



About the F9B notification form

Notification of agreement for consent arbitration of an unlawful termination dispute

About unlawful termination

The unlawful termination provisions of the *Fair Work Act 2009* (the Act) aim to protect employees from being dismissed for unlawful reasons. The unlawful termination provisions apply to employees covered by Part 6-4 of the Act, which deals with additional provisions relating to termination of employment for employees not in the national workplace relations system or are not entitled to make a general protections application.

The Fair Work Commission (the Commission) will try to assist the parties to settle the matter. The Commission must conduct a conference to deal with the dispute. If the dispute remains unresolved, the Commission will issue a certificate.

Following the issue of a certificate the applicant may make an unlawful termination court application within 14 calendar days of the date the certificate is issued, or such further time as the court allows. Alternatively, once a certificate is issued the parties may then consent to the Commission arbitrating, and therefore finally determining the matter, subject to any appeal. The Commission can only arbitrate an unlawful termination matter when both parties consent.

If the parties have notified the Commission that they consent to arbitration, the applicant cannot also make an unlawful termination court application. If the applicant is pursuing an unlawful termination court application, the parties cannot also seek to have the Commission arbitrate the matter.

For more information about unlawful termination and the national workplace relations system, please see the Commission's website www.fwc.gov.au.

Who can use this form

Use this form if you:

- are a party to an unlawful termination matter before the Commission **and**
- a conference has been held and the matter is not resolved **and**
- a certificate has been issued by the Commission **and**
- both the parties to the matter consent to the Commission arbitrating.

Lodgment of your completed form

Lodge this form with the Commission within **14 calendar days** of the day the Commission issues the certificate. You can lodge this form by post, by fax or by email or in person at the [Commission's office](#) in your state or territory.

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. It indicates information to help you complete the form.

Legal or other representation

Representation is where another person (such as a family member or friend, lawyer or paid agent, or an employee of a union or 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 that is making an application.

Jurisdictional objection – This is a type of objection a Respondent can raise to an application. A Respondent can make this kind of objection if they think that the Commission, for a technical or legal reason, cannot hear the matter.

Lawyer – This is 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, 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

The Commission collects the information (including personal information) provided to it in this form in order to deal with the unlawful termination dispute application. The information will be included on the case file, and the Commission may disclose the 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 F9B – Notification of agreement for consent arbitration of an unlawful termination dispute

Fair Work Act 2009, s.777(1)(b)

This is a notification that the parties to an unlawful termination dispute have agreed to the Fair Work Commission arbitrating the matter under section 777(1)(b) of the [Fair Work Act 2009](#).

FWC matter number	
Applicant	
Respondent (Employer)	

Is an interpreter required by either party to participate in the arbitration?



If a party has trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help for non-English speakers](#) on our website.

Yes – Specify language

No

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

Yes – Please specify the assistance required

No

Does the party lodging this notice have a representative?



A representative is a person or organisation who is representing a party. 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

Representative's details



These are the details of the person or organisation who is representing the party lodging this notice (if any).

Name of person	
Firm, organisation or company	
Postal address	

Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

Is the representative of the party lodging this notice a lawyer or paid agent?

Yes

No

1. Unlawful termination certificate

1.1 Has a certificate been issued in relation to the dispute?



The Fair Work Commission may only arbitrate an unlawful termination dispute after it has dealt with the dispute and issued a certificate under s.776(3)(a) of the *Fair Work Act 2009*.

Yes

No

1.2 What date was the certificate issued?

1.3 Was the certificate issued more than 14 calendar days ago?



The Fair Work Commission may only deal with an unlawful dismissal dispute when it has been notified that the parties agree to arbitration within **14 calendar days** of the certificate being issued. The Fair Work Commission may allow for additional time to lodge the Form F9B.

Yes

No – Go to question 2

If you have answered yes – Please explain the reason for the delay and why you think the Commission should grant you an extension of time to lodge this notification.

2. Consent

2.1 Have all the parties to the unlawful termination dispute agreed to the Commission dealing with the dispute by arbitration?



The Commission can only deal with an unlawful termination dispute by arbitration if the parties have agreed to the arbitration.

Yes

No

2.2 Applicant’s agreement to arbitration



This section must be completed and signed by the Applicant or the Applicant’s representative. Where this form is not being completed and signed by the Applicant, include the name and signature of the person who is completing the form on their behalf in the **Capacity/Position** section. This may be a lawyer, paid agent union official.

The Applicant agrees to the Fair Work Commission dealing with the dispute by arbitration.

Signature	
Name	
Date	
Capacity/ Position	

2.3 Employer’s agreement to arbitration



This section must be completed and signed by the Employer or the Employer’s representative. Where this application form is not being completed and signed by the Employer, include the name and signature of the person who is completing the form on their behalf in the **Capacity/Position** section. This may be a lawyer, paid agent or representative from an employer organisation or association.

The Employer agrees to the Fair Work Commission dealing with the dispute by arbitration.

Signature	
Name	
Date	
Capacity/ Position	

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS