

# APPLICATION TO VARY OR RESCIND ENTERPRISE AGREEMENT

Section 84 *Fair Work Act 1994 SA*

SOUTH  
AUSTRALIAN  
EMPLOYMENT  
TRIBUNAL

Case number (SAET use only)

## About this form

- This is the approved form to apply for SAET to vary or rescind an enterprise agreement under the section 84 of the *Fair Work Act 1994 SA*.
- If the application is to vary the agreement, a Word version of the proposed consolidated agreement should be attached to this application.
- This form may be completed electronically and lodged as an email attachment (not a scan). A signature is not required on the form.

## 1 TYPE OF APPLICATION

This application relates to an application to:

- Vary an enterprise agreement (section 84 *Fair Work Act 1994 SA*) (FW-13)
- To give effect to agreed amendments (s84(1)(a)) (FW-13-01)
  - To correct an ambiguity or uncertainty (s84(1)(b)) (FW-13-02)
  - To bring the agreement into conformity with an undertaking (s84(1)(c)) (FW-13-03)
- Rescind an enterprise agreement (section 84 *Fair Work Act 1994 SA*) (FW-14)
- To give effect to agreed rescission (s84(3))
  - To seek the rescission after the term of the agreement has expired (s84(4))

## 2 PARTIES (SUMMARY)

This application is made by:

- The employer(s) and the group of employees
- The employer(s) only
- A registered association with at least one member subject to the agreement
- An employee or the group of employees bound by the agreement

**DO NOT COMPLETE** - This section will auto-populate with details you provide in [Attachment 1 - Parties \(Detail\)](#) (enclosed at the end of this form) which must be completed prior to lodgement.

| Name  | Contact's last name |
|---|---------------------|
| <b>Employer</b>                                   |                     |
| Representative<br>(if applicable)                 |                     |
| <b>Employee Rep #1</b>                            |                     |
| <b>Employee Rep #2</b><br>(if applicable)         |                     |
| <b>Employee Rep #3</b><br>(if applicable)         |                     |
| <b>Employee Association #1</b><br>(if applicable) |                     |
| <b>Employee Association #2</b><br>(if applicable) |                     |

If there are more parties to this application than this form provides for, please also complete an 'A10 - Details of Additional Party' (available from [www.saet.sa.gov.au](http://www.saet.sa.gov.au)) form for all other parties and submit with your application.

## 3 AGREEMENT DETAILS

Name of the enterprise agreement that this application relates to

Date the agreement is due to expire

#### 4 ENTERPRISES COVERED BY THE AGREEMENT

Provide details of the enterprises covered by the agreement. Complete as many as necessary.

|                      |   |
|----------------------|---|
| Name of business     | Location(s) where business is carried out |
| <input type="text"/> | <input type="text"/>                      |
| Name of business     | Location(s) where business is carried out |
| <input type="text"/> | <input type="text"/>                      |

#### 5 OVERVIEW EMPLOYEE PARTIES TO THE AGREEMENT

Describe the occupational groups and/or sections of the employees covered by the agreement

State the number of employees covered by the agreement at the time of this application

|       |                      |           |  |                      |
|-------|----------------------|-----------|--|----------------------|
| Total | <input type="text"/> | Of which: | Are male                               | <input type="text"/> |
|       |                      |           | Are female                             | <input type="text"/> |
|       |                      |           | Have first language other than English | <input type="text"/> |

Contact details of employee representatives involved in the negotiations are to be completed in Attachment 1.

#### 6 INVOLVEMENT OF REGISTERED EMPLOYEE ASSOCIATIONS

Were any of the employees represented by a Registered Employee Association during the course of negotiations?

Yes – If 'Yes', specify the name of the Registered Association

No – go to the next section

Contact details of the Registered Employee Association involved in the negotiations are to be completed in Attachment 1.

#### 7 EMPLOYEE APPROVAL OF VARIATION OR RESCISSION OF THE AGREEMENT

How were employees informed of the proposed rescission or the variation to the Agreement?

How did employees approve the proposed variation or the rescission of the agreement (Ballot and/or Other means)?

Ballot If 'Ballot', did a majority of the employees approve the Agreement?

Yes  No

Specify number of valid votes: For  Against

What measures were taken to ensure all employees had a reasonable opportunity to participate in the ballot?

- Other means (eg general meetings, individual endorsements)

What method was adopted?

Do any other employees suffer from an intellectual disability that prevented them from having a proper understanding of the negotiations?

- Yes – If 'Yes', specify the measures to provide representation for such employees

- No

Are there any employees covered by the Agreement who have not signed the Agreement and are not represented by a Registered Association or agent?

- Yes - If 'Yes', please describe

- No

## 8 EMPLOYER COMPLIANCE WITH SECTION 76 OF THE ACT (VARIATION OF AN AGREEMENT ONLY)

Section 76 (1): Did the employer give employees to be bound by the Agreement 14 days notice of intention to begin negotiations for an Enterprise Agreement? Note that s76(1) provides that this notice is not required if the Agreement is negotiated to settle an industrial dispute or SAET grants an exemption from this requirement.

- Yes - If 'Yes' state briefly how this notice was provided

- No - If 'No' state grounds for seeking an exemption

Section 76 (2): Did the employer inform employees of their right to appoint a representative (including an agent of the employee's choice or a Registered Association of employees) in the negotiation, and proceedings for approval before beginning the negotiations?

- Yes - If 'Yes' state briefly how this information was given

- No

**Section 76 (3):** If the employer was aware that an employee was a member of a Registered Association, did they take reasonable steps to notify the association of the intended negotiations before beginning the negotiations?

Yes - If 'Yes' state briefly how this notification was given

No

Not applicable

**Section 76 (4):** Did the employer ensure that employees to be covered by the Agreement, who are subject to an Award, have reasonable access to the Award?

Yes - If 'Yes' state briefly how this action was achieved

No

Not applicable

## **9 ABOUT THE VARIATION TO THE AGREEMENT (VARIATION OF AGREEMENT ONLY)**

This application should be supported by an attached schedule setting out, in precise terms, the specific amendments or variations

Is a schedule of variations attached to this application?

Yes

No

## **10 CIRCUMSTANCES LEADING TO THE VARIATION OR RESCISSION**

Detail the circumstances leading to the application. Attach supporting attachments if required.

## 11 SUPPORTING ATTACHMENTS

Provide a brief description of any attachments supporting this application. If the application is to vary the agreement, the attachments must include a Word version of the proposed consolidated agreement.

## 12 LODGING YOUR COMPLETED FORM

By lodging this application, I declare that:

- I am the applicant or I am legally authorised to lodge this application
- To the best of my knowledge, all information provided in this application is true and correct
- I will attach all relevant supporting documents to this application form
- I understand that the information provided will be used to determine eligibility to initiate proceedings
- I understand that a copy of this application, and any supporting documents, may be sent to others who may have a direct interest in the proceedings. The *South Australian Employment Tribunal Act 2014* governs what information is available to be viewed publicly.

Name of person lodging the application

Date

**To lodge your completed form:**

1. **Save** it to your computer - SAET does not require a signed version so there is no need to print and scan
2. **Email** it with any supporting documents to [saet@sa.gov.au](mailto:saet@sa.gov.au).

*Ensure you complete Attachment 1: Party (Detail) enclosed over the page*

## ATTACHMENT 1 - PARTIES (DETAIL)

### A. Employer party to the agreement

Organisation legal name

Organisation trading name

#### Contact details

|                      |                      |                      |                      |
|----------------------|----------------------|----------------------|----------------------|
| Title                | Given name           | Other given names    | Family name          |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Job title

|                      |                      |                      |                                      |
|----------------------|----------------------|----------------------|--------------------------------------|
| Unit number          | Street number        | Street name / PO Box | Street type (eg Street, Road, Drive) |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/>                 |

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Suburb               | State                | Postcode             |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

|                      |                      |   |
|----------------------|----------------------|---|
| Phone                | Mobile               | Email (if provided, correspondence will be emailed) |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                |

#### Employer's representative details

Is the Employer represented?

- Yes  No – go to **B Employee representative details**

Type of representative

- Legal  Employer association  Advocate

Is the representative an individual or acting on behalf of a representative organisation?

- Individual

- Organisation – specify Representative organisation name

#### Representative contact details

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Title                | Given name           | Family name          |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

|                      |                      |                      |                                      |
|----------------------|----------------------|----------------------|--------------------------------------|
| Unit number          | Street number        | Street name / PO Box | Street type (eg Street, Road, Drive) |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/>                 |

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Suburb               | State                | Postcode             |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

|                      |                      |   |
|----------------------|----------------------|---|
| Phone                | Mobile               | Email (if provided, correspondence will be emailed) |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                |

## B. Employee representatives (other than Registered Association)

Complete as many that apply. If there are more contacts than this form provides for, please also complete an 'A10 - Details of Additional Party' (available from [www.saet.sa.gov.au](http://www.saet.sa.gov.au)).

### Employee representative contact #1

|                      |                      |   |                                      |
|----------------------|----------------------|---|--------------------------------------|
| Title                | Given name           | Other given names                                   | Family name                          |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                | <input type="text"/>                 |
| Job title            |                      |   |                                      |
| <input type="text"/> |                      |   |                                      |
| Unit number          | Street number        | Street name / PO Box                                | Street type (eg Street, Road, Drive) |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                | <input type="text"/>                 |
| Suburb               |                      | State   | Postcode                             |
| <input type="text"/> |                      | <input type="text"/>                                | <input type="text"/>                 |
| Phone                | Mobile               | Email (if provided, correspondence will be emailed) |                                      |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                |                                      |

### Employee representative contact #2

|                      |                      |   |                                      |
|----------------------|----------------------|---|--------------------------------------|
| Title                | Given name           | Other given names                                   | Family name                          |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                | <input type="text"/>                 |
| Job title            |                      |   |                                      |
| <input type="text"/> |                      |   |                                      |
| Unit number          | Street number        | Street name / PO Box                                | Street type (eg Street, Road, Drive) |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                | <input type="text"/>                 |
| Suburb               |                      | State   | Postcode                             |
| <input type="text"/> |                      | <input type="text"/>                                | <input type="text"/>                 |
| Phone                | Mobile               | Email (if provided, correspondence will be emailed) |                                      |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                |                                      |

### Employee representative contact #3

|                      |                      |   |                                      |
|----------------------|----------------------|---|--------------------------------------|
| Title                | Given name           | Other given names                                   | Family name                          |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                | <input type="text"/>                 |
| Job title            |                      |   |                                      |
| <input type="text"/> |                      |   |                                      |
| Unit number          | Street number        | Street name / PO Box                                | Street type (eg Street, Road, Drive) |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                | <input type="text"/>                 |
| Suburb               |                      | State   | Postcode                             |
| <input type="text"/> |                      | <input type="text"/>                                | <input type="text"/>                 |
| Phone                | Mobile               | Email (if provided, correspondence will be emailed) |                                      |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                |                                      |

### C. Registered Association (if applicable)

Complete as many that apply. If there are more contacts than this form provides for, please also complete an 'A10 - Details of Additional Party' (available from [www.saet.sa.gov.au](http://www.saet.sa.gov.au)).

#### Registered Association #1

Association name

#### Contact details

|                      |                      |                      |                      |
|----------------------|----------------------|----------------------|----------------------|
| Title                | Given name           | Other given names    | Family name          |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Job title

|                      |                      |                      |                                      |
|----------------------|----------------------|----------------------|--------------------------------------|
| Unit number          | Street number        | Street name / PO Box | Street type (eg Street, Road, Drive) |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/>                 |

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Suburb               | State                | Postcode             |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

|                      |                      |   |
|----------------------|----------------------|---|
| Phone                | Mobile               | Email (if provided, correspondence will be emailed) |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                |

#### Registered Association #2

Association name

#### Contact details

|                      |                      |                      |                      |
|----------------------|----------------------|----------------------|----------------------|
| Title                | Given name           | Other given names    | Family name          |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Job title

|                      |                      |                      |                                      |
|----------------------|----------------------|----------------------|--------------------------------------|
| Unit number          | Street number        | Street name / PO Box | Street type (eg Street, Road, Drive) |
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/>                 |

|                      |                      |                      |
|----------------------|----------------------|----------------------|
| Suburb               | State                | Postcode             |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

|                      |                      |   |
|----------------------|----------------------|---|
| Phone                | Mobile               | Email (if provided, correspondence will be emailed) |
| <input type="text"/> | <input type="text"/> | <input type="text"/>                                |