

APPLICATION IN RESPECT OF AN INDUSTRIAL INSTRUMENT

COMMISSION DETAILS

Industrial Relations Commission of New South Wales

Case number

TITLE OF PROCEEDINGS

Applicant **[name]**

Respondent [name]

APPLICATION

The Applicant seeks:

- Making of an Award (section 10)
- Variation of an Award (s 17)
- Rescission of an Award (s 17)

- Approval of an Enterprise Agreement (s 34)
- Variation of an Enterprise Agreement (s 43)
- Termination of an Enterprise Agreement (s 44)

- Making of a Contract Determination (s 311)
- Variation of a Contract Determination (s 320)
- Rescission of a Contract Determination (s 320)

- Approval of a Contract Agreement (s 324)
- Variation of a Contract Agreement (s 329)
- Termination of a Contract Agreement (s 330)

FILING DETAILS

Filed for **Applicant**

#Representative [Name of representative] [industrial organisation or firm]

Contact telephone [telephone]

Contact email [email address]

[First] Respondent contact name, telephone and email [name] [telephone] [email]

#Insert contact name, [name] [telephone] [email]
 telephone and email for second
 and subsequent respondents

LISTING DETAILS

The parties will be advised of the date time and place when the Commission will hear this Application. Any enquiries should be made to the Industrial Relations Commission List Clerk, telephone 02 8688 3516.

If the respondent does not enter an appearance when this matter is listed before the Commission, or if there is no attendance by a party or their counsel, solicitor or agent at the time and place specified in this notice or as notified to the parties subsequently, the proceedings may be heard in their absence and an order may be made against the party who fails to appear.

INDUSTRIAL INSTRUMENT SOUGHT TO BE MADE, VARIED OR RESCINDED

Name of instrument	[name of industrial instrument]
#Application for the making or approval of an industrial instrument	Attach a copy of the proposed industrial instrument
#Application for the variation of an industrial instrument	Attach a document setting out the variations sought or detail the variations sought:
	1 []
	2 []

GROUND AND REASONS FOR APPLICATION

1 []

2 []

Note:

If the application is for:

- (a) the making of an award by consent – include an affidavit addressing the matters referred to in Practice Note 6
- (b) the approval of an enterprise agreement – include the particulars requested in Schedule 1 and attach an affidavit addressing the matters required by rule 6.9 of the Industrial Relations Commission Rules 2022 (see Note after Schedule 2).
- (c) the approval of a contract agreement – include the particulars requested in Schedule 2 and attach an affidavit addressing the matters required by rule 6.9 of the Industrial Relations Commission Rules 2022 (see Note after Schedule 2).

SIGNATURE

#Signature of or on behalf of
Applicant

Capacity [eg solicitor, authorised officer]

Date of signature [date]

COMPLIANCE WITH PRACTICE NOTES

Parties must comply with the Practice Notes of the Commission. The Practice Notes may be found at the following website: <https://www.irc.nsw.gov.au/irc/practice-and-procedures/practice-notes.html>.

REGISTRY ADDRESS

Street address	Industrial Relations Commission Level 10, 10 Smith Street Parramatta NSW 2150
Postal address	PO Box 927 Parramatta NSW 2124
Telephone	02 8688 3516

SCHEDULE 1

Statement of Particulars – Applications for Approval of an Enterprise Agreement

PARTICULARS

- | | |
|--|---|
| 1. The nominal term of the agreement is: | [term of agreement] |
| 2. Does the agreement vary an earlier enterprise agreement?
If so: | (a) [agreement number]
(b) Expires on [date] |
| (a) What is that agreement number? | |
| (b) When did/does that agreement expire? | |
| 3. What awards, enterprise agreements, former industrial agreements or other instruments apply to the work covered by the proposed agreement? | [set out name(s) of instrument(s) in full] |
| 4. Does the agreement cover (tick one of the following options): | <input type="checkbox"/> employees of a single employer?
<input type="checkbox"/> public sector employees? |
| 5. Does the agreement cover all employees of the employer? | [Yes/No] |
| 6. If the agreement is with individual employees: | (a) [date notice was given to Industrial Registrar]
[Registration Number, if known] |
| (a) When was notice given to the Industrial Registrar that an agreement was proposed or under negotiation? | (b) [Details of secret ballot and results] |
| (b) Give details of the secret ballot to approve the agreement, including the date of the ballot, the method of voting, the name and address of the returning officer and results of the ballot. | |

SCHEDULE 2

Statement of Particulars – Applications for Approval of a Contract Agreement

PARTICULARS

- | | |
|--|---|
| 1. Nominal term of the agreement | [enter term of agreement] |
| 2. Does the agreement vary an earlier contract agreement? If so: | (a) [agreement number]
(b) Expires on [date] |
| (a) What is that agreement number? | |
| (b) When does that agreement expire? | |
| 3. What contract determinations or contract agreements apply to the work covered by the proposed agreement? | [name(s) – please set out in full] |
| 4. Does the agreement cover (tick the relevant option): | <input type="checkbox"/> carriers of a single principal contractor?
<input type="checkbox"/> carriers of two or more associated principal contractors? If so, please give details of the association.
[enter details if applicable] |
| 5. Does the agreement cover all carriers engaged by the principal contractor? | [Yes/No] |
| 6. If the agreement is one to which groups of carriers are parties: | (a) [date that notice was given]
[Registration Number, if known] |
| (a) When was notice given to the Industrial Registrar that an agreement was proposed under negotiation? | (b) [details of secret ballot] |
| (b) Give details of the secret ballot to approve the agreement, including the date of the ballot, the method of voting, the name and address of the returning officer and the results of the ballot. | |

NOTE:

Rule 6.9 of the Industrial Relations Commission Rules 2022 provides:

6.9 Comparison and compliance statement

- (1) An application for approval of an enterprise agreement or contract agreement must be accompanied by an affidavit.
- (2) The affidavit must –
 - (a) identify –
 - (i) the awards or contract determinations, if any, over which the agreement will prevail, and
 - (ii) other enterprise agreements or contract agreements that will be rescinded or replaced if the agreement is approved, and
 - (b) compare the conditions of employment or engagement under the agreement with the comparative conditions of employment.
- (3) The affidavit must also set out, briefly but specifically, the basis on which the following is contended –
 - (a) the conditions of employment or engagement under the agreement, if compared with the comparative conditions of employment, do not, considered as a whole, result in a net detriment to the employees covered by the agreement,
 - (b) the agreement complies with relevant statutory requirements, including in the *Anti-Discrimination Act 1977*,
 - (c) the parties understand the effect of the agreement,
 - (d) the parties did not enter into the agreement under duress,
 - (e) the agreement complies with the principles set by the Commission under the Act, section 33 or any departure from the principles does not prejudice the interests of the parties to the agreement.
- (4) If the agreement does not cover all of the employees of the employers to whom the agreement relates, the affidavit must also state the basis on which it is contended the Commission is not prevented from approving the agreement under the Act, section 35(2) or 325(2).
- (5) In this rule –

comparative conditions of employment means the conditions of employment or engagement that would otherwise apply under –

- (a) the relevant award or contract determination, or

- (b) if there is no relevant award or contract determination—the relevant employment conditions.

employee, in relation to a contract agreement, means a carrier or driver.

employer, in relation to a contract agreement, means a contractor.