

About the F17 statutory declaration

Approval of an enterprise agreement

About enterprise agreements

Before the Commission can approve the agreement it must find that the employees will be 'better off overall' under the agreement than they would be if they were covered by their existing award or agreement. More information about the process that employers and employees must follow to make a new enterprise agreement can be found in the Commission's [Guide—Making an enterprise agreement](#).

In Part 3, you must set out the names of any modern award(s) or award-based transitional instrument(s)—typically pre-reform award(s) or NAPSAs—and include the MA, AP, or AN number for each instrument. These numbers can be found using the title search on the Commission's [find an award](#) search facility. An award will not apply to employees if a statutory collective agreement is in place. However, an award that would apply in the absence of such an agreement will still apply to those employees.

Who can use this form

This form (which is a statutory declaration) forms part of an application for approval of an enterprise agreement.

Use this form if:

- a Form F16—Application for approval of an enterprise agreement is being lodged with the Commission **and**
- you are an employer or a bargaining representative who has been appointed by an employer.

Lodgment and service of your completed form

1. **Lodge** the following documents with the Commission **within 14 calendar days** after the agreement is made:
 - this statutory declaration **and**
 - the notice of representational rights referred to in question 2.3.

You can lodge by post, by fax or by email or in person at the [Commission's office](#) in your State or Territory. You can also lodge online using the Commission's [eFiling service](#) at www.fwc.gov.au.

2. If you are a bargaining representative appointed by an employer—**lodge** a copy of the written instrument of appointment at the same time as this statutory declaration.
3. **As soon as practicable** after it is lodged with the Commission, **serve a copy** of this statutory declaration on:
 - each employer that will be covered by the agreement **and**
 - each employee organisation that was a bargaining representative **and**
 - any employee bargaining representative of whom you are aware.

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 (such as a lawyer or union official) speaks or acts on your behalf in relation to your matter. There is no requirement for you to be represented when you appear at the Commission. You will need the permission of the Commission member dealing with your case if you wish to be represented by a lawyer or paid agent unless that person is:

- a bargaining representative, or
- employed by a union or employer organisation, a peak union or peak employer body, or
- one of your employees or officers (if you are an employer).

If you decide to represent yourself in proceedings you will need to make sure you are well prepared.

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 F17—Employer’s statutory declaration in support of an application for approval of an enterprise agreement

Fair Work Act 2009, s.185; Fair Work Commission Rules 2013, rule 24 and Schedule 1

This is a declaration in support of an application to the Fair Work Commission for approval of an enterprise agreement in accordance with Part 2-4 of the *Fair Work Act 2009*.

I,

Name	Robert Malpass		
Postal address	90 Welshpool Road		
Suburb	Welshpool		
State or territory	WA	Postcode	6106
Occupation	IR/ER Manager		

Make the following declaration under the *Statutory Declarations Act 1959*

Part 1—Preliminary

1.1 What is the name of the employer?

Legal name	CATALYST RECRUITMENT SYSTEMS Pty Ltd
Trading name	CATALYST SERVICES

1.2 What is the name of the agreement (write the name *exactly* as it appears in the title clause of the agreement)?

CATALYST SERVICES ENTERPRISE AGREEMENT 2014

1.3 Are you aware of any other agreement(s) that has been filed or dealt with by the Commission that has identical or substantially identical terms?

Yes

No

If you have answered yes to question 1.3—specify the name of the identical agreement, the name of the employer covered by the identical agreement, the agreement ID number, the date of the Commission’s decision and the name of the Commission Member who dealt with such agreement

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1.4 Was that agreement approved with undertakings?

- Yes
 No
 Don't know

1.5 Has a scope order or a low paid authorisation been issued in relation to this agreement?

- Yes
 No

If yes—Provide the unique print number (PR) and the date the order was made

Print number	
Date of order	

1.6 Have you notified all employees that will be covered by the agreement that an application has been made to the Commission for approval of the agreement?

See Rule 40 of the *Fair Work Commission Rules 2013*. Notification should be made through the usual means that are adopted by the employer for communicating with employees.

- Yes
 No

Part 2—Requirements for approval**Nominal expiry date****2.1 What is the nominal expiry date of the agreement? Provide the clause number in the agreement that specifies the date.**

See section 186(5) of the *Fair Work Act 2009*

Clause number	Clause 5 Period of Operation
Expiry date	4 years from 7 days after approval by FWC

Scope of the agreement**2.2 Does the agreement cover all the employees of the employer (other than senior executives)?**

- Yes
 No



See sections 186(3) and (3A) of the *Fair Work Act 2009*

If no—what group(s) of employees are covered by the agreement. Explain why you think the Commission should be satisfied that this group(s) was fairly chosen. If appropriate, describe any geographical, operational or organisational qualities that make the group(s) distinct.

2.3 Did the employer take all reasonable steps to give notice of their right to be represented by a bargaining representative to each employee who will be covered by the agreement?

Yes—please attach a copy of the notice given to employees

No



See section 173 of the *Fair Work Act 2009* and schedule 2.1 of the *Fair Work Regulations 2009*

Describe the steps that were taken to give employees notice of their right to be represented by a bargaining representative.

Employees were handed the attached representation notice on 13th October 2014.

Agreement genuinely approved

2.4 What steps were taken by the employer and on what date were they taken to ensure that the relevant employees were given, or had access to, the written text of the agreement and any other material incorporated by reference into the agreement during the 7 day period ending immediately before the start of the voting process?



See section 180(2)(a) of the *Fair Work Act 2009*

Describe the steps taken	Date
<p>All Employees were sent by registered post a copy of the proposed agreement and access to electronic copies of the relevant awards and NES, a copy of the Fair Work Ombudsman Fact Sheet - Introduction to the National Employment Standards and The National Employment Standards - Part 2-2 Fair Work Act 2009.</p> <p>Employees were notified further copies were available by contacting the Rob Malpass at the Catalyst office.</p>	31 st October 2014

2.5 Describe the action that was taken to notify all relevant employees of:

- the date and place at which the vote was to occur **and**
-
- the voting method to be used.

Describe the action taken	Date
All employees were sent by registered post voting instructions on the proposed agreement.	31 st October 2014
Further clarification was provided at the information briefings.	3 rd Nov 2014
Ballot documentation for casting a vote was sent in the post.	10 th Nov 2014

2.6 What steps were taken by the employer to explain the terms of the agreement, and the effect of those terms, to the relevant employees?



See section 180(5) of the *Fair Work Act 2009*

Also given times for information session to explain terms of agreement.

Information session held at: 90 Welshpool Road 3.30pm – 5.30pm . Unit 1 / 551 Blackburn Road Mt Waverley. 3.30 pm – 5.30 pm	3 rd November 2014
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2.7 When you explained the terms of the agreement to the employees, what did you do to take into account the particular circumstances and needs of the relevant employees?



Examples of employees who have 'particular circumstances and needs' include employees from non-English speaking backgrounds, young employees, employees who don't have a bargaining representative, etc.

All employees are Australian residents with strong English speaking background .

2.8 Please provide the following dates:



See sections 181, 181(2) and 182 of the *Fair Work Act 2009*

	Date
The date of the last notice of representational rights given to an employee who will be covered by the agreement.	13 th October 2014
The date voting for the agreement commenced (voting commences on the first date that an employee is able to cast a vote)	11 th November 2014
The date that the agreement was made (that is, the date on which the voting process by which the employees approved the agreement concluded).	17 th November 2014

2.9 Is the agreement lodged within 14 calendar days of the date the agreement was made?

Yes

No

If you have answered no to question 2.9— Please provide details of the circumstances the Commission should take in to account in deciding if it is fair to extend the time for lodging this application.



See section 185(3)(b) *Fair Work Act 2009*

2.10 Please provide the following details about the vote on the agreement:

How many employees will be covered by the agreement?	3
How many employees cast a valid vote?	3

Interaction with the National Employment Standards

2.11 List any terms of the agreement that exclude in whole, or in part, the National Employment standards?



See Part 2-2—National Employment Standards of the *Fair Work Act 2009*

Nil

2.12 List any terms of the agreement that are detrimental to an employee in any respect when compared to the National Employment Standards.

Nil

Right of entry

2.13 Does the agreement contain any terms that deal with the rights of officials or employees or employee organisations to enter the employer's premises?



See section 186(4) and sections 194(f) and (g) of the *Fair Work Act 2009*

Yes

No

If you have answered yes to question 2.13—Please identify the clauses in the agreement dealing with right of entry

Unlawful terms

2.14 Does the agreement contain any of the following:

- discriminatory terms—s186(4), s194(a), s195
- objectionable terms—s12, s186(4), s194(b)
- terms dealing with employee rights in relation to unfair dismissal—s186(4), s194(c)-(d)
- designated outworkers terms—s186(4)
- terms that deal with the taking of industrial action that are inconsistent with Part 3-3 of Chapter 3 of the *Fair Work Act 2009*—s186(4), s194(a)
- a term that does not comply with the superannuation contribution requirements for default fund employees—s194(h)

If you have selected any of the above please identify the relevant terms of the agreement.

Required terms

2.15 Please provide the clause numbers in the agreement for these required terms:

Dispute resolution procedure—s186(6)	Clause 12
Flexibility term—s202(1), s203	Clause 25
Consultation term—s205(1) s205(1A)	Clause 24

Particular types of workers

2.16 Can shift workers be employed under the agreement?



See section 196 of the *Fair Work Act 2009*

Yes

No – Go to question 2.17

Please identify the clause(s) in the agreement that define shift workers for the purpose of the NES.

Clause 21 Shift Work

Please advise if the agreement provides for an additional week of annual leave for shift workers and identify the relevant clause(s) number of the agreement.

Clause 17 Other Leave Entitlements and Public Holidays . 17 .1 .2

2.17 Does the agreement?

cover any pieceworkers—s197

cover any outworkers—s200

contain terms for school based apprentices or trainees that provide for loadings in lieu of paid leave—s199

Part 3—Better off overall test

Reference instruments

3.1 List the modern award(s), if any, that currently cover the employer and any of the employees covered by this agreement.

- Manufacturing and Associated Industries and Occupations Award 2010*
- Building and Construction Industry General Onsite Award 2010*
- Joinery and Building Trades Award 2010*
- Electrical, Electronic and Communications Contracting Award 2010*
- Concrete Products Award 2010*
- Plumbing and Fire Sprinklers Award 2010*
- Mining Industry Award 2010*

3.2 List the pre-reform award(s) or NAPSA(s) that covered the employer and any of the employees covered by this agreement as at 31 December 2009.

N/A

Translating classifications**3.3 Are any of the classifications in the agreement different from the classifications in any of the reference instrument(s) listed in questions 3.1 and 3.2?** Yes No

If you have answered yes to question 3.3—Please attach a table that identifies how the classifications in the agreement relate to the classifications in the reference instrument(s).

Improvements and reductions**3.4 Does the agreement contain any terms or conditions of employment that are *more beneficial* than equivalent terms and conditions in the reference instrument(s) listed in questions 3.1 and 3.2 and/or does the agreement confer any entitlements that are not conferred by those reference instruments?** Yes No

If you have answered yes to question 3.4—Identify the terms and conditions of the agreement that are **more beneficial** than, or are **not conferred** by the reference instruments. Your answer should indicate whether all or only some of the employees are affected and, if only some employees are affected, identify the groups of employees affected.

Clause 9 Wages and Allowances guarantee a higher rate of pay for every employee than the applicable modern award provides.

3.5 Does the agreement contain any terms that are *less beneficial* than equivalent terms and conditions in the reference instrument(s) listed in questions 3.1 and 3.2 and/or does the agreement confer any entitlements that are not conferred by those reference instruments?

Yes

No

If you have answered yes to question 3.5—Identify the terms and conditions of the agreement that are **less beneficial** and are **not conferred** by the reference instruments. Your answer should indicate whether all or only some of the employees are affected and, if only some employees are affected, identify the groups of employees affected.

Exceptional circumstances (where the agreement fails the better off overall test)

3.6 Do you think that the agreement passes the better off overall test?



Section 193 of the *Fair Work Act 2009* sets out when an agreement will pass the better off overall test.

I think the agreement **does pass** the better off overall test

I **don't think the agreement passes** the better off overall test

If the employer considers that the Agreement **does not** pass the better off overall test—Identify any exceptional circumstances that the Commission should consider when deciding whether approving the Agreement would not be contrary to the public interest.



Section 189 of the *Fair Work Act 2009* sets out when the Commission may approve an enterprise agreement that does not pass the better off overall test.

Part 4—Statistical information



This information is necessary to enable the Fair Work Commission to comply with its statutory reporting obligations under s653 of the *Fair Work Act 2009*

4.1 What is the primary activity of the employer?



For example music retailer, plumbing contractor, steel fabricator, etc.

LABOUR HIRE

4.2 What states and territories will this agreement be operating in?

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia

4.3 Please provide the following details about the vote on the agreement:

Demographic group	Number of employees
Female	
Non-English speaking background	
Aboriginal or Torres Strait Islander	
Disabled	
Part-time	
Casual	3
Under 21 years of age	
Over 45 years of age	

4.4 Please list the full and precise name of all collective agreement(s) (including ID numbers) that covered any employees covered by this agreement immediately prior to the time this agreement was made.

N/A

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I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act 1959*, and I believe that the statements in this declaration are true in every particular.

Signature of person making the declaration

Signature
Declared at (place)
on (day) of (month) (year)



Before me,

Signature of person before whom the declaration is made
Full name of person before whom declaration is made
Qualification of person before whom declaration is made
Address of person before whom declaration is made
Suburb
State or territory
Phone number



Note 1: A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment of which is imprisonment for a term of 4 years—see section 11 of the *Statutory Declarations Act 1959*.

Note 2: Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959*—see section 5A of the *Statutory Declarations Act 1959*.

	A statutory declaration must be made before a “prescribed person”. For a full description of prescribed persons please see the Commission’s Guide—Statutory Declarations .
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PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS
