



Termination of Employment - General Information

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1. About this information guide

This document aims to assist employees and employers considering, or involved in, proceedings in the Australian Industrial Relations Commission (the Commission) regarding alleged unfair dismissal or unlawful termination of employment.

Its purpose is to provide information about some of the most commonly asked questions concerning unfair dismissal and termination of employment proceedings. Forms referred to in this guide can be obtained from the Australian Industrial Registry (the Registry) in each State and Territory capital city or from the *Forms* page on the AIRC web site. Terms appearing in bold type can be found in a glossary at the end of this document.

The AIRC web site address is <http://www.airc.gov.au>.

2. Key questions

For the employee	Answer	Relevant section in this guide
Can I make a claim in the Australian Industrial Relations Commission?	Check relevant sections of the <i>Workplace Relations Act 1996</i> and regulations and/or seek advice.	9, also 6, 7, 8
How long have I got to lodge an application?	Within 21 days of the termination coming into effect.	12, 13
What form do I need and where do I get it?	Form R18. Copies available from the Registry. Phone or attend a Registry public counter or download from the 'Forms' page of the AIRC web site - http://www.airc.gov.au	12, 26
Can I lodge my claim online?	Yes. You can submit your application and pay the lodgment fee through the e-filing section of the AIRC web site (address above).	12
Will details of my case be made public?	Your file will remain confidential, as will the details of any conferences held. Hearings and decisions, however, are generally public.	11, also 15, 19
For the employee and the employer	Answer	Relevant section in this guide
Do I need to be represented?	Individual choice. Representation is not required.	23, also 27
What happens in the Commission?	The Commission will assist you to reach a settlement. If this is not possible, a binding decision may be made.	5, 15, 16, 17, 19, 20, also 6
What if I have difficulty speaking and reading English?	Seek assistance of friends or community organisations. You may also request an interpreter for Commission proceedings.	4, also 27

3. How can the Registry assist?

Registry staff can provide information, but they cannot provide legal advice. If you are seeking legal advice about your rights, please consult your union or employer association, a legal practitioner or industrial adviser.

Other information available from the Registry is described in **section 27** of this guide..

4. What if I have language problems?

If English is not your first language, or you have difficulties such as a visual or hearing impairment, you may know a person or community organisation who can assist you. You can generally bring along such a person to Commission proceedings or request an interpreter by contacting the Registry. There is no charge for the use of an interpreter.

If you are having difficulty understanding the information in this document and you do not have someone you can approach for assistance, please contact the Registry in your nearest capital city. You may also phone the Translating and Interpreting Service (TIS). This is a national service available through the Department of Immigration and Multicultural Affairs 24 hours a day, seven days a week. The number is **131 450** and the cost is that of a local call.

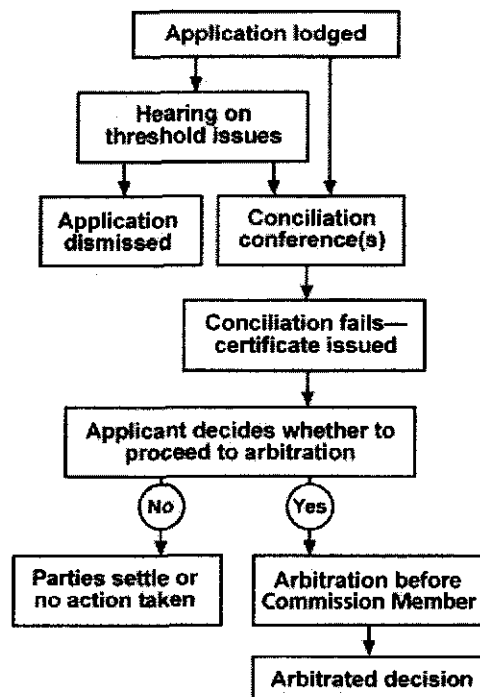
5. Overview of Commission proceedings

The Commission process begins with the filing of an application by a person whose employment has been terminated.

This person is known as the **applicant** and his or her employer is known as the **respondent**. Either can be referred to as a **party**.

Sometimes, the Commission may consider it appropriate to formally hear and determine certain preliminary issues, known as **jurisdictional issues**, first. This may occur in cases where an employer argues that the application has been lodged out of time (more than 21 days after the termination took effect) or is not valid. The application may be dismissed at this stage or referred to conciliation.

If conciliation is unsuccessful, a certificate will be issued and the applicant can elect to proceed to **arbitration**. This involves public hearings and a written decision by a Commission Member, which is binding on the parties. The chart (right) provides an overview of the Commission process.



Note: A matter may be settled at any time by agreement between the applicant and the respondent.

6. Which court or tribunal?

If you believe you have been unfairly or unlawfully dismissed from your job it can be confusing trying to work out where you should go to make a claim. This is because there are a number of different federal and state laws in Australia that deal with termination of employment. Which law and which court or tribunal applies to a particular case depends on the eligibility criteria in each law and the details of that particular case.

The Registry cannot provide you with advice as to the most **appropriate** legal course. Such advice should be sought from your union or employer association, a legal practitioner or industrial adviser.

This information paper deals only with applications made to the Commission under the federal *Workplace Relations Act 1996* (the Act). The focus of this legislation is on the settlement of matters in dispute. The Commission seeks to help employers and employees to reach a settlement in a way that minimises legal costs and discourages vexatious and unreasonable claims. If matters are not settled, the Commission will make a decision that is binding on both the employer and employee.

Information is also available from the Federal Court of Australia and the various state industrial tribunals (see **section 27**).

7. What is unfair dismissal?

According to the Act, an unfair dismissal occurs when the employee's dismissal is "*harsh, unjust or unreasonable*" (s.170CG(1)(b)).

In determining if this has been the case, the Commission must have regard to a number of factors including:

- whether there was a valid reason for the termination and whether the employee was notified of that reason;
- whether the employee was given an opportunity to respond;
- if the termination related to unsatisfactory performance by the employee and whether the employee had previously been warned about that unsatisfactory performance;
- the degree to which the size of the employer's business, or the absence of dedicated human resource management specialists, may have had an impact on termination procedures.

(For exact wording, please refer to s.170CG(3) of the Act.)

8. What is unlawful termination of employment?

A person's employment has been unlawfully terminated if the termination was based on one or more of a number of reasons listed in the Act. These include failure to meet the required notice provisions (s.170CM) and reasons concerning alleged discrimination (s.170CK). Any unlawful termination claim concerning alleged discrimination must be based on one or more of the following:

- temporary absence from work because of illness or injury;
- trade union membership or participation in trade union activities outside working hours or, with the employer's consent, during working hours;
- non-membership of a trade union;
- seeking office as, or acting or having acted in the capacity of, a representative of employees;
- filing a complaint, or participation in proceedings, against an employer involving alleged breaches of laws or regulations;
- race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- refusing to negotiate, sign, vary or terminate an Australian Workplace Agreement; and
- absence from work during maternity leave or other parental leave.

(For exact wording, please refer to s.170CK and s.170CM of the Act.)

NOTE: Under the Act, the Commission is responsible for conciliation in both unfair dismissal and unlawful termination cases. Only unfair dismissal cases, however, can be arbitrated in the Commission.

If conciliation fails in an unlawful termination case and a certificate is issued, the matter would need to go to the Federal Court of Australia, or in certain circumstances, another relevant court, for determination. In such a case the applicant would need to lodge a *Notice of election to proceed to arbitration or to begin Court proceedings* (Form R25) in the Registry not later than seven days after a certificate is issued as well as begin proceedings in the relevant court.

9. Who can apply?

In determining if you are eligible to make a claim for unfair dismissal or unlawful termination you will need to look at the relevant sections of the Act and related regulations. There are three main types of applications.

They involve a termination that was allegedly:

1. harsh, unjust or unreasonable (unfair dismissal);
2. in breach of discrimination provisions (unlawful termination); and/or
3. in breach of minimum notice provisions (unlawful termination).

Slightly different eligibility criteria apply to each of the above. The tables below summarise the key factors.

Unfair dismissal	
Harsh, unjust or unreasonable	
Relevant section of the Act or regulation	s.170CE, s.170CBA <i>Regulation 30BB</i>
Who can apply?	<p>(1) An employee must have been:</p> <ul style="list-style-type: none"> • covered by a federal award or agreement and whose employer is a constitutional corporation; or • employed in interstate or overseas trade or commerce as a waterside worker, maritime employee or flight crew officer; or • a Commonwealth public sector employee; or • employed in Victoria or in a Territory. <p>(2) The employee must have completed a qualifying period of employment of at least three months before dismissal. A shorter or longer period may apply provided it has been agreed in writing before the employment begins. A period longer than three months must be reasonable given the nature and <i>circumstances of the employment</i>.</p>
Who is excluded?	<p>Fixed term or specified task - an employee engaged under a contract of employment for a specified period of time or for a specified task (unless the main purpose of such engagement was to avoid the employer's obligations under the termination provisions).</p> <p>Probationary - an employee serving a period of probation or qualifying period, the duration of which is <u>determined in advance</u>, and is three months or less, or otherwise reasonable given the nature and circumstances of the employment.</p> <p>Casuals - a casual employee engaged for a short period. (Note: a casual employee is not considered to be engaged for a short period if that person was employed by a particular employer on a regular and systematic basis over a period of at least 12 months and the employee had a reasonable expectation of continuing employment by the employer.)</p> <p>Trainees - a trainee whose employment under a <i>National Training Wage</i> traineeship or an approved traineeship (as defined in s.170CD(1)) is for a specified period, or is, for any other reason, limited to the duration of the agreement.</p> <p>Non-award, high-income earner - an employee not employed under award conditions whose remuneration exceeds \$94,900 per year (or such amount as altered annually by indexation).</p>

Unlawful termination		
	Discrimination	Minimum notice provisions
Relevant section of the Act or regulation	s.170CK Regulation 30BB	s.170CM, s.170CBA Regulation 30BB
Who can apply?	All employees nationally. A qualifying period of employment is not required (see Commission decision PR942259).	All employees nationally - subject to the exclusions set out below. A qualifying period of employment is not required (see Commission decision PR942259).
Who is excluded?	No excluded classes of employees.	Same classes of employees excluded as in the unfair dismissal table above. In addition, the following classes of employees are also excluded: All other casuals - including long-term casuals; Daily hire employees - in the building and construction industry; Daily hire employees - in the meat industry (in connection with livestock slaughter); Weekly hire employees - in the meat industry, whose termination is determined solely by seasonal factors;

10. What if my employer's business has been taken over?

In the case of a succession, assignment or transmission of business, the obligation to pay notice (as outlined in s.170CM) by the previous employer will not arise if:

- the employee is re-employed by the new owner of the business; and
- that new owner comes under an enforceable obligation (such as an award that counts service before and after the transmission as continuous service) to pay notice in respect of the earlier period of service.

11. Privacy

In general, termination of employment case files and discussions in private conferences are confidential. Details will only be disclosed to the parties directly involved or their representatives.

Aspects of your case which are likely to be public include:

- case details published in the daily hearings list;
- hearings (if your case proceeds to arbitration or a threshold legal issue has to be determined);
- decisions (the Commission is required to publish its decisions and does so by reproducing them on a section of the AIRC web site).

Further information can be found in sections 15 and 19 below.

12. How to apply

An employee making a claim in the Commission for alleged unfair dismissal or unlawful termination of employment must complete and lodge a **Form R18** (called *Application for relief in relation to termination of employment - s.170CE(1)*) with the Registry **within 21 days** of the termination coming into effect.

Applicants are required to pay a **lodgment fee of \$52.40**. This fee may be waived on the grounds that its payment would cause serious hardship. An application for waiver should not be lodged separately, but should accompany the R18 Form. The fee may also be refunded if the matter is discontinued (see **section 21**).

Applications can be submitted to the Registry by hand over the counter, by fax, by post or online through the e-filing section of the AIRC web site (look under *Electronic Lodgment*) at <http://www.airc.gov.au>. The lodgment fee can also be paid online.

13. Late applications

A late application must include reasons as to why it would be unfair for the Commission not to accept the application. If an employer lodges an objection to a late application a hearing will be conducted before a Member of the Commission to determine if an extension of time should be granted.

14. What happens to the application?

After lodgment, the Registry will acknowledge receipt of the application and send a copy of the Form R18 to the employer named in that form. The Registry also sends a blank *Notice of Employer's Appearance (Form R21)* to that employer. The employer is required to complete that form, and, before the end of seven days after it has been received, lodge it (that is, return it) in the Registry and forward a copy to the applicant. Providing a copy of the completed form to the applicant is known as **service**. This completed form can be lodged and served personally, by post or by fax.

The parties are notified by the Registry in writing of the time, date and location of all conciliation conferences, which they are required to attend on the date specified. Any application for adjournment must be in writing and provide full reasons.

An employer may object to an application on jurisdictional grounds at any time. To do so, an employer must complete and lodge in the Registry a *Motion to Dismiss the Application for Want of Jurisdiction (Form R21A)* and forward a copy to the applicant.

15. What is a conciliation conference?

Other than in the circumstances set out in **section 17** below, the first stage is for the case to be set down for a conciliation conference. The purpose of such a conference is to try to help the parties to agree on terms for a settlement. In this way the matter can be resolved relatively quickly and inexpensively.

A conciliation conference is a private, confidential meeting that is chaired either by a Member of the Commission or by a **conciliator** (who is a representative of the Commission skilled in conciliation techniques). The meeting is conducted in an informal or semi-formal manner. There is no transcript or record taken of proceedings other than when the matter is settled by agreement of the parties and the terms are put in writing.

NOTE: A conciliation conference is not a hearing and evidence is not taken in the course of such a conference. While parties must attend, witnesses are not required. For further information please refer to the video information package *Termination of Employment - The Conciliation Process* (details of access in section 27).

If the matter is not settled in the first conference, the parties may be offered a second conference. A second conference is always held before a Member of the Commission.

NOTE: Adjournment applications will be granted only on substantial grounds.

In the event that an applicant fails to attend a conciliation conference, the application may be dismissed (see s.170CIB).

16. What if a settlement is not reached in the conference?

Where the Commission is satisfied that all reasonable attempts to reach a settlement by conciliation have been, or are likely to be, unsuccessful, the Commission must issue a written certificate. This will state in part that attempts to settle have been unsuccessful. The Commission Member issuing the certificate will indicate to the parties his/her assessment of the merits of the application and may also recommend that the applicant not pursue an application (or certain grounds of an application) any further.

Where a matter is not settled by conciliation, and a Member of the Commission considers, after giving the applicant an opportunity to provide all the information they want to, that a claim of unfair dismissal has **no reasonable prospect of success**, the Commission may issue a certificate to that effect. In such cases the application is dismissed with effect from the date the certificate is issued.

17. When is a conference not the first proceeding?

Sometimes, the Commission may consider it appropriate to formally hear and determine certain preliminary issues, known as **jurisdictional issues**, before conducting a conciliation conference. This may occur in cases where an employer argues that the application has been lodged out of time (more than 21 days after the termination took effect) or is not valid.

Form R21A *Motion to Dismiss the Application for Want of Jurisdiction* makes provision for an employer to indicate if the application is opposed on one or more of these preliminary points and, if so, whether or not there is an objection to conciliation being held before the jurisdictional issue is decided.

If a formal hearing on a jurisdictional issue is to be held as the first step in the proceedings the parties will be notified in writing of the time, date and location of these formal (sometimes known as **callover**) proceedings. They will be required to attend.

If jurisdictional issues are decided in favour of the employer, the matter will be finalised and the file will be closed, subject to any appeal proceedings or an application for costs. If jurisdictional issues are decided in favour of the applicant, the matter will proceed to conciliation.

18. Electing to proceed to arbitration

If an applicant wishes to have their application proceed beyond the conciliation stage to be formally determined by arbitration, he or she must lodge in the Registry a *Notice of Election to Proceed to Arbitration or to Begin Court Proceedings* (**Form R25**) **not later than seven days after the issue of the written certificate.** (See **section 16** above.)

The applicant must also serve a copy of this notice immediately on the employer. This document should be served on the employer personally, by post or fax. If Form R25 is not lodged within time, **the application lapses and the file will be closed** (subject to an application to the Commission to accept a *Notice of Election* lodged out of time).

19. Arbitration

Where an applicant elects to proceed to arbitration to determine whether the termination was harsh, unjust or unreasonable, the matter will be set down for formal hearing and determination by a Member of the Commission. Following these arbitration proceedings, a formal decision is likely to be issued which is binding on both parties. Such a decision may include orders regarding reinstatement or compensation or dismissal of the application.

Generally, arbitration proceedings will take place some weeks after the conciliation proceedings. Such hearings are held in public, unless ordered otherwise, and any decisions or orders issued are public documents. The Registry is required to publish decisions of the Commission including publishing them on the AIRC web site.

NOTE: The parties may reach a settlement at any time before and during the arbitration proceedings.

20. Notice and conduct of arbitration proceedings

Setting of date for arbitration

If a settlement is not reached in conciliation, a date will be set in due course for arbitration.

Notice of listing and directions

If a settlement is not reached in conciliation, the case is formally listed for arbitration, a **Notice of Listing** will be sent to the parties. This will generally include written **directions** for the filing, within a specified time, of certain materials relevant to the case such as outlines of submissions, names of witnesses, outlines of evidence and copies of documents upon which the parties intend to rely. Materials identified in directions must be filed with the Registry and served on the other party.

Directions are designed to facilitate the efficient hearing of matters, the avoidance of adjournments and minimisation of costs. **Compliance with directions is compulsory.**

Applications to vary directions or seek an adjournment

Any application to vary directions, or seek an adjournment of the date for arbitration contained in the *Notice of Listing*, must be made in writing and contain full grounds. Such applications will be considered and determined by a Member of the Commission.

Parties should note that in the event that:

- an applicant fails to comply with directions the matter may be deemed to have been discontinued; and
- a respondent fails to comply with directions, the arbitration may proceed and be heard and determined on the basis of the materials filed in compliance with directions - that is the material filed by or on behalf of the applicant.

NOTE: Adjournment applications will be granted only on substantial grounds.

In the event that an applicant fails to attend an arbitration hearing, the application may be dismissed (see s.170CIB).

21. Discontinuance

An applicant may discontinue proceedings at any time after lodging the application form by completing a *Notice of Discontinuance* (**Form R23** or similarly worded document) and lodging it immediately in the Registry and serving a copy on the employer. Parties should consider the potential for costs in choosing the appropriate time to discontinue or settle the matter.

Applicants should also be aware that the **lodgment fee is refundable** if a *Notice of Discontinuance* is lodged with the Registry at least two clear working days before the day on which the proceedings are first listed for attention by the Commission. A *Notice of Discontinuance* may be lodged and served on the employer personally, by post or fax.

22. Costs

Parties should be aware that the Commission may order costs against them in respect to the whole or a part of the proceedings. This means they will be required to pay the legal costs of the other party.

A party may apply for an order for costs in the following circumstances:

- against the employee if the Commission finds that the application was vexatious, brought without reasonable cause or made with no reasonable prospect of success; or
- against either the employee or employer where the Commission is satisfied that it was unreasonable for that party not to settle or discontinue a claim; or
- against either the employee or employer where costs are incurred because of an unreasonable act or omission in connection with the conduct of the proceedings by the employee or employer.

Relevant provision of the Act: **s.170CJ** (ss.170CJ(8) provides examples).

Relevant provisions of Workplace Relations Regulations: **30BG** and **Schedule 5** (schedule of costs).

Relevant section of AIRC Rules: **Rule 47**.

23. Representation

You may wish to represent yourself or you may wish to be represented by another person such as a lawyer, a union representative, an employer organisation or another person, such as an industrial consultant. There is no requirement that you be represented, although many people choose such representation.

NOTE: Neither the Commission nor the Registry endorse or recommend any particular representative - this is a personal choice.

Representatives of the applicant and the employer must have sufficient authority to deal with the matter in the course of the conciliation proceedings. It is highly desirable that both the applicant and a responsible officer of the employer attend in person.

24. Country Circuit

Conciliation conferences and arbitration proceedings may also be conducted in major country or regional centres. The *Notice of Listing* will advise you of the time, date and location of the conciliation conference or arbitration proceedings.

25. Change of address

If you are involved in an application before the Commission and change your address, please advise the Registry **and other parties** in writing as quickly as possible. This is important to ensure any materials served go to the correct address.

26. Where is the Commission and how do I make inquiries?

The Australian Industrial Relations Commission is located in each capital city. The address, telephone number and fax of the Commission office in which the application was lodged is recorded on the correspondence sent to the parties advising:

1. that an application alleging unfair or unlawful termination has been lodged; and
2. the Commission reference number of the particular matter.

Inquiries should be directed to the Registry office specified in this correspondence.

Contact details for the Commission and the Registry are:**Principal**

Level 35, Nauru House
80 Collins Street
Melbourne
GPO Box 1994S
Melbourne Vic 3001
Tel: (03) 8661 7777
Fax: (03) 9655 0401
Email: melbourne@air.gov.au
Industrial Registrar:
Nicholas Wilson

Victoria

Level 42, Nauru House
80 Collins Street
Melbourne
GPO Box 1994S
Melbourne Vic 3001
Tel: (03) 8661 7777
Fax: (03) 9655 0401
Email: melbourne@air.gov.au
Deputy Industrial Registrar:
Ross McCarroll

New South Wales

Level 8, Terrace Towers
80 William Street
East Sydney NSW 2011
Tel: (02) 8374 6666
Fax: (02) 9380 6990
Email: sydney@air.gov.au
Deputy Industrial Registrar:
Barry Jenkins

Queensland

Level 14, Central Plaza Two
66 Eagle Street
Brisbane
PO Box 5713, Central Plaza
Brisbane QLD 4001
Tel: (07) 3000 0399
Fax: (07) 3000 0388
Email: brisbane@air.gov.au
Deputy Industrial Registrar:
Damien Staunton

South Australia

Level 8, Riverside Centre
North Terrace
Adelaide
PO Box 8046
Station Arcade SA 5000
Tel: (08) 8308 9863
Fax: (08) 8308 9864
Email: adelaide@air.gov.au
Deputy Industrial Registrar:
Terry Nassios

Western Australia

Floor 16, AXA Centre
111 St Georges Terrace
Perth
GPO Box X2206
Perth WA 6001
Tel: (08) 9464 5172
Fax: (08) 9464 5171
Email: perth@air.gov.au
Deputy Industrial Registrar:
Terry Nassios

Tasmania

1st Floor, Commonwealth
Law Courts
39-41 Davey Street
Hobart
GPO Box 1232M
Hobart Tas 7001
Tel: (03) 6214 0200
Fax: (03) 6214 0202
Email: hobart@air.gov.au
Deputy Industrial Registrar:
Terry Nassios

Australian Capital Territory

2nd Floor, CML Building
17-21 University Avenue
Canberra
GPO Box 539
Canberra City ACT 2601
Tel: (02) 6209 2400
Fax: (02) 6247 9774
Email: canberra@air.gov.au
Deputy Industrial Registrar:
Christine Hayward

Northern Territory

10th Floor, Northern Territory
House
22 Mitchell Street
Darwin
GPO Box 969
Darwin NT 0801
Tel: (08) 8936 2800
Fax: (08) 8936 2820
Email: darwin@air.gov.au
Deputy Industrial Registrar:
Neil McHattie

27. Further information

Call our Registry in your capital city or look at our web site. The address is <http://www.airc.gov.au>.

Other Registry resources

Conciliation - For further information on the conciliation process - you may wish to view the video information package *Termination of Employment - The Conciliation Process*. This package has been produced by the Registry and comprises a 15-minute video and 12-page booklet. The video has been distributed to a wide range of organisations including unions, employer organisations and law firms as well as many regional libraries. It is available in both VHS and CD-ROM format and can be viewed on-site in our Registries throughout Australia. The booklet is available at no cost from Registry public counters. Text of the booklet is available on the AIRC web site.

Attending and preparing for hearings - Employees and employers who intend to represent themselves in Commission proceedings may be interested in reading a further information guide prepared for self represented parties. This is available from the Registry and on the AIRC web site.

Legislation - Copies of the *Workplace Relations Act 1996* and associated *Workplace Relations Regulations* can be found on the AIRC web site.

Practice Note - This document provides further information on procedures in termination of employment cases in Victoria. It is designed to assist parties and their legal representatives and can be found on the AIRC web site.

Contact details for the various State industrial tribunals are:

Tribunal	Telephone no.	Web site
New South Wales Industrial Relations Commission	02 9228 7766	http://www.lawlink.nsw.gov.au/ir.nsf
South Australian Industrial Relations Commission	08 8207 0999	http://www.industrialcourt.sa.gov.au
Western Australian Industrial Relations Commission	08 9420 4444	http://www.wairc.wa.gov.au
Queensland Industrial Relations Commission	07 3227 8060	http://www.qirc.qld.gov.au
Tasmanian Industrial Commission	03 6233 7808	http://www.justice.tas.gov.au/tic

Other sources of information:

- the Federal Court of Australia Registry in your State or Territory or on its web site at <http://www.fedcourt.gov.au>
- the Department of Employment and Workplace Relations' Australian Workplace web site at <http://www.workplace.gov.au>;
- the WageLine telephone advice service in your State or Territory or WageNet at <http://www.wagenet.gov.au>;
- employment relations departments at the state government level;
- unions;
- employer organisations;
- law firms;
- community legal centres, such as JobWatch (in Victoria) and working women's centres; and
- industrial consultants.

28. Glossary

Applicant - Person making an application in the Commission. In a termination of employment matter, this is the employee.

Arbitration - Process whereby an independent body or person, after hearing the parties, determines a grievance or dispute by making a binding decision. In industrial arbitration a tribunal with legal authority may have powers of compulsory arbitration as well as offering voluntary arbitration.

Australian Industrial Registry - The body that acts as the registry for the Australian Industrial Relations Commission (Commission), provides administrative support to the Commission, keeps a register of organisations and publishes decisions, orders and awards of the Commission.

Australian Industrial Relations Commission - Exercises a range of powers under the *Workplace Relations Act 1996* in relation to ensuring the establishment and maintenance of fair minimum wages and conditions of employment, preventing and settling industrial disputes, facilitating agreement making between employers and employees, conciliating and arbitrating claims in relation to the termination of employees and dealing with matters concerning industrial organisations.

Certificate - In a termination of employment case a Member of the Commission issues a certificate when conciliation is deemed to have been unsuccessful.

Conciliation - The process by which an independent body attempts to facilitate the resolution of a grievance or dispute by assisting the parties to reach and accept a solution by mutual, voluntary agreement.

Conciliator - A Member of the Commission or a representative of the Commission skilled in conciliation techniques.

Federal award employee - An employee any of whose terms and conditions of employment are governed by an award, a certified agreement, an Australian Workplace Agreement or an industrial agreement as described in s.170CD(1).

Jurisdictional grounds/issues - In a termination of employment case, jurisdictional issues are preliminary issues concerning the validity of the application. Grounds may include that the application has been lodged out of time or that the applicant was not eligible to make a claim.

Notice of listing - Notice sent to parties in a Commission proceeding advising of the date, time and location of that proceeding. May include directions regarding the provision of documents etc.

Parties - Persons involved in proceedings in the Commission (other than a Commission Member, a representative of the Commission or Registry staff). In a termination of employment case this is the applicant and the respondent.

Respondent - A legal term used to describe an employer who is bound by a federal award. The term is also used to refer to a party to a proceeding initiated by someone else.

Service - Act of providing to another party a copy of a completed form or other documentation required in a Commission proceeding.

Termination of employment - Subject to certain exclusions, employees can apply to the Commission to deal with claims for unfair dismissal (harsh, unjust or unreasonable) or unlawful termination (discriminatory grounds) by conciliation. If conciliation does not resolve the matter and the applicant elects to continue with an unfair dismissal claim, the Commission will arbitrate. Unresolved unlawful termination claims can be pursued in the Federal Court of Australia.

Workplace Relations Act 1996 (the Act) - Principal Commonwealth law governing the operations of the Commission and the Registry.

NOTE: Definitions in this glossary have been prepared to assist readers in understanding the work of the Commission and the Registry. They should not be regarded as comprehensive or legally authoritative.