

Form F32 – Application for a bargaining order

Fair Work Act 2009, section 229, Fair Work Commission Rules 2024, rule 47 and Schedule 1

This is an application to the Fair Work Commission for a bargaining order in accordance with Part 2-4 of the Fair Work Act 2009.

The Applicant

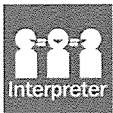


These are the details of the person who is making the application.

A person who is a bargaining representative for a proposed enterprise agreement may make an application for a bargaining order.

| | | | |
|--------------------------|--|----------|------|
| Applicant's legal name | Australian Federation of Air Pilots (AFAP) | | |
| Applicant's trading name | Australian Federation of Air Pilots (AFAP) | | |
| ABN/ACN | ABN 63 230 452 036 | | |
| Contact person | Simon Lutton | | |
| Title | <input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify: | | |
| First name(s) | Simon | | |
| Surname | Lutton | | |
| Postal address | Level 4, 132-136 Albert Road | | |
| Suburb | South Melbourne | | |
| State or territory | VIC | Postcode | 3205 |
| Phone number | (03) 9928 5737 or 0419 482 582 | | |
| Email address | simon@afap.org.au | | |

Do you need an interpreter?



If you have 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

Do you require any special assistance at the hearing or conference (for example a hearing loop)?

- ☐ Yes – Please specify the assistance required
- ☒ No

Do you have a representative?



A representative is a person or business who is representing you. This might be a lawyer or paid agent, or a union or employer organisation. There is no requirement to have a representative.

- ☐ Yes – Provide representative's details below
- ☒ No

Your representative



This is the person or organisation who is representing you (if any).

Name of person

Firm, organisation,
company

Postal address

Suburb

State or territory

Postcode

Phone number

Email address

Is your representative a lawyer or paid agent?

- ☐ Yes — please select:
- ☐ Lawyer
- ☐ Paid agent
- ☐ No

The Respondent



These are the details of the bargaining representative(s) against whom an order is sought.

| | | | |
|---------------------------|--|----------|------|
| Respondent's legal name | Express Freighters Australia (Operations) Pty Ltd | | |
| Respondent's trading name | Express Freighters Australia | | |
| ABN/ACN | ACN 119 093 999 | | |
| Contact person | Jim Morton | | |
| Title | <input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify: | | |
| First name(s) | Jim | | |
| Surname | Morton | | |
| Postal address | 10 Bourke Road | | |
| Suburb | Mascot | | |
| State or territory | NSW | Postcode | 2020 |
| Phone number | 0414 004 844 | | |
| Email address | jimmorton@qantas.com.au | | |

1. Preliminary

1.1 What industry is the employer in?

Airlines/Aviation

1.2 Who are the other bargaining representatives?



List any other bargaining representatives the Applicant is aware of including address and contact details.

Transport Workers Union (TWU)

Australian and International Pilots Association (AIPA)

1.3 What enterprise agreements currently apply to an employee(s) who will be covered by the proposed enterprise agreement?



Include the nominal expiry date of each agreement.

Express Freighters Australia Operations Pty Ltd Enterprise Agreement 2021

Nominal expiry date: 31 December 2024

2. Application for bargaining order

2.1 Has the written notice setting out the concerns that the good faith bargaining requirements are not being, or have not been met, or the bargaining process is not proceeding efficiently or fairly because there are multiple bargaining representatives for the agreement been given to the relevant bargaining representatives for the agreement?

☒ Yes

☐ No



You must include a copy of the notice with this application.

2.1.1 If Yes, list the bargaining representatives to whom the notice was given and the date(s) on which it was given.

24 June 2024 and 28 October 2024 notices sent to the Respondent and copied to other bargaining representatives, TWU and AIPA.

2.2 What are the grounds being relied on?

2.2.1 Using numbered paragraphs, set out the facts and circumstances upon which the Applicant relies in support of the application. Attach additional pages if necessary.

Indicate the matters giving rise to a concern that one or more of the relevant bargaining representatives for the agreement have not met, or are not meeting, the good faith bargaining requirements or that the bargaining process is not proceeding efficiently or fairly because there are multiple bargaining representatives for the agreement.

1. The Respondent has refused to commence bargaining or adjust salaries despite being made aware that the salaries paid under the current enterprise agreement, the *Express Freighters Australia Operations Pty Ltd Enterprise Agreement 2021* (the Agreement), have fallen below the minimum salary under the *Air Pilots Award 2020* (the Award).
2. The Respondent has declined to meet jointly with the other bargaining representatives when bargaining does in fact begin.

3. It is the preference of the other bargaining representatives that bargaining be conducted jointly. Bargaining jointly would be more efficient.

2.3 On what date did the employer(s) agree to bargain, initiate bargaining or receive a request to bargain under section 173(2A)?

The employer is refusing to commence bargaining until after the nominal expiry date of the Agreement.

2.4 Is there a majority support determination, scope order or low-paid authorisation in operation?

☐ Yes – provide details below

☒ No

2.5 What orders are you seeking?

Attach additional pages if necessary. Alternatively, you can attach a draft order.

The AFAP is seeking an order that the Respondent immediately:

1. Issue a Notice of Employee Representation Rights; and
2. Meet jointly with the bargaining representatives (AFAP, TWU and AIPA).

Authority to sign and signature



For 'Authority to sign':

- If you are a bargaining representative for the proposed enterprise agreement – insert 'Applicant'
- If you are the Applicant's representative and have provided your details in this form – insert 'Representative'.

Authority to sign Applicant



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

FAIR WORK COMMISSION
Form F32 – Application for a bargaining order

| | |
|-------------|--|
| Name | Simon Lutton, Executive Director, AFAP |
| Date | 12 November 2024 |

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS



24 June 2024

Richard Hardonin
Head of Flying Operations
Chief Pilot

Via email: richard.hardonin@qantas.com.au

Dear Richard,

Express Freighters Australia (EFA) Enterprise Agreement

I am writing to request that bargaining for a new agreement commence at Express Freighters Australia (EFA) as soon as possible. Our pilot reps at EFA have also met with the AIPA pilot reps at EFA and we request that the bargaining be conducted together with both the AFAP and AIPA representatives present.

As you would be aware, the *Express Freighters Australia Operations Pty Ltd Agreement 2021* expires at the end of the year.

Under the current agreement the majority of EFA pilots receive the following salaries:

| | Narrow-Body | Wide-Body |
|----------------------|-------------|-----------|
| Captain | \$193,157 | \$217,595 |
| First Officer | \$127,071 | \$146,645 |

As we feared when the current agreement was unilaterally put out for vote by the company, increases to the *Air Pilots Award 2020* (the Award) have been significantly higher than the increases provided under the Qantas wages policy. With the latest Award increase of 3.75% set to take effect on 1 July 2024 we calculate the minimum rates under the Award to soon be:

| | Narrow-Body | Wide-Body |
|----------------------|-------------|-----------|
| Captain | \$195,653 | \$220,629 |
| First Officer | \$127,213 | \$149,795 |

This means that once again, the majority of EFA pilots will be receiving a salary below the minimum Award rate. From the pilots' perspective, this is a highly unsatisfactory situation which places great urgency on the commencement of bargaining. Accordingly, please advise when EFA is willing to commence bargaining for a new agreement and nominate a meeting date.

Please do not hesitate to contact me on ph. 0419 482 582 or email simon@afap.org.au to discuss the above and/or confirm a date for our next meeting.

Yours sincerely,

Simon Lutton
Executive Director
Australian Federation of Air Pilots



28 October 2024

Richard Hardonin
Head of Flying Operations and Chief Pilot
Express Freighters Australia

via email: richard.hardonin@qantas.com.au

Dear Richard,

Express Freighters Australia (EFA) Enterprise Agreement – Commence Bargaining

On 24 June 2024 I wrote to Express Freighters Australia (EFA) requesting that bargaining for a new agreement commence at as soon as possible. A copy of this letter is attached again.

At this time, and subsequently, EFA's position has been that it does not intend to commence bargaining in advance the nominal expiry date of the current agreement, being 31 December 2024.

As we are now within 90 days of the nominal expiry date of the agreement (31 December 2024), I am writing to formally advise that the AFAP seeks the immediate commencement of bargaining and for this bargaining to be held jointly with the other bargaining representatives (TWU and AIPA).

Please confirm EFA's agreement to the above within 7 days otherwise we intend to make application under s229 of the *Fair Work Act 2009 (Cth)* for a bargaining order under s230.

I can be contacted me on ph. 0419 482 582 or email simon@afap.org.au to discuss the above.

Yours sincerely,

Simon Lutton
Executive Director
Australian Federation of Air Pilots

Simon Lutton

From: Karl Romberg-Yee <karl.rombergjee@qantas.com.au>
Sent: Wednesday, 30 October 2024 5:35 PM
To: Simon Lutton
Cc: Jim Morton; Richard Hardonin; Edward Nell; jane.cleary@aipa.org.au
Subject: Bargaining at EFA

Dear Simon

I am responding on behalf of Richard and refer to your letter of 28 October 2024.

The Company will of course bargain in good faith for a new enterprise agreement to replace the *Express Freighters Australia Operations Pty Ltd Enterprise Agreement 2021*. However, our position as to when this ought to commence has not changed. We remain of the view it ought to be following the nominal expiry date of the current EA.

The basis on which the AFAP intends to apply for a bargaining order under section 230 is entirely unclear. There are a number of pre-requisites to both the ability to make an application for a bargaining order, and for the Commission to make any order.

As to the ability to make an application, one pre-requisite is in section 229(4). Your letter makes no reference to the good faith bargaining requirements at all, nor does it make any attempt to explain what the AFAP's "concerns" are, if indeed it does have concerns that the requirements are not being met. It is not possible for the Company to provide a response in the absence of the AFAP doing so.

In any event, the requirements in section 230(2) have not been met, so the Commission cannot make a bargaining order.

If the AFAP nonetheless intends to persist with an application, a copy of this correspondence should be included.

Kind regards
Karl

Karl Romberg-Yee
Industrial Relations
Qantas Airways Limited

QCA1, 10 Bourke Road, Mascot NSW 2020
M. +61 450 528 615
E. karl.rombergjee@qantas.com.au



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***** Confidentiality and Privilege Notice *****

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