



## About the F87A application form

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### Application for a minimum standards order

#### About minimum standards orders

The [Fair Work Act 2009](#) (Fair Work Act) allows the Fair Work Commission (Commission) to set minimum standards for employee-like workers and regulated road transport contractors (regulated workers). The Commission may set minimum standards on application or on its own initiative. Minimum standards can be mandatory minimum standards orders or non-binding minimum standards guidelines.

A minimum standards order for employee-like workers is an employee-like worker minimum standards order. A minimum standards order for regulated road transport contractors is a road transport minimum standards order.

A minimum standards order can contain terms about a range of matters, including payment terms, deductions, record-keeping, cost recovery and insurance. There are also several matters that must not be included in a minimum standards order, including overtime rates and rostering arrangements.

When setting minimum standards, the Commission must take into account the need for an appropriate safety net of minimum standards for regulated workers, having regard to the list of factors in section 536JX of the Fair Work Act. This is the minimum standards objective. If the Expert Panel for the road transport industry is considering a minimum standards order, it must also take into account the road transport objective in section 40D of the Fair Work Act.

The Commission must also take into account particular matters in making a decision about a minimum standards order (see section 536K for an employee-like worker minimum standards order and section 536KA for a road transport minimum standards order).

The Commission may also make road transport contractual chain orders and road transport contractual chain guidelines. For more information about minimum standards orders, minimum standards guidelines, road transport contractual chain orders and road transport contractual chain guidelines see the [Regulated worker minimum standards](#) page on the Commission website.

#### When to use this form

Use this form to apply for the Commission to make a minimum standards order.

This form can be used by:

- an organisation that is entitled to represent the industrial interests of one or more:
  - regulated workers who would be covered by the proposed minimum standards order
  - regulated businesses that would be covered by the proposed minimum standards order

- a regulated business included in a class of regulated businesses that would be covered by the proposed minimum standards order, or
- the Minister.

If you instead want to apply for:

- non-binding minimum standards guidelines – use form F87C
- a road transport contractual chain order – use form F87E
- non-binding road transport contractual chain guidelines – use form F87G.

## **How the Commission deals with applications for minimum standards orders**

Minimum standards proceedings will be held in public. Applications and supporting documents will be published on the Commission’s website for consideration by other interested parties.

In determining an application, the Commission may inform itself as it considers appropriate. This may include asking for submissions and supporting evidence from the applicant or other interested parties.

For an employee-like worker minimum standards order, the Commission must ensure there has been genuine engagement with the parties to be covered by the proposed order, and must follow the consultation process set out in Subdivision BA – Consultation process for employee-like worker minimum standards orders in Division 3 of Part 3A-2 of the Fair Work Act. The Commission must prepare and publish a notice of intent and draft of the proposed order, give affected entities a reasonable opportunity to make written submissions in relation to the draft order and publish those submissions.

For a road transport minimum standards order, the Commission must consult with the Road Transport Advisory Group, ensure there has been genuine engagement with the parties to be covered by the proposed order, and follow the consultation process set out in Subdivision D – Consultation process for road transport minimum standards orders in Division 3 of Part 3A-2 of the Fair Work Act. The Commission must prepare and publish a notice of intent and draft of the proposed order, give affected entities a reasonable opportunity to make written submissions in relation to the draft order, and publish those submissions.

Interested persons can be alerted to new applications and updated on existing minimum standards matters through the Commission’s [subscription service](#). You can sign up to the subscription service through the Commission’s website.

Applications for road transport minimum standards orders are determined by an Expert Panel for the road transport industry. Applications for employee-like worker minimum standards orders are determined by a Full Bench, unless the President considers that the order may relate to the road transport industry and directs that they be dealt with by an Expert Panel. See sections 617 and 620 of the Fair Work Act for information on the constitution of Expert Panels.

## Lodging and serving your completed form

Lodge this form and any supporting documents by email, post or in person at the [Commission's office](#) in your state or territory.

Applications will be published on the Commission's website.

The Commission will issue directions if it requires you to serve this form and any supporting documents on other persons.

## Where to get help

### Commission staff & resources

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

- processes in the Commission
- 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](http://www.fwc.gov.au) also contains a range of information that may assist.

## Throughout this form



This icon appears throughout the form. It indicates information to help you complete the form.

## Legal or other representation

Representation is where another person speaks or acts on a person's behalf, or assists a person in certain other ways in relation to a Commission case. A representative could be a lawyer, paid agent, employee organisation, employer organisation or a not-for-profit association or body that provides support, advice or advocacy in relation to the kind of application or case concerned.

A person does not need to be represented in a case at the Commission.

A person must ask permission of the Commission to be represented in a case by a lawyer or paid agent participating in a conference or hearing, unless the lawyer or paid agent is an employee or officer of the person or of an organisation representing the person. A person may otherwise be represented in a case without asking permission unless a Commission Member directs otherwise (see rule 13(1) of the [Fair Work Commission Rules 2024](#)).

For more information about representation by lawyers and paid agents, see section 596 of the [Fair Work Act 2009](#), rules 11, 12, 13 and 14 of the [Fair Work Commission Rules 2024](#) and the Commission's [practice note on representation by lawyers and paid agents](#).

## Glossary of common terms

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

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

**Party** – a person involved in a matter or case that is brought to the Commission.

**Person** – includes an individual and a body corporate.

**Service** – serving a document means giving a copy of the document to a person, usually to the other party to the matter. You can serve a document in a number of ways, including by email, express or registered post, or in person. Part 5 of Chapter 1 and Schedule 1 of the [Fair Work Commission Rules 2024](#) deal with service.

Refer to the Fair Work Act, Part 1-2 of *Division 3A—Definitions relating to regulated workers and persons in a road transport contractual chain* for definitions of other relevant terms in this form, including:

**Digital labour platform** – section 15L

**Digital labour platform operator** – section 15M

**Digital platform work** – section 15N

**Employee-like worker** – section 15P

**Regulated business** – section 15F

**Regulated road transport contractor** – section 15Q

**Regulated worker** – section 15G

**Road transport business** – section 15R

**Road transport employee-like worker** – section 15RB

**Road transport industry** – section 15S. This definition refers to point-in-time definitions in 5 modern awards, which can be found on the [Fair Work Ombudsman website](#).

**Services contract** – section 15H

## Privacy

The Commission collects the information (including personal information) provided to it in this form for inclusion on the case file, and may disclose this information to the other parties to this matter and to other persons. For more details of the Commission’s collection, use and disclosure of this information, please see the [Privacy notice](#) for this form, or ask for a hard copy to be provided to you.

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

# Form F87A – Application for a minimum standards order

Fair Work Act 2009 (Fair Work Act), section 536JZ

This is an application to the Fair Work Commission to make a minimum standards order in accordance with Part 3A-2 of the Fair Work Act.

## The Applicant



Choose one of the following.

### The person making this application (Applicant) is:

- an organisation that is entitled to represent the industrial interests of one or more regulated workers who would be covered by the proposed order
- an organisation that is entitled to represent the industrial interests of one or more regulated businesses that would be covered by the proposed order
- a regulated business included in a class of regulated businesses that would be covered by the proposed order
- the Minister

### Provide the following information about the Applicant:

Legal name of Applicant			
Applicant's ACN (if a company)			
Applicant's trading name or registered business name (if applicable)			
Applicant's ABN (if applicable)			
Contact person			
Postal address			
Suburb			
State or territory		Postcode	

Phone number	
Email address	

### Does the Applicant need an interpreter?



If the Applicant has trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help in your language](#) on our website.

Yes – Specify language:

No

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

Yes – Specify the assistance required:

No

### Does the Applicant have a representative?



A **representative** is a person that is representing the Applicant. This might be a lawyer or paid agent, a union or employer organisation, or a not-for-profit association or body that provides support, advice or advocacy in relation to this kind of application or case. The Applicant does not need to have a representative.

Yes – Provide the representative's details below


No

### Representative's details




These are the details of the person that is representing the Applicant (if any).

Name of person	
Firm, company or organisation	
Email address	

Phone number			
Postal address			
Suburb			
State or territory		Postcode	
<p><b>Is the representative a lawyer or paid agent?</b></p> <p> The Applicant will need permission to be represented by a lawyer or paid agent in a conference or hearing that is conducted by a Commission Member. Our <a href="#">lawyers and paid agents practice note</a> explains when you need to ask for permission to be represented.</p>			
<input type="checkbox"/> Yes – please select:	<input type="checkbox"/> Lawyer	<input type="checkbox"/> Paid agent	
<input type="checkbox"/> No			

## 1. Type of order

### 1.1 Is this an application for an employee-like worker minimum standards order or a road transport minimum standards order?

 See section 536JY of the Fair Work Act. An ‘employee-like worker minimum standards order’ is a minimum standards order for employee-like workers (including road transport employee-like workers). A ‘road transport minimum standards order’ is a minimum standards order for regulated road transport contractors.

- An employee-like worker minimum standards order
- A road transport minimum standards order

## 2. Class of regulated workers to be covered

### 2.1 Describe the class of regulated workers to be covered by the proposed minimum standards order.



See sections 536JZ(3) and 536JZ(4) of the Fair Work Act. The class may be described by reference to a particular industry or sector, or part of an industry or sector, or particular kinds of work. In your answer, consider describing how workers in the class meet the definition of ‘employee-like worker’ or the definition of ‘regulated road transport contractor’. These definitions are in sections 15P and 15Q of the Fair Work Act. Also consider if the workers in the class meet the definition of ‘road transport employee-like worker’ in section 15RB.

If this application is for an employee-like worker minimum standards order also see section 536K(3). The Commission must refuse to consider the application if it is not satisfied that, on the whole, the persons included in this class of workers are employee-like workers.

## 3. Class of regulated businesses to be covered

### 3.1 Describe the class of regulated businesses to be covered by the proposed minimum standards order.



See sections 536JZ(3A) and 536JZ(4) of the Fair Work Act. The class may be described by reference to a particular industry or sector, or part of an industry or sector, or particular kinds of work. In your answer, consider describing how businesses in the class meet the definition of ‘digital labour platform operator’ or the definition of ‘road transport business’. These definitions are in sections 15M and 15R of the Fair Work Act.



## 4. Work to be covered

### 4.1 Describe the work to be covered by the proposed minimum standards order.



See sections 536KH(1)(a) and 536KJ(1)(a) of the Fair Work Act. The coverage terms of the order must include the digital platform work or work in the road transport industry covered by the order.

## 5. Content of order

### 5.1 Describe the content of the proposed minimum standards order.



See sections 536KH–536KK of the Fair Work Act for terms that must be included in a minimum standards order. Section 536KL gives a non-exhaustive list of terms that may be included in a minimum standards order. Section 536KM lists terms that must not be included in a minimum standards order. See also section 536KMA for further terms that must not be included in an employee-like worker minimum standards order and section 536KN for further terms that must not be included in a road transport minimum standards order.

Attach additional pages if necessary (which may include a draft of the proposed order).

### 5.2 Does the proposed minimum standards order overlap with existing minimum standards guidelines? If so, identify the guidelines.



Sections 536KZ(5) and 536KZ(6) of the Fair Work Act provide that if the Commission makes a minimum standards order that overlaps with minimum standards guidelines, the Commission must revoke or vary the guidelines with effect from the day the order comes into operation.

## 6. Minimum standards objective and road transport objective

### 6.1 Explain why each term of the proposed minimum standards order is necessary to achieve the minimum standards objective.



See the minimum standards objective in section 536JX of the Fair Work Act. Under section 536KO a minimum standards order may include terms it is permitted to include, and must include terms it is required to include, only to the extent necessary to achieve the minimum standards objective.

### 6.2 If the proposed minimum standards order relates to the road transport industry, explain why the proposed order is consistent with the road transport objective.



See the road transport objective in section 40D of the Fair Work Act. If the proposed minimum standards order relates to the road transport industry, the Commission must have regard to the road transport objective.

If your application is for an employee-like worker minimum standards order, go to question 7.

If your application is for a road transport minimum standards order, go to question 8.

## 7. Employee-like worker minimum standards order – particular matters to take into account

### 7.1 Explain how the proposed order takes into account choice and flexibility in working arrangements.



Section 536K(4)(c) of the Fair Work Act provides that the Commission must have regard to choice and flexibility in working arrangements in making an employee-like worker minimum standards order.

## 8. Road transport minimum standards order – particular matters to take into account

### 8.1 Explain how the proposed order takes into account the commercial realities of the road transport industry.



Section 536KA(2)(d) of the Fair Work Act provides that the Commission must have regard to the commercial realities of the road transport industry in making a road transport minimum standards order.

### 8.2 Explain how the proposed order will not unduly affect the viability and competitiveness of owner drivers and similar persons.



Section 536KA(2)(e) of the Fair Work Act provides that the Commission must be satisfied that making the road transport minimum standards order will not unduly affect the viability and competitiveness of owner drivers or other similar persons.

## Authority to sign and signature



For 'Authority to sign':

- If you are the Applicant – insert 'Applicant'
- If you are an employee of a company or organisation that is the Applicant – insert your position title
- If you are an officer or authorised employee of a registered organisation – insert your position title
- If you are the Applicant's representative and have provided your details in this form – insert 'Representative'.

Authority to sign	
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Insert your signature, name and the date. If you are completing this form electronically and do not have an electronic signature, type your name in the signature field.

Signature	
Name	
Date	
<b>PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS</b>	