



About the F1 application form

Application (no specific form provided)

When to use this form

You can use this form if you would like to make an application to the Fair Work Commission (the Commission) and there is no specific form provided.

Please carefully check the Forms page of the Commission's website before using this form. If there is a specific approved form for your purpose, you must use the approved form that is available on the Commission's website.

Lodging and serving your completed form

1. **Lodge your application** and any supporting documents with the Commission. You can lodge:

- by email to lodge@fwc.gov.au, or
- by post or in person at the [Commission's office](#) in your state or territory.

2. **As soon as practicable** after lodging, **serve** a copy of this application and supporting documents on the Respondent.

You can serve documents several ways, including by email, express post or registered post. An easy way to serve documents is to copy the Respondent into the lodgment email you send to the Commission.

Note: If you are unsure about the service requirements for your particular application, you can seek directions from the Commission by lodging a Form F48 – Applications for directions on procedure.

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 also contains a range of information that may assist.

Throughout this form



This icon appears throughout the form. It indicates information to help you answer the question following.

Legal or other representation

Representation is where another person speaks or acts on your behalf, or assists you in certain other ways in relation to a matter before the Commission. A representative could be a lawyer, 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 have to be represented to bring a case to the Commission.

There are some rules about when a lawyer or paid agent can represent you.

Unless the Commission decides otherwise in a particular case, you do not need permission for a lawyer or paid agent to:

- prepare and lodge this application,
- prepare and lodge submissions about your case, or
- write to the Commission and other people involved in the case on your behalf.

Generally, you must give notice to the Commission and seek permission from the Commission Member dealing with your case if you wish to have a **lawyer or paid agent** represent you in a **conference** or a **hearing**. You do not, however, need to give notice or ask permission if the lawyer or paid agent is:

- your employee or officer (for a business), or
- a bargaining representative that is representing you, or
- an employee or officer of a union, employer organisation, association of employers, or a peak council that is representing you.

You can notify the Commission that you have a lawyer or paid agent using this form – provide their details at the question ‘Does the Applicant have a representative?’

If you need to notify the Commission that you have a lawyer or paid agent after you have lodged this form, or if you need to ask permission for your lawyer or paid agent to take part in a **conference or hearing**, use [Form F53](#).

Rule 13(2) of the [Fair Work Commission Rules 2024](#) 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, 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

Appellant – This is the person or organisation lodging an appeal.

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 a person or organisation involved in a matter or case that is brought to the Commission.

Respondent – The person or business 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, 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.

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 F1 – Application (no specific form provided)

[Fair Work Commission Rules 2024](#), subrule 9(3) and Schedule 1

This is an application to the Fair Work Commission.

The matter before the Commission:

What is the name and matter number of the matter before the Commission?

Matter name	The Australian Federation of Air Pilots v Royal Flying Doctor Service of Australia (Queensland Section)
Matter number	C2025/2979

The Respondent



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

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input checked="" type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)	Judy		
Surname	Hawkins		
Postal address	Level 4, 5-7 Lobelia Circle		
Suburb	BRISBANE AIRPORT		
State or territory	Qld	Postcode	4008
Phone number	+61 428 978 007		
Email address	jhawkins@rfdsql.com.au		

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

Legal name of business	Royal Flying Doctor Service of Australia (Queensland Section) Limited		
Trading name of business	Royal Flying Doctor Service		
ABN/ACN	ABN: 80 009 663 478	ACN: 009 663 478	

Contact person	Judy Hawkins
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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 Respondent have a representative?



A representative is a person or organisation representing the Applicant. This might be a lawyer, paid agent, union, employer organisation or association of employers, a 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

Respondents representative



These are the details of the person or business who is representing the Applicant.

Name of person	Cheryl-Anne Laird		
Firm, union or company	Forvis Mazars		
Postal address	Level 11, 307 Queen Street		
Suburb	BRISBANE		
State or territory	Qld	Postcode	4000
Phone number	+61 412 746 419		
Email address	Cheryl-Anne.Laird@forvismazars.com		

Is the Respondent's representative a lawyer or paid agent?

<input checked="" type="checkbox"/> Yes – please select:	<input type="checkbox"/> Lawyer
	<input checked="" type="checkbox"/> Paid agent

1. The Application

1.1 Please set out the provision(s) of the *Fair Work Act 2009* (or any other relevant legislation) under which you are making this application.

This is a response to an application made by the Australian Federation of Air Pilots (AFAP).

2. Order or relief sought

2.1 Please set out the order or relief sought.



Using numbered paragraphs, set out what you are asking the Commission to do.

1. There is a dispute between the AFAP and the Royal Flying Doctors of Australia (Queensland Branch) (RFDS), regarding the entitlement of the Pilots covered by the *Royal Flying Doctor Service of Australia (Queensland Section) Limited Pilots Enterprise agreement 2023*, to personal/carers leave.

Responses to clause 2.1 (1) from the AFAP Form 10 application

2. The RFDS does not disagree with paragraph 2.1 (1).

Responses to clause 2.1 (2)

3. The RFDS does not agree that the entitlement is “greater than the NES”.

Response to clause 2.1 (3)

4. The RFDS in about November 2024, identified that it had been accruing and deducting personal/carers leave for it’s Pilots incorrectly.
5. The RFDS advised the Pilots that the historical anomaly would be rectified for the future, however where Pilots had accrued more personal/carers leave than they should have, this additional leave would be retained and would remain available to them to use.

6. The Pilots were also advised that where a Pilot had more leave deducted than should have occurred, the leave would be recredited to the Pilot.
7. On the basis of paragraphs 5 and 6 above, no Pilot would be disadvantaged by the rectification of the past accrual and deduction error.

Response to clause 2.1 (4)

8. Historically, the RFDS had incorrectly accrued personal/carers leave for Pilots at 80 hours per annum, with 8 hours being deducted for each day/shift.
9. Although 80 hours was accrued and 8 hours deducted for each day/shift, unless a Pilot had exhausted their leave balance, and was therefore taking leave without pay, there was no impact on their remuneration for the relevant period. That is, they were incorrectly paid for a full day/shift (12 hour availability) even though only 8 hours was deducted from the leave balance. That is, each Pilot (who was rostered to work a 12 hour shift on the relevant day) was overpaid by 4 hours on each day/shift of personal leave. [As noted above the RFDS does not intend to recover this overpayment]
10. The actual entitlement under the NES is for 76 hours of personal/carers leave per annum. This is consistent with the Pilots working an average of 38 ordinary hours per week. The Pilots work an average of 42 hours per week, which has been calculated at 38 ordinary hours and 4 overtime hours. Leave is not accrued on overtime hours.
11. The reference to 12 and 6 hour shifts are examples of shift length and represent the majority of rostered shifts. The leave to be deducted however would be based on the actual rostered hours for a shift.

Response to clause 2.1 (5)

12. Although the strict correction of past errors if 10 instances were to be adopted, would see the RFDS accruing and deducting personal/carers leave at 76 hours per annum, with 7.6 hours to be paid for 10 instances of personal/carers leave per annum (unless a Pilot took personal/carers leave on a day/shift they were rostered to work less than 7.6 hours in which case the deduction would be actual hours), the RFDS has made a more generous offer such that they accrue personal leave at 84 hours per annum and deducting 12 hours for a 12 hour shift (or such lesser period if the Pilot was rostered to work less than 12 hour availability). This results in the Pilots being able to take 7 days/shifts at 12 hours per annum. This is consistent with the Pilots working on average 7 days/shifts per fortnight.
13. If the Pilots prefer to have 10 occasions on which they can take personal/carers leave, this would be deducted and paid, at less than 12 hours per occasion.
14. The corrections are consistent with the decision of the High Court on 13 August 2020 in the case of *Mondeleze Australia Pty Ltd v Automotive, Food, Metals, Engineering, Printing and Kindred Industries [2020] HCA 29*.

Response to clause 2.1 (6)

15. The RFDS concur that this is the appropriate case law for interpretation. It includes that past practice is not to be relied upon for interpretation of an industrial instrument.

Response to clause 2.1 (7)

Response to 2.1 (7) (a)

16. Irrespective of what previously occurred (which is not as simplistic as “10 occasions” of leave), this does not preclude the employer correcting an error when it becomes aware of an error.
17. Although the Pilots had access to 10 occasions this was at 8 hours and applied to every day in the leave period Monday to Friday, irrespective of the roster for the period. For example, if a Pilot took 2 weeks of leave, this was 10 days at 8 hours per day, being 80 hours.
18. The RFDS is proposing that if a Pilot took the same period of two weeks of leave, they would, on average, only have to take 7 x 12 hour shifts (assuming they were rostered on 12 hour shifts), which are paid for 12 hours, being 84 hours.

Response to 2.1 (7) (b)

19. The wording in the Agreement did not change. However, this does not preclude the employer correcting an error when it becomes aware of an error.

Response to 2.1 (7) (c)

20. The Pilots usually work an average of 7 days/shifts per fortnight (two weeks). The current Pilot contracts do not make reference to 10 days.

Response to 2.1 (7) (d)

21. This does not preclude the employer correcting an error when it becomes aware of an error.

Response to clause 2.1 (8)

22. If the AFAP are correct and there is an entitlement to 10 occasions of personal/carers leave per year, this cannot be at 12 hours per occasion as this would equate to 120 hours of personal/carers leave which has never been agreed to.

Response to clause 2.1 (9)

23. There were no representations made during the agreement approval process other than that there were no changes to the wording of this clause. This clause was not a clause on which negotiations occurred. In terms of past practice, the pilots accrued 80 hours per annum of personal/carers leave and had 8 hours of leave deducted for each occasion of leave. There was therefore technically an overpayment of 4 hours on each occasion, assuming they were rostered to be available to work a 12 hour shift.
24. It would be unreasonable for the AFAP to argue that an error resulting in an overpayment should continue, particularly when the RFDS has given a commitment not to seek to recover the overpayments which have occurred in the past.

2.2 Please set out grounds for the order or relief sought.



Using numbered paragraphs, set out the grounds, including particulars, on which you are seeking the relief set out in question 2.1.

AFAP Relief Sought

The AFAP at 3.1 provides the following for relief sought:

The Commission is requested to determine that clause 23 of the EA provides that pilots are entitled to 10 actual working days of personal/carer's leave each year, regardless of shift length.

Response

1. This is consistent with the position put at paragraph 2.1 (9), in that the request is for 10 actual working days of personal/carers leave each year, regardless of shift length. It is assumed that the AFAP is not seeking to have a payment made for a shift which exceeds the actual length of the shift, and further, the payment must, in our submission reflect the accrual of leave which is generously identified by the RFDS as 84 hours per annum (when only an average of 76 ordinary hours are worked per fortnight).
2. The proposal by the AFAP appears, although not specifically stated, to be for 120 hours per annum of personal/carers leave for the Pilots. As noted above, the actual entitlement under the NES is for 76 hours per annum and the entitlement being offered by the RFDS is 84 hours per annum.

3. The employer

3.1 What is the industry of the employer?

Aeromedical Services

4. Industrial instrument(s)

4.1 Please set out any modern award, agreement or other industrial instrument relevant to the application and their ID/Code number(s) if known.

Royal Flying Doctor Service of Australia (Queensland Section) Limited Pilots Enterprise agreement 2023

AE524828

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 the Applicant's representative and have provided your details in this form—insert 'Representative'.

Authority to sign	Respondent
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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	Judy Hawkins
Date	7 May 2025

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS