

**Instructions for completing a Form 5 – Small claim under the Fair Work Act 2009**

*These are instructions. It is important to complete this form with your own details and based on your own circumstances. If you need more help, you should seek legal advice.*

**IN THE FEDERAL CIRCUIT AND**

File number: **Leave blank**

**FAMILY COURT OF AUSTRALIA**

**REGISTRY:** **Write the location of the registry here**

**Write your name here**

Applicant

**Write your employer's name here**

Respondent

*Repeat as necessary for additional parties*

## **Form 5 Small claim under the Fair Work Act 2009**

Fair Work Division  
Rule 30.11(b)

<b>Part A – Details of employee or outworker</b>	
1. Name	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> <b>Tick the correct box</b> Other <input type="checkbox"/> (give details): <b>Write your title here</b>  Family name: <b>Write your surname here</b>  Given names: <b>Write your first and middle names here</b>
2. Address	<b>Write your address here</b>  Postcode:
3. Phone	Business hours: <b>Write your business telephone number here</b> After hours: <b>Write your afterhours telephone number here</b> Mobile: <b>Write your telephone number here</b>
4. Date of birth	<b>Write your date of birth here</b>
5. First language	<input type="checkbox"/> English <b>Check this box if English is your first language</b> <input type="checkbox"/> Other (specify): <b>Write your first language here</b>

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	Does the applicant require an interpreter? <b>Check the box to say whether you need an interpreter</b> No <input type="checkbox"/> Yes <input type="checkbox"/> If Yes, what language: <b>Write the language of the interpreter here</b>
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**Part B – Details of employer or outworker entity**

6. Name of employer or outworker entity	<b>Write your employer's name here. If your employer is a company, write the company name here.</b>
7. Address or registered office	<b>Write your employer's address here. If your employer is a company, write the address of company's registered office.</b> Postcode:  Phone: <b>Write your employer's telephone number here</b>  Fax: <b>Write your employer's fax number here</b>

**Part C – If the applicant is an individual – details of representation**

8. Is an organisation such as a union, acting on your behalf?	<input type="checkbox"/> No - go to 15 <b>Check this box if you are self-represented. Go straight to Part E.</b> <input type="checkbox"/> Yes - go to 9. <b>Check this box if you are represented by a union</b>
9. Name of organisation	<b>Write the name of the union that is representing you here</b>
10. Address	<b>Write the address of the union that is representing you here</b>  Postcode: <b>Write the postcode</b>
11. Contact person	Name: <b>Write the name of your contact person at the union here</b> Phone: <b>Write the union's telephone number here</b> Fax: <b>Write the union's fax number here</b>

**Part D – If the applicant is an industrial association – details of representation **Leave this section blank****

12. Is a member, officer or employee of the	<input type="checkbox"/> No - go to 15 <input type="checkbox"/> Yes - go to 13
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applicant representing it?	
13. Name of the member, officer or employee	
14. Address	..... ..... Postcode: .....  Phone: (.....).....  Fax: (.....).....

**Part E – Notices from the Court**

**Check the box to show where you want correspondence from the court to be sent**

15. Where do you want notices from the Court sent?	<input type="checkbox"/> address in 2 <input type="checkbox"/> organisation in 9-11 <input type="checkbox"/> address in 13-14 <input type="checkbox"/> other (give details): <b>Write your address here</b>
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**Part F – Details of work performed by employee or outworker**

16. Occupation	<b>Write your job title or position here</b>
17. Work or services performed	<b>Write what type of work you do/did in the position above</b>
18. Duties <i>A brief summary of the employee or outworker's duties</i>	<b>Write a list of your duties for the position above here</b>
19. Classification level under applicable Modern Award, enterprise agreement, workplace determination or contract	<b>If you know, write what level under the award, enterprise agreement or other instrument applies to you. For example, Food and beverage attendant grade 2, under the Restaurant Industry Award 2010.</b>

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20. Place of work or services	<p><b>Write the address where you worked</b></p> <p align="right">Postcode: <b>Write the postcode</b></p>																					
21. Period of employment or outworker contract	<p>Date started work: <b>Write the date you began work</b></p> <p>Last date worked: <b>Write the date of your last day of work</b> <i>if employment or outworker arrangement terminated</i></p>																					
22. If the employee's employment or the outworker's contract was terminated, was a written notice of dismissal or termination given?	<p><b>Check the box to show whether you were given written notice of your dismissal or termination. If yes, attach a copy to this form.</b></p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes - copy attached</p>																					
23. Employment status	<p><b>Check the box to show what type of employee you were. If you are not sure, check your payslip if you have one.</b></p> <p><input type="checkbox"/> full-time</p> <p><input type="checkbox"/> part time</p> <p><input type="checkbox"/> casual</p> <p><input type="checkbox"/> fixed term</p> <p><input type="checkbox"/> seasonal</p> <p><input type="checkbox"/> outworker</p>																					
24. Hours of work	<p>Did the employee or outworker work regular hours?</p> <p><input type="checkbox"/> Yes <b>Check this box if you worked regular hours</b></p> <p><input type="checkbox"/> No <b>Check this box if you didn't work regular hours</b></p> <p>If Yes, complete the following: <b>Write your regular hours of work here</b></p> <table border="1" data-bbox="571 1462 1461 2011"> <thead> <tr> <th>Day</th> <th>Start time (state am or pm)</th> <th>Finish time (state am or pm)</th> </tr> </thead> <tbody> <tr> <td>Monday</td> <td></td> <td></td> </tr> <tr> <td>Tuesday</td> <td></td> <td></td> </tr> <tr> <td>Wednesday</td> <td></td> <td></td> </tr> <tr> <td>Thursday</td> <td></td> <td></td> </tr> <tr> <td>Friday</td> <td></td> <td></td> </tr> <tr> <td>Saturday</td> <td></td> <td></td> </tr> </tbody> </table>	Day	Start time (state am or pm)	Finish time (state am or pm)	Monday			Tuesday			Wednesday			Thursday			Friday			Saturday		
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	Sunday		
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**Part G – Contravention alleged**

**Check the box that describes where your right to unpaid wages or entitlements comes from. You can tick more than one.**

25. The applicant alleges that the employer or outworker entity has breached:  
*(select one or more as appropriate)*

one of the National Employment Standards

**A set of minimum entitlements that apply to all national system employees.**

*Please specify the standard:*

.....

a term of a Modern Award

**An award is a legal document that provides the minimum terms and conditions of employment for all employees who work in a particular industry or profession.**

*Please specify the Modern Award and the relevant term:*

.....

an enterprise agreement

**An agreement, approved by the Fair Work Commission, between an employer and all employees who work for that employer.**

*Please specify the enterprise agreement and the relevant term:*

.....

a workplace determination

**A decision made by the Fair Work Commission to set terms and conditions of employment where parties cannot reach agreement about the terms of an enterprise agreement.**

*Please specify the determination and the relevant provision:*

.....

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a national minimum wage order

**An order made by the Fair Work Commission setting the national minimum wage, and a special national minimum wage for certain employees.**

*Please specify:*

.....

an equal remuneration order

**An order made by the Fair Work Commission ensuring that all workers that the order applies to get equal pay for work of equal or comparable value.**

*Please specify:*

.....

a safety net contractual entitlement

**An entitlement under a contract of employment that relates to an entitlement under the national employment standards or a modern award.**

*Please specify:*

.....

other

**Other contraventions could include failure by your employer to:**

- **pay our wage**
- **pay you at least monthly**
- **pay your wage or other entitlements by the methods approved in the Fair Work Act.**

*Please specify: .....*

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**Part H – Remedy sought**

**Check the boxes to show what entitlements you are claiming and state the amount you are claiming for each entitlement. If you need help to work out how much leave you are entitled to, you can use the [Leave Calculator on the Fair Work Ombudsman website](#).**

26. Tick the box for each sort of claim you are making and insert the amount claimed

- wages \$
- overtime rate \$
- penalty rate \$
- allowances \$
- leave
  - annual \$
  - personal/carer's \$
  - compassionate \$
  - jury service \$
  - other (please identify): \$  
.....
- public holiday \$
- redundancy pay \$
- superannuation claim \$

**Total**

**\$ Write the total amount you are claiming here**

27. To whom should any compensation be paid?

**Write your name here**

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<b>Part I – details of claim</b>	
<p>Describe the basis for the claim for each of the boxes ticked in Question 26 and the method of calculation of the amount claimed.</p> <p>Attach an extra sheet if required</p>	<p><b>Explain your claim, including how you worked out the amounts in your claim. You should include:</b></p> <ul style="list-style-type: none"><li>• where in your award, enterprise agreement or contract of employment your entitlement comes from</li><li>• if you are claiming unpaid wages, what days you believe you have not be paid for, and how much you believe you should be paid on an hourly basis (your hourly rate)</li><li>• if you are claiming unpaid leave, the amount of leave you believe you are entitled to and how much leave you have taken since you started working for this employer, or when you took leave that you were not paid for</li><li>• if you are claiming anything else, explain the circumstances and reasons you believe you are owed an entitlement.</li></ul>

**Signature of applicant or authorised representative**

**Sign here**

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Signed by (print name) **Write your name here**

- the applicant **Check this box**
- authorised representative of the applicant

Date: **Write the date here**

Form approved by the Chief Judge pursuant to subrule 2.04(1) for the purpose of subrule 30.11(b)

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