

## Form F7 – Notice of appeal

Fair Work Act 2009, s.604; Fair Work Commission Rules 2024, rule 128 and Schedule 1

This is an application to the Fair Work Commission to appeal a decision or order of the Commission in accordance with section 604 of the *Fair Work Act 2009*.

### The Appellant



These are the details of the person who is lodging the appeal.

Title	<input checked="" type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Patrick		
Surname	Larkins		
Postal address	Level 4/132-136 Albert Rd		
Suburb	South Melbourne		
State or territory	VIC	Postcode	3205
Phone number	0403 126 067		
Email address	<a href="mailto:patrick@afap.org.au">patrick@afap.org.au</a>		

**If the appellant is a company or organisation please also provide the following details**

Legal name of business	Australian Federation of Air Pilots
Trading name of business	Australian Federation of Air Pilots
ABN/ACN	63 230 452 036
Contact person	Patrick Larkins

**How would you prefer us to communicate with you?**

☒ Email (you will need to make sure you check your email account regularly)

☐ Post

**Does the Appellant need an interpreter?**



If the Appellant 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 the Appellant require any special assistance at the hearing or conference (eg a hearing loop)?**

☐ Yes – Please specify the assistance required

☒ No

**Does the Appellant have a representative?**



A representative is a person or organisation representing the Appellant. This might be a lawyer or paid agent, union, employer organisation, association of employers, peak council, or a not-for-profit association or body that provides support, advice or advocacy in relation to employment or workplace relations matters. You do not need to have a representative.

☐ Yes – Provide representative's details below

☒ No

**Appellant's representative**



These are the details of the person or organisation who is representing the Appellant (if any).

Name of person			
Firm, organisation or company			
Postal address			
Suburb			
State or territory		Postcode	
Phone number			
Email address			

**Is the Appellant's representative a lawyer or paid agent?**

<input type="checkbox"/> Yes – please select:	<input type="checkbox"/> Lawyer <input type="checkbox"/> Paid agent
<input type="checkbox"/> No	

**The Respondent**



These are the details of the person or business responding to an appeal. Note that the Commission will send a copy of your notice of appeal to the contact person you name below.

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 Street		
Suburb	Mascot		
State or territory	NSW	Postcode	2020
Phone number	0414 004 844		
Email address	<a href="mailto:jimmorton@qantas.com.au">jimmorton@qantas.com.au</a>		

**If the respondent is a company or organisation please also provide the following details**

Legal name of business	Qantas Airways Limited
Trading name of business	Qantas
ABN/ACN	009 661 901
Contact person	Jim Morton

## 1. The decision to be appealed

### 1.1 Please provide the details of the matter you are seeking to appeal.



You will find all of these details on the decision or order you received from the Commission

Commission matter number	[2025] FWC 1238
Applicant	Qantas Airways Limited
Respondent(s)	
Decision maker (name of Member or delegate of the Commission)	Deputy President Saunders
Date of decision	2 May 2025

### 1.2 Please provide a description of the decision and/or order you are appealing.

The decision was made in relation to the approval of the *Qantas Airways Limited Pilots (Short Haul) Enterprise Agreement 2024 (EBA9)* (AG2025/613).

The appeal concerns the finding that First Officers Under Training as defined in the Qantas Airways Limited Pilots (Short Haul) Enterprise Agreement 2024 were not covered by the Air Pilots Award 2020.

## 2. Grounds for appeal

### 2.1 What are the grounds for your appeal?



Using numbered paragraphs, set out the grounds for appeal. In unfair dismissal appeals, grounds relating to “significant errors of fact” should be set out under a separate heading. Attach extra pages if necessary.

1. The Deputy President erred in deciding, at [104], that First Officers Under Training as defined in the Qantas Airways Limited Pilots (Short Haul) Enterprise Agreement 2024 are covered by the Miscellaneous Award, by erroneously:
  - a. determining, at [103], that persons to be appointed by Qantas as First Officers Under Training are not:
    - i. 'First Officers' in the Air Pilots Award 2020; alternatively
    - ii. otherwise covered by the Air Pilots Award 2020.
  - b. determining, contrary to the facts or in the absence of relevant facts, at [103] that "employees in a classification equivalent to that of FOT *inadvertently* fell out of coverage of awards governing pilots when the Air Pilots Award 2010 was made in 2009" (emphasis added).

### 3. Public interest

#### 3.1 Please set out the matters that you believe make it in the public interest for the Commission to grant permission for the appeal.



Note: section 400(1) of the [Fair Work Act 2009](#) prohibits the Commission from granting permission to appeal from a decision made under Part 3-2 of the Fair Work Act relating to unfair dismissal unless the Commission "considers that it is in the public interest to do so."

1. The above grounds raise an arguable case of appealable error and there is sufficient doubt to warrant permission to appeal.
2. The Deputy President's error could infect the entire decision to approve the Agreement as the reasoning at [19] suggests that the Deputy President would not have been satisfied under sections 186(2)(d) and 193(1) of the FW Act that the Agreement passes the BOOT test if the Pilots Award covers Qantas FOTs: *"if Qantas's FOT are covered by the Pilots Award, they would be entitled to significant annual monetary allowances for (a) flying a turbo jet aircraft and (b) flying using an instrument rating (Schedule A, clauses 1.3(d) and 1.4 of the Pilots Award). These monetary allowances are not offset by the benefits provided for under the Enterprise Agreement."*
3. A substantial injustice would occur if permission were not granted as if the Deputy President's decision is found to be in error it would cause Qantas FOTs employees covered by the Agreement to lose the benefit of a significantly higher minimum remuneration under the Pilots Award.
4. The matter raises issues of importance and general application as the decision that Qantas FOTs are covered by the Miscellaneous Award creates uncertainty about whether other trainee pilots employed across the aviation sector are covered by the Miscellaneous Award or the Pilots Award.
5. Guidance from a Full Bench on the above uncertainty is in the public interest.

Attach additional pages if necessary.

#### 4. Stay under section 606 of the *Fair Work Act 2009*

##### 4.1 Are you seeking a stay of the original decision?



A stay means that the original decision will not be enforced while the appeal is being heard.

☐ Yes

☒ No

If you answered yes to question 4.1 – specify whether a stay is sought of the whole or part of the decision or order and, if a stay of part only is sought, please specify the part.

## 5. Extension of time

**5.1 Are you making this application within 21 days of the decision that you are appealing being issued?**

☒ Yes

☐ No

If you answered no to question 5.1 – Explain the reason for the delay and the grounds on which you say an extension of time should be granted.

## 6. Urgent appeals



The Commission's appeal allocation procedures are intended to ensure that all appeals are heard within 12 weeks of being filed. If it is necessary for your appeal to be heard on a significantly more urgent basis than this, you must apply for your appeal to be heard on an expedited basis.

**6.1 Is an expedited appeal hearing sought?**

☐ Yes

☒ No

**6.2 If you have answered yes to question 6.1 – Please set out the circumstances which make it necessary for your appeal to be heard on an urgent basis.**

Attach additional pages if necessary.

## Authority to sign and signature



For 'Authority to sign':

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

Authority to sign	Appellant
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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	Patrick John Larkins
Date	23 May 2025

**PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS**