



About the F17 declaration

Employer's declaration in support of an application for approval of an enterprise agreement (other than a greenfields agreement)

When to use this form

Enterprise agreements are agreements made at the enterprise level that contain terms and conditions of employment.

The Fair Work Commission (the Commission) assesses and approves enterprise agreements (agreements). It can also assist in the process of making agreements and can deal with disputes arising under the terms of an agreement. Before the Commission can approve an agreement, it must be satisfied that the agreement meets the requirements for approval set out in the [Fair Work Act 2009](#), including that the employees will be 'better off overall' under the agreement than they would be if the relevant award applied.

Use this form to provide information to assist the Commission in determining whether to approve an enterprise agreement. This form can be used if a Form [F16 – Application for approval of an enterprise agreement \(other than a greenfields agreement\)](#) has been or is being lodged with the Commission.

For information about the process that employers and employees must follow to make an enterprise agreement see the [Making an agreement](#) page on the Commission's website.

Who can use this form

Use this form if you are an employer that is covered by the agreement (or an officer or authorised employee completing this form for an employer).

What is covered in this form

Part 1 – Details of the employer, employees and the agreement

Part 2 – The better off overall test and National Employment Standards

Part 2.1 – The better off overall test

Part 2.2 – The National Employment Standards

Part 3 – Pre-Approval Steps

Part 3.1 – Notification time

Part 3.2 – Giving notice of employee representational rights ('notice')

Part 3.3 – Access period and explaining the terms of the agreement

Part 3.4 – Explaining the terms of the agreement

Part 3.5 – Voting on the agreement

What you may need when completing this form

When completing this form, you will be required to provide information about the agreement and the steps taken before it was approved. To assist you in answering these questions, it would be useful to have available:

- a copy of any material provided to employees about the agreement, such as explanatory material and a copy of the notice of employee representational rights (NERR)
- records of the dates and steps that were taken during the bargaining process, such as details provided to employees about when and how the vote was to occur
- a copy of the agreement
- a copy of the relevant modern award/s for comparison with the agreement

How to lodge and serve your completed form

1. **Within 14 calendar days** after the agreement is made, you must lodge with the Commission:

- This declaration **and**
- A copy of the notice of employee representational rights (NERR) (see question 18) **and**
- Copies of any materials provided to employees to notify them of the time and place at which the vote was to occur and the voting method to be used (see question 20) **and**
- Copies of any materials used to explain to employees the terms of the agreement and the effect of those terms (see question 22) **and**
- Copies of any materials used to ensure the explanation was provided in an appropriate manner taking into account the particular circumstances and needs of the relevant employees (see question 24) **and**
- A correctly signed copy of the agreement, including:
 - Employer signature, with full name, address and an explanation of their authority to sign the agreement
 - Employee or employee representative signature with full name, address and an explanation of their authority to sign the agreement

If you are lodging this form at the same time as the Form F16, you can use the Commission's Online Lodgment Service. Alternatively, you can lodge the form by post, fax, email or in person at the Commission office in your state or territory, either at the same time as the Form F16 or separately.

Each employer that will be covered by the agreement must notify employees who will be covered by the agreement that an application has been made to the Commission for approval of the agreement. Notification should be made through the usual means that are adopted by the employer for communicating with employees.

2. **As soon as practicable after this declaration is lodged with the Commission, you must serve a copy** of this declaration on:

- each other employer that is covered by the agreement **and**
- each employee organisation that was a bargaining representative **and**
- any employee bargaining representative of whom you are aware.

What happens next

After you have lodged your completed form, the Commission will undertake an assessment of the agreement on the information and material provided. For more information, please refer to the [approval process](#) in the Commission's Enterprise Agreements Benchbook.

Where to get help

Commission staff & resources

Commission staff cannot provide legal advice. However, staff can give you information on:

- Commission processes
- how to make an application to the Commission
- how to fill out forms
- where to find useful documents such as legislation and decisions
- other organisations that may be able to assist you.

The Commission's website www.fwc.gov.au also contains a range of information that may assist.

Throughout this form



This icon appears throughout the form to indicate an important action.



This icon appears throughout the form where information has been included to help you complete the form.

You will find further useful information in the Information Sheet at the end of this form.

Form F17 – Employer’s declaration in support of an application for approval of an enterprise agreement (other than a greenfields agreement)

[Fair Work Act 2009](#), s.185; Fair Work Commission Rules 2013, rule 24 and Schedule 1

This is a declaration in support of an application to the Fair Work Commission for approval of an enterprise agreement under Part 2-4 of the [Fair Work Act 2009](#).

I,	Lisa Fitzpatrick <i>[insert name of person making the declaration]</i>
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Box 12600 A’Beckett Street PO <i>[insert postal address of person making the declaration]</i>
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Melbourne <i>[insert suburb]</i>	Vic <i>[insert state or territory]</i>	8006 <i>[insert postcode]</i>
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Branch Secretary <i>[insert occupation of person making the declaration]</i>

declare that:

Part 1 – Details of the employer, employees and the agreement

In this section, you will need to provide preliminary details about the agreement, and the employer and employees covered by the agreement.

1 What is the name of the employer?

Legal name of employer	Australian Nursing and Midwifery Federation
Employer’s ACN (if a company)	
Employer’s trading name or registered business name (if applicable)	Australian Nursing and Midwifery Federation (Victorian Branch)
Employer’s ABN	80571091192

2 What is the name of the agreement?



Write the name exactly as it appears in the title clause of the agreement.

ANMF (Victorian Branch) (Staff and Council) Enterprise Agreement 2020-2024

3 What is the primary activity of the employer?



For example educational facility, plumbing contractor, steel fabricator, etc.

ANMF is a Union representing Industrial and Professional interests of members.

4 Does the agreement cover all the employees of the employer?



See s.186(3) and s.186(3A) of the [Fair Work Act 2009](#). The Commission must be satisfied that the group of employees covered by the agreement was fairly chosen.

Yes

No

If you answered **No** – What group of employees is covered by the agreement and what group of employees is not covered? Explain why you think the Commission should be satisfied that the group covered was fairly chosen. If relevant, describe how the group of employees covered is geographically, operationally or organisationally distinct.

Employees of the Federation other than officers employed to work in its Victorian Branch.

Employees of the ANMF employed in other State/Territory Branches and officers are not covered.

5 Tick the relevant boxes for the states or territories this agreement will be operating in.

The information provided in response to questions 5 and 6 is necessary for the Commission to assess whether the employer took all reasonable steps to ensure that the terms of the agreement, and the effect of those terms, were explained to the relevant employees and the explanation was provided in an appropriate manner taking into account the particular circumstances and needs of the relevant employees.

In addition, this information is collected to comply with the statutory reporting obligations in section 653 of the [Fair Work Act 2009](#) and to be provided to the Attorney-General’s Department for inclusion in the Department’s Workplace Agreements Database.

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia
- An external territory

6 Of the employees covered by this agreement, how many employees are in the following demographic groups?

Demographic group	Number of employees
Female	142
Non-English speaking background	N/A
Aboriginal or Torres Strait Islander	N/A
Disabled	N/A
Part-time	22
Casual	9
Under 21 years of age	0
Over 45 years of age	91

7 List the full name(s) of all collective agreement(s) that currently apply to any employees covered by this agreement.

Provide any identifying information about the current collective agreement(s) that you can, such as the ID number, date approved or matter number.

ANMF (Victorian Branch) (Staff and Council) Enterprise Agreement 2016-2020 (AG2017/1395) –
Approved on 11 May 2017.

Part 2 – The better off overall test and National Employment Standards

This section requires you to answer questions about how the enterprise agreement compares to the modern award/s that cover the employer and employees covered by the agreement, and how the agreement interacts with the National Employment Standards in the Fair Work Act 2009.

This is important for the Commission to be able to determine whether or not your agreement satisfies the legislative requirements for approval.

Please attach any supporting material you wish to include in your application.

Part 2.1 – The better off overall test

See s.186(2)(d) and s.193 of the [Fair Work Act 2009](#).



The *better off overall test* requires the Commission to be satisfied, as at the time the application for approval of the agreement by the Commission was made, that each award covered employee, and each prospective award covered employee, would be better off overall under the agreement than under the relevant modern award.

8 List the modern award(s), if any, that cover the employer and any of the employees covered by the agreement.

You should include the MA number for each award. You can find the MA number on the [modern awards list](#) page on the Commission’s website.

Clerks Private Sector Award [MA000002]
Educational Services (Post-Secondary Education) Award [MA000075]

9 Match the employee classifications in the agreement to the classifications in the modern award(s) listed in your answer to question 8.

For each modern award, use the following table to identify how the classifications in the agreement correspond to the classifications in the modern award. Please compare the classification descriptions in the agreement to the classification descriptions in the relevant modern award(s).

Name of modern award:	Clerks Private Sector Award [MA000002]
Classification in agreement	Corresponding classification in modern award
DEPUTY FINANCE MANAGER	Level 4
FINANCE ASSISTANT	Level 3
RECEPTIONIST	Level 2
FACILITIES COORDINATOR	Level 3
SUPPORT SERVICES PROPERTY AND MAINTENANCE OFFICER	Level 2
SUPPORT SERVICES MAIL OFFICER	Level 2
EXECUTIVE ASSISTANT TO SECRETARY	Level 3
PERSONAL ASSISTANT TO ASSISTANT SECRETARY	Level 3
INDUSTRIAL PROFESSIONAL ASSISTANT	Level 2
PUBLICATIONS OFFICER	Level 3
DIGITAL MEDIA OFFICER	Level 3
COMMUNICATIONS AND MEDIA ASSISTANT	Level 3
MINUTES SECRETARY	Call centre principle customer contact specialist
BUSINESS ANALYST/DEVELOPER	Level 4
MEMBERSHIP SERVICES OFFICER Level 2	Call centre principle customer contact specialist
MEMBERSHIP SERVICES OFFICER	Level 2
INFORMATION TECHNOLOGY SYSTEMS ADMINISTRATOR	Level 4
INFORMATION TECHNOLOGY SUPPORT OFFICER/ASSISTANT	Level 2
RECORDS OFFICER	Level 2

RECORDS ADMINISTRATIVE ASSISTANT	Level 1
EVENTS OFFICER	Level 3
MEMBER LIAISON OFFICER	Level 2
HOSPITALITY/ADMINISTRATIVE ASSISTANT	Level 2
HUMAN RESOURCES SPECIALIST	Level 5
HUMAN RESOURCES OFFICER	Level 4
HUMAN RESOURCES ADMINISTRATOR	Level 3
E-LEARNING OFFICER	Level 4

Name of modern award:	Educational Services (Post-Secondary Education) Award [MA000075]
Classification in agreement	Corresponding classification in modern award
EDUCATION MANAGER	General Staff Level 9
PROGRAM EDUCATOR (Curriculum Development)	Teachers other than TESOL teachers (C) L12
PROGRAM EDUCATOR (Non-Curriculum Dev)	Teachers other than TESOL teachers (C) L12
COMPLIANCE OFFICER	General Staff Level 4
LIBRARIAN	General Staff Level 6
LIBRARY TECHNICIAN	General Staff Level 4
EDUCATION ASSISTANT	General Staff Level 2

Attach additional tables if there is more than one modern award.

Improvements and reductions



Your answers to questions 10-14 (inclusive) should indicate whether all or only some of the employees are affected and, if only some employees are affected, identify the groups of employees affected. Include relevant clause numbers.

You may provide a consolidated response to questions 10–14 in a separate attachment.

10 Does the agreement contain any terms or conditions of employment that are more beneficial than equivalent terms and conditions in the modern award(s) listed in your answer to question 8?

Yes

No

If you answered **Yes** – List the terms and conditions of the agreement that are **more beneficial** than equivalent terms and conditions in the modern award(s).

All employees: salary and wages (20), additional annual leave (30), additional public holidays (18), additional superannuation (21), earlier access to Long Service Leave (52) qualifications allowance (24), transition to retirement provisions (19) paid family violence leave (44), paid time during office closure during Christmas period (29), coverage of course fees (49), study, exam and professional development leave (46-48), wellness program (71), Redundancy (76), no junior rates. Time off work to attend personal matters (14), Work from home provisions (16), purchased leave (32), full time staff : ADOs (11), Professional staff : flexi days (11), jury service (45), parental leave (36) personal leave pool (42), professional supervision (50), career break scheme (51), replacement of employees on extended leave (59), paid emergency management leave (37), compressed working hours arrangement (15), job share trial (17), Menstrual / Menopause/ IVF Treatment Leave / Gender transition Leave’ (41).

11 Does the agreement provide any entitlements that the modern award(s) listed in your answer to question 8 do not provide?

Yes

No

If you answered **Yes** – List the entitlements conferred by the agreement that are **not conferred** by the modern award(s).

All employees: additional annual leave (30), additional public holidays (18), additional superannuation (21), earlier access to Long Service Leave (52) qualifications allowance (24), transition to retirement provisions (19) paid family violence leave (44), paid time during office closure during Christmas period (29), coverage of course fees (49), study, exam and professional development leave (46-48), wellness program (71), Time off work to attend personal matters (14), Work from home provisions (16), purchased leave (32), full time staff : ADOs (11), Professional staff : flexi days (11), personal leave pool (42), professional supervision (50), career break scheme (51), replacement of employees on extended leave (59), paid emergency management leave (37), compressed working hours arrangement (15), job share trial (17), Menstrual / Menopause/ IVF Treatment Leave / Gender transition Leave’ (41).

12 Does the agreement contain any terms or conditions of employment that are less beneficial than equivalent terms and conditions in the modern award(s) listed in your answer to question 8?

- Yes
- No

If you answered **Yes** – List the terms and conditions of the agreement that are **less beneficial** than equivalent terms and conditions in the modern award(s).

Additional flexi time in lieu of overtime for 8 positions covered by a reference instrument.

13 Does the agreement omit any entitlements that the modern award(s) listed in your answer to question 8 provide?

- Yes
- No

If you answered **Yes** – List the entitlements conferred by the modern award(s) that are **omitted** by the agreement.

14 Does the agreement contain any terms or conditions of employment different to those under the modern award(s) listed in your answer to question 8, which you have not already identified in your answers to questions 10 to 13?

- Yes
 No

If you answered **Yes** – List these terms and conditions.



Only answer question 15 if you think the agreement does not pass the better off overall test.

15 If you think that the agreement does not pass the better off overall test, are there exceptional circumstances the Commission should consider when deciding whether approving the agreement would not be contrary to the public interest?



See s.189 of the [Fair Work Act 2009](#) sets out when the Commission may approve an enterprise agreement that does not pass the better off overall test.

- Yes
 No

If you answered **Yes** – Explain what the exceptional circumstances are:

Part 2.2 – The National Employment Standards

See Part 2-2 and s.186(2)(c) of the [Fair Work Act 2009](#).



The National Employment Standards are 10 minimum employment entitlements that have to be provided to all employees. Agreements cannot exclude or provide for conditions that are less than the National Employment Standards.

16 List all clauses of the agreement that deal with the matters contained in the National Employment Standards (NES) and whether they exclude or provide a less beneficial entitlement when compared with the NES

National Employment Standard	Agreement clause(s)	Does this term exclude or provide a less beneficial entitlement when compared to the NES?
Maximum weekly hours	4.3;10;15	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Requests for flexible working arrangements	39	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Parental leave and related entitlements	36;34	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Annual leave	30;31;32	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Personal/carer's leave	40;41;42	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Compassionate leave	43	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Family and domestic violence leave	44	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Community service leave	37	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Long service leave	52	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Public holidays	18	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Notice of termination	4.3;74.5	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Redundancy pay	76.11	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A
Fair Work Information Statement	4.3	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A

If you answered **Yes** in relation to any of the entitlements, you may include an explanation below.

Part 3 – Pre-approval steps

In this section, you will be required to provide details of the dates and steps taken about the notification time, notice of employee representational rights, access period, terms of the agreement and the vote on the agreement.

Part 3.1 – Notification time

17 What was the notification time for the agreement?

See section 173(2) of the Fair Work Act 2009. The notification time is the time when:



- the employer agrees to bargain, or initiates bargaining, for the agreement; or
- a majority support determination in relation to the agreement comes into operation; or
- a scope order in relation to the agreement comes into operation; or
- a low-paid authorisation in relation to the agreement that specifies the employer comes into operation.

Notification time (this is generally the date you started to bargain or agreed to start bargaining)	Date(s): 24 June 2020
If the Commission issued a scope order, a low paid authorisation or a majority support determination in relation to the agreement, please provide further details including the date of the order and the print number (PR)	

Part 3.2 – Giving notice of employee representational rights

18 What steps did the employer take to give the notice of employee representational rights to each employee who will be covered by the agreement and is employed at the notification time for the agreement?



See section 173 of the [Fair Work Act 2009](#) and the prescribed notice of employee representational rights in Schedule 2.1 of the [Fair Work Regulations 2009](#). The employer must take all reasonable steps to give the prescribed notice to each employee who will be covered by the agreement and is employed at the notification time for the agreement. The employer must give the prescribed notice as soon as practicable, and not later than 14 days, after the notification time.



You must lodge a copy of the notice given to employees with this form.

Describe each step taken and state the date on which it was taken. If multiple notices were provided, explain why.

Date(s)	Steps
24 June 2020	Email to all staff providing NERR (Attachment A)
24 June 2020	Email to personal email addresses of all staff on leave providing NERR
24 June 2020	Post on Branch Intranet.

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19 What was the last date that a notice of employee representational rights was given to an employee who will be covered by the agreement and is employed at the notification time for the agreement? How was it provided?

Date last notice given	How notice was provided
24 June 2020	Email to all staff including staff on leave.

Part 3.3 – Access period

20 What steps did the employer take to notify the relevant employees by the start of the access period of:

- a. the time and place at which the vote was to occur, and
- b. the voting method to be used?

See section 180(3) of the Fair Work Act 2009. The employer must take all reasonable steps to notify relevant employees by the specified time.



Describe how employees were given the information about the time and place at which the vote was to occur and the voting method to be used. For example, describe information given during meetings, by email or post, and on noticeboards. Include the date each of these steps were taken.

Also lodge copies of any materials that were provided to employees to notify them about the vote.

Do not simply state that the relevant employees were notified by the specified time.

Date(s)	Steps taken and information given to employees about time and place of vote and voting method
5/8/21	Email to Bargaining Representatives providing the final Agreement document, copy of staff communication regarding the access period and ballot and notifying them of the dates for the commencement of the ballot and method (Attachment B).
5/8/21	Intranet post to all staff providing the final Agreement document, copy of staff communication regarding the access period and ballot and notifying them of the dates for the commencement of the ballot and method (Attachment C & D).
5/8/21	Email to all staff personal emails providing the final Agreement document, copy of staff communication regarding the access period and ballot and notifying them of the dates for the commencement of the ballot and method (Attachment E).
16/8/21	Intranet posts to all staff providing specific voting instructions and access (Attachments F & G).

16/8/21	Email to all staff personal emails providing specific voting instructions and access (Attachments H & I).
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21 What steps were taken by the employer to ensure that the relevant employees either:

- a. were given a copy of the written text of the agreement and any other material incorporated by reference in the agreement during the access period, or**
- b. had access to a copy of the above materials throughout the access period?**



See section 180(2)(a) of the [Fair Work Act 2009](#). The employer must take all reasonable steps to ensure relevant employees are given or have access to the materials at the specified time. The ‘relevant employees’ are defined in s.180(2) as the employees employed at the time who will be covered by the agreement. The ‘access period’ is defined in s.180(4) as the 7-day period immediately before the start of the voting process for the agreement.

If any other material is incorporated by reference in the agreement, you should identify it below.

Describe each step taken and state the date on which it was taken.

Date(s)	Steps taken to give employees copies or access to the agreement and any other material incorporated
5/8/21	Intranet post to all staff containing a copy of the final Agreement, information about changes and improvements to the current agreement, notifying commencement of the access period and the voting method and start date for the ballot. (Attachment C & D).
5/8/21	Email to all staff personal emails containing a copy of the final Agreement, information about changes and improvements to the current agreement, notifying commencement of the access period and the voting method and start date for the ballot. (Attachment E).

List the other material incorporated by reference in the agreement (if any).

Part 3.4 – Explaining the terms of the agreement

22 What steps were taken by the employer to explain the terms of the agreement, what was explained and how was the effect of those terms explained to the relevant employees?

See section 180(5)(a) of the [Fair Work Act 2009](#). The employer must take all reasonable steps to ensure the explanation is given to relevant employees.



Describe the steps taken to explain to employees the terms of the agreement and the effect of those terms. For example, describe how the information was given in meetings, by email or post, and by other means. Write down the date on which each step was taken.

Also lodge copies of any materials that were used to explain the agreement to employees.

Include details of what was explained to employees. Do not simply state that the terms of the agreement were explained to relevant employees.

Date(s)	Steps taken	Explanation given
5/8/21	Intranet post to all staff containing a copy of the final Agreement, information about changes and improvements to the current agreement (Attachment K).	Refer Attachment K
5/8/21	Email to all staff personal emails containing a copy of the final Agreement, information about changes and improvements to the current agreement (Attachment K).	Refer Attachment K

23 When the employer explained the terms of the agreement, and the effect of those terms, to the relevant employees, did the employer compare the agreement to any of the following instruments?

(tick all that apply and provide further information):

- any enterprise agreement that currently applies. Please specify which agreement/s:

ANMF (Victorian Branch) (Staff and Council) Enterprise Agreement : 2016-2020

- the modern award/s. Please specify which award/s:

or

- none of the above. Please explain why the employer did not compare the agreement to any of the above instruments:

24 When the employer explained the terms of the agreement, and the effect of those terms, to the relevant employees, what was done to take into account the particular circumstances and needs of the relevant employees?

See section 180(5)(b) of the Fair Work Act 2009. The employer must take all reasonable steps to ensure that the explanation is provided in an appropriate manner. Examples of employees whose circumstances and needs are to be taken into account include employees from non-English speaking backgrounds, young employees and employees who don't have a bargaining representative.



Identify the relevant group of employees addressed and their particular circumstances (for example employees from a non-English speaking background or young employees). Describe the steps you took to accommodate their circumstances. Write down the date on which each step was taken.

Also lodge copies of any materials that were used to ensure the explanation to employees was provided in an appropriate manner (if not lodged in response to question 22).

Do not simply state that the employer took reasonable steps to ensure the explanation was provided in an appropriate manner.

Date of step	Step taken	Relevant group of employees addressed

Part 3.5 – Voting on the agreement

25 Provide the following dates:



See sections 173, 181 and 182 of the [Fair Work Act 2009](#).

Event	Date
25.1	The date voting for the agreement commenced (that is, the first date that an employee was able to cast a vote). 17/8/21 (00:00 hours)
25.2	The date that the agreement was made (that is, the date on which the voting process by which the employees approved the agreement concluded). 25/8/21 (24:00 hours)

26 Provide the following details about the vote on the agreement:

See section 53 of the [Fair Work Act 2009](#). An enterprise agreement covers an employee if it is expressed to cover the employee.

26.1	At the time of the vote, how many employees were covered by the agreement?	181
26.2	How many of these employees cast a valid vote?	136
26.3	How many of these employees voted to approve the agreement?	89

Signature:		Date:	2 September 2021
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**Giving false or misleading information is a serious offence.**

A person who knowingly gives false or misleading information or knowingly produces a false or misleading document in support of an application for approval of an enterprise agreement is guilty of an offence, the punishment for which is imprisonment for up to 12 months - see s.137.1 and s.137.2 of the *Criminal Code*.

Consent to contact by researchers

The Fair Work Commission undertakes research with participants in agreement approval matters to ensure a high quality process. Some research may be undertaken by external providers on behalf of the Fair Work Commission.

Do you consent to the contact details provided on page 1 of this form being provided to an external provider of research services for the sole purpose of inviting you to participate in this research?

- Yes
 No

A copy of this declaration must be served on:



- each other employer that is covered by the agreement **and**
- each employee organisation that was a bargaining representative **and**
- any employee bargaining representative of whom you are aware.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

Information sheet

Legal or other representation

Representation is where another person (such as a lawyer or paid agent, or an employee of an employer organisation) speaks or acts on a person’s behalf, or assists a person in certain other ways in relation to a matter before the Commission. There is no requirement to be represented at the Commission.

There are some restrictions on representation by a lawyer or paid agent.

Generally, a person must give notice to the Commission (by lodging a Form F53 – Notice that a person: (a) has a lawyer or paid agent or (b) will seek permission for lawyer or paid agent to participate in a conference or hearing) and seek permission from the Commission Member dealing with the matter if they wish to have a lawyer or paid agent represent them by participating in a conference or a hearing.

Apart from participating in a conference or hearing, a person’s lawyer or paid agent can represent them without permission, unless the Commission decides otherwise. For example, the lawyer or paid agent can prepare and lodge written applications, responses and submissions with the Commission, and communicate in writing with the Commission and other parties to the matter on the person’s behalf.

The requirement to give notice and seek permission for a lawyer or paid agent to participate in a conference or hearing, does not apply if the lawyer or paid agent is:

- an employee or officer of the person **or**
- a bargaining representative that is representing the person **or**
- an employee or officer of an employee or employer organisation, or an association of employers or a peak council, that is representing the person.

Rule 12(2) of the [Fair Work Commission Rules 2013](#) sets out further exceptions to the requirement to give notice and seek permission.

For more information about representation by lawyers and paid agents, see section 596 of the [Fair Work Act 2009](#), rules 11, 12 and 12A of the [Fair Work Commission Rules 2013](#) and the Commission’s [practice note on representation by lawyers and paid agents](#).

Glossary of common terms

Applicant – This is the person or organisation making an application.

Better off overall test - The better off overall test requires the Commission to be satisfied, as at the time the application for approval of the agreement by the Commission was made, that each award covered employee, and each prospective award covered employee, would be better off overall under the agreement than under the relevant modern award.

Greenfields agreement – An enterprise agreement relating to a genuine new enterprise (including a new business, activity, project or undertaking) which is made at a time when the employer or employers have not yet employed any of the persons who will be necessary for the normal conduct of the enterprise and who will be covered by the agreement.

Lawyer – This is a person who is admitted to the legal profession by a Supreme Court of a State or Territory.

Modern award – Awards are legal documents that outline minimum pay rates and conditions of employment. A modern award is an award the commenced on or after 1 January 2010.

National Employment Standards - The National Employment Standards are 10 minimum employment entitlements that have to be provided to all employees. Agreements cannot exclude or provide for conditions that are less than the National Employment Standards.

Paid agent – In relation to a matter before the Commission, is an agent (other than a bargaining representative) who charges or receives a fee to represent a person in the matter.

Party – A party is an Applicant, a Respondent or another person or organisation involved in a matter or case that is brought to the Commission.

Respondent – The person or organisation responding to an application made by an Applicant.

Service – Serving a document means giving a copy of the document to a person or organisation, usually to the other party to the matter. You can serve a document in a number of ways, including by email, fax, express or registered post, or in person. Parts 7 and 8 of the [Fair Work Commission Rules 2013](#) deal with service.

Privacy

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Remove this information sheet and keep it for future reference – it contains useful information.