unitedworkers.org.au		

If the Applicant is a company or organisation

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

Legal name of Applicant	United Workers Union (UWU)
Applicant's trading name or registered business name	
Applicant's ACN (if a company)	

Applicant's ABN (if applicable)	52 72 8088 684		
Contact person	Stephen Bull		
Title	[X] Mr [] Mrs [] Ms [] Other please specify:		
First name(s)	Stephen		
Surname	Bull		
Postal address	833 Bourke Street		
Suburb	Docklands		
State or territory	VIC	Postcode	3008
Phone number	0412 199 787	Fax number	03 9235 7770
Email address	Stephen.bull@unitedworkers.org.au and Trevor Clarke, Director Industrial and Legal (ACTU) tclarke@actu.org.au		

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

[X] No

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

[] Yes – Please specify the assistance required

[X] No

Does the Applicant have a representative?



A representative is a person or organisation who is representing the Applicant. 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

[X] No

The other party



These are the details of the other party in the matter.

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 other party is an organisation

If the other party is an organisation please also provide the following details

Legal name of organisation	
Trading name of organisation	Pharmacy Guild of Australia
ABN/ACN	
Contact person	Scott Harris

Legal name of organisation	
Trading name of organisation	Australian Industry Group
ABN/ACN	
Contact person	Brent Ferguson and Ruchi Bhatt

Legal name of organisation	
Trading name of organisation	Australian Federation of Employers and Industries
ABN/ACN	
Contact person	Paula Thomson

Legal name of organisation	
Trading name of organisation	Private Hospital Employers' Associations
ABN/ACN	

Contact person	Lucy Fisher and Lynda Hepworth
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1. Preliminary

1.1 Are you seeking directions for an existing matter?

Yes – Go to 1.2

No – Go to 1.3

1.2 What is the name and matter number for the matter?

1.3 What is the type of matter that you want to initiate?

Briefly, provide the details of the type of matter.

An application to vary the Pharmacy Industry Award 2010

2. Reasons for seeking directions

2.1 Why are you applying to the Commission for directions?

The procedure is not prescribed by the FW Act, the Fair Work Commission Rules, the regulations or any other Act or regulations. Provide details below.

You are in doubt about the proper procedure to follow. Provide details below.

Rule 49 requires this application to be made connection with an application to vary a modern award.

3. Proposed directions.


Set out your proposed directions you are seeking, if any (optional).

1. That the attached application to vary a modern award be published on the Fair Work Commission's website at a location deemed appropriate to the Commission
2. That the applicant serve the attached application by e-mail on the persons and organisations identified as an "other party" herein.
3. That, upon completion of the above steps, the attached application be deemed served.

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	Jacki Baulch on behalf of APESMA, SDA, HSU and UWU
Date	16 April 2020
Capacity/Position	Principal Industrial Officer APESMA



Where this form is not being completed and signed by the Respondent, 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

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 this application. The applicant for directions on procedure may be different from the applicant in the matter before the Commission.

Title	[] Mr [] Mrs [] Ms [X] Other please specify:		
First name(s)	Jacki		
Surname	Baulch		
Postal address	PO Box 1272		
Suburb	Melbourne		
State or territory	VIC	Postcode	3001
Phone number	0413 759 170	Fax number	
Email address	jbaulch@professionalsaustralia.org.au ;		

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

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Applicant's trading name or registered business name	Professionals Australia		
Applicant's ACN (if a company)			
Applicant's ABN (if applicable)			
Contact person	Jacki Baulch		
Title	[] Mr [] Mrs [] Ms [X] Other please specify:		
First name(s)	Jacki		
Surname	Baulch		
Postal address	PO Box 1272		
Suburb	MELBOURNE		
State or territory	VIC	Postcode	3001

Phone number	0413 759 170	Fax number	
Email address	jbaulch@professionalsaustralia.org.au ; and and Trevor Clarke, Director Industrial and Legal (ACTU) tclarke@actu.org.au		

Second Applicant

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other please specify:		
First name(s)	Julia		
Surname	Fox		
Postal address	Level 6, 53 Queen Street		
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Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other please specify:
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Surname	Svendsen		
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Suburb	Carlton		
State or territory	VIC	Postcode	3053
Phone number	0418 538 989	Fax number	
Email address	leighs@hsu.net.au		

If the Applicant is a company or organisation

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

Legal name of Applicant	Health Services Union (HSU)
Applicant's trading name or registered business name	
Applicant's ACN (if a company)	
Applicant's ABN (if applicable)	
Contact person	Leigh Svendsen
Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input checked="" type="checkbox"/> Other please specify:

First name(s)	Leigh		
Surname	Svendsen		
Postal address	Suite 46, Level 1, 255 Drummond Street		
Suburb	Carlton		
State or territory	VIC	Postcode	3053
Phone number	0418 538 989	Fax number	
Email address	leighs@hsu.net.au and Trevor Clarke, Director Industrial and Legal (ACTU) tclarke@actu.org.au		

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Email address	Stephen.bull@unitedworkers.org.au and Trevor Clarke, Director Industrial and Legal (ACTU) tclarke@actu.org.au		

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Yes – Specify language

No

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

Yes – Please specify the assistance required

No

Does the Applicant have a representative?



A representative is a person or organisation who is representing the applicant. 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

Applicant's representative



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

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

Is the Applicant's representative a lawyer or paid agent?

Yes

No

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

Pharmacy Industry Award 2010 [ma000012]

1.2 What industry is the employer in?

The health industry, particularly the community pharmacy industry as defined in clauses 3.1 and 4.1 of the award.

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?

A draft determination is attached to this application. Please refer to the draft determination submitted on 19 June 2020.

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) The variation proposed by the Applicant relates to the COVID-19 Pandemic.
- (2) The COVID-19 Pandemic has provoked a range of public health policy responses intended to minimise the spread of the Pandemic by reducing human interaction.
- (3) Those policy responses have culminated in advice from the Commonwealth Government to “..stay at home unless for:
 - (a) Shopping for what you need;
 - (b) Medical or health care needs, including compassionate requirements;
 - (c) Exercise in compliance with the public gathering requirements; and
 - (d) Work and study if you can’t work or learn remotely”¹(hereafter, ‘exempt activities’)
- (4) Persons who have come into contact with a confirmed case of COVID-19, persons who have COVID-19 and persons who have arrived in Australian after midnight on 15 March 2020 must self-isolate for a period of 14 days.²
- (5) States and Territories have acted to make mandatory and enforce the advice from the Commonwealth Government referred to in paragraph (3) and (4) above.
- (6) The National Cabinet formed in response to the COVID-19 Pandemic has accepted advice from the Australian Health Protection Principal Committee that the following persons are, or are likely to be, at higher risk of serious illness if they are infected with the virus:

¹ <https://www.pm.gov.au/media/national-cabinet-statement>

² <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/how-to-protect-yourself-and-others-from-coronavirus-covid-19/self-isolation-self-quarantine-for-coronavirus-covid-19>

- (a) Aboriginal and Torres Strait Islander people 50 years and older with one or more chronic medical conditions;
 - (b) People 65 years and older with chronic medical conditions;
 - (c) People 70 years and older;
 - (d) People with compromised immune systems³
- (hereafter, 'vulnerable persons')

(7) The Commonwealth Department of Health has advised that:

"The risk of serious illness from coronavirus increases if you are older or if you have a chronic medical condition. The highest rate of fatalities is among older people, particularly those with other serious health conditions or a weakened immune system. There is currently no cure or vaccine for coronavirus, or immunity in the community, so you need to make sure you protect yourself".⁴

The persons referred to in this paragraph are also, hereafter, included in the reference to 'vulnerable persons'.

(8) The nature of the employment of employees covered by the modern award is such that they:

- (a) are engaged in exempt activities;
- (b) required to come into contact with other persons engaged in exempt activities;
- (c) are required to and/or likely to come into contact with vulnerable persons;
- (d) are required to come into contact with persons who are required to self-isolate; and/or
- (e) are required and/or likely to come into contact with persons who have COVID-19.

(9) Because of the matters referred to at paragraph (8) above, the nature of the employment of employees covered by the modern award is such that they:

- (a) are more likely than some other employees to be exposed to COVID-19;
- (b) are more likely than some other employees to contract COVID-19;
- (c) are more likely than some other employees to spread COVID-19, including to vulnerable persons;
- (d) are more likely than some other employees to be required to self-isolate; and/or
- (e) are more likely than some other employees to be required to self-isolate on more than one occasion.

(10) The absence of entitlements of the nature proposed by the Applicant is accompanied by a risk of employees continuing employment, or seeking secondary employment, in order to maintain or supplement their incomes when they are required to self-isolate.

(11) The employees to whom the modern award applies are low paid relative to those who are not award dependent.

(12) Employees to whom the modern award applies are low paid as measured against the benchmark of two thirds of median weekly full time earnings

(13) The variation proposed will assist to maintain the living standards of employees covered by the modern award in the event they are required to self-isolate.

(14) The variation proposed will assist to maintain the living standards of employees covered by the modern award in the event they contract COVID-19, irrespective of the extent of their entitlement to personal leave.

(15) The variation proposed will assist employees to remain in employment when required to self-isolate and support their personal well-being.

³ <https://www.pm.gov.au/media/statement-update-coronavirus-measures>

⁴ <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/how-to-protect-yourself-and-others-from-coronavirus-covid-19/self-isolation-self-quarantine-for-coronavirus-covid-19>

- (16)The variation proposed may avoid short term costs to employers which could arise if employees cease employment and are required to be replaced.
- (17)The variation proposed may avoid longer term costs to employers which could arise through increased Workers' Compensation premiums.
- (18)The variation proposed will assist the public health objective of limiting the spread of COVID-19 and mitigate the risk to the national economy associated with the spread COVID-19.
- (19)The variation proposed for employees who contract COVID-19 is simpler to understand and is less complex for business to administer than managing the interaction between NES personal leave entitlements and section 130 of the FW Act.
- (20) The variation proposed will neither encourage or discourage collective bargaining, but will address a need for employers and employees who do not collectively bargain.
- (21)The variation proposed by the Applicant is intended to operate for a limited period of time, adopting an end date which is coextensive with the existing "Schedule X" introduced into the modern award by the decision of the Commission in [2020] FWCFB 1837.
- (22)The terms sought to be varied in the modern award are about matters which are permitted to be included in a modern award pursuant to paragraph (h) of subsection 139(1) and section 142 of the FW Act.
- (23)For the foregoing reasons, the variation of the modern award in the terms sought by the Applicant is, fair, relevant and necessary.
- (24)Such further or other grounds that the Commission considers appropriate.

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	<i>Jacki Baulch</i>
Name	Jacki Baulch on behalf of APESMA, SDA, HSU and UWU
Date	16 April 2020
Capacity/Position	Principal Industrial Officer APESMA



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

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