

FORM 2

APPLICATION FOR REINSTATEMENT

Please Keep this instruction page with your copy of your application. It does not form part of the application.

NOTE: 1

Question 5(2) of Schedule 1, which forms part of the Form 2 – Application for Reinstatement, asks if you were in receipt of annual wages more than the amount prescribed by Regulation. The relevant amount is:

- For a dismissal effective on or after 14 August 2008 - \$106,400
- For a dismissal effective on or after 6 September 2007 - \$101,300
- For a dismissal effective on or after 11 August 2006 - \$98,200
- For a dismissal effective on or after 29 July 2005 - \$94,900
- For a dismissal effective on or after 20 August 2004 - \$90,400
- For a dismissal effective on or after 22 August 2003 - \$85,400
- For a dismissal effective on or after 31 January 2003 - \$81,500
- For a dismissal effective on or after 21 December 2001 - \$75,200

CHECKLIST

Tick

- Include your full name and address on the application.
- Include the correct name and address of your Employer/Company on the application.
- If you are outside the 21 day time limit, fill in the section entitled ‘Extension of Time’ on your application form.
- List all the relevant facts regarding your dismissal in your application.
If your application is to be hand written, please print.
- Include the name of the Award/Agreement you were employed under (if any). State and Federal Award Enquiries (ph. 1300 369 945) can provide you with this information.
- List any dates you are **NOT** available for a conference/hearing.
- List the correct contact names, phone, fax numbers and/or e-mail addresses for all parties concerned with the application.

- Sign your application in the presence of a Justice of the Peace or a Commissioner for Declarations or a lawyer who must witness your signature.
- If an employee organisation is making the application, the employee must sign the form of consent on page 3.
- Keep the Notice of Discontinuance form (Form 46) for your own records. If your claim is settled or you wish to withdraw your application, you must fill out this form and send it to the Registry as soon as possible.
- Make **6 (six) photocopies** of your complete application.
- Keep **three copies** of your application, **one** for your own records, **one** to serve on the employer and **one** to attach to your affidavit of service.
- File your **original application plus 3 photocopies** with the Registry at the address below.
- Unless the person making the application is an employee organisation, include a cheque/money order for **\$60.00** payable to the Queensland Industrial Relations Commission. If the filing fee is payable (ie the application is made by an individual), the application is not validly made until the fee is paid.
- YOU MUST POST OR DELIVER A COPY OF YOUR WHOLE APPLICATION TO YOUR EMPLOYER WITHIN 7 DAYS AFTER FILING IN THE REGISTRY. (R.123(2)(a)).**
- Complete and sign the Affidavit of Service (Form 7) before a Justice of the Peace/Commissioner for Declarations and return it together with a copy of the documents served attached *immediately* to the address below (R.123(2)(b), – affidavit to be filed within 7 days after serving the application on your employer).

POST TO: Industrial Registry
GPO Box 373
BRISBANE QLD 4001

OR

DELIVER TO: Level 18, Central Plaza 2,
66 Eagle Street
(cnr Creek and Elizabeth Streets)
Brisbane

Telephone: **(07) 3227 8060**

Facsimile: (07) 3221 6074

Form 2 Version 2	Application for reinstatement Industrial Relations Act 1999, section 74	R.123
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QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999, s 74

(No. TD of 20)

APPLICATION FOR REINSTATEMENT

TO: The Industrial Registrar, Industrial Registry, 18th floor, Central Plaza 2, 66 Eagle Street
(Corner Creek and Elizabeth Streets), Brisbane, (Postal: GPO Box 373, Brisbane QLD 4001).
Telephone (07) 3227 8060 Facsimile (07) 3221 6074

AND TO: The Respondent (*employer*).

EMPLOYEE MAKING APPLICATION

1. TAKE NOTICE that I,

Applicant's details

Name:

Address:

Post Code:

Phone:

Contact Phone:

Mobile:

Fax:

E-Mail:

Address for service of documents if different from above:

[OR, EMPLOYEE ORGANISATION MAKING APPLICATION

TAKE NOTICE that I,

Applicant organisation's details

Name of officer or employee of organisation:

Title or position:

of

Full name of organisation:

Address:

Post Code:

Phone:

Mobile:

Fax:

E-mail:

Address for service of documents if different from above:

an organisation whose rules entitle it to represent the industrial interests of

(Full name of employee)

the employee whose written consent to make this application is on page 3 of this application,
apply for reinstatement [of the employee] to [my] [his] [her] former position with:

Employer's details

Name of Employer[Corporation, Business etc]:

ABN:

Address:

Post Code:

Phone:

Fax:

Contact Name:

Contact Phone:

Contact E-mail:

Contact Mobile:

under Chapter 3 of the Act.

Extension of Time

N.B. This section should only be included where the Application is filed more than 21 days after the dismissal took effect.

Further, I apply for an extension of time in which to file this Application on the following grounds:-

2. **Schedule 1, attached to this Application, is a full statement of my claim.**
3. **Further, I apply for directions as to the conduct of this Application with respect to the following matters:**
 - [(i) **Nature of Conference]**
 - [(ii) **Place and time of Conference]**
 - [(iii) *(or: as the case may be)*]

Additionally, I, [make oath][solemnly and sincerely affirm and declare] as follows:-

4. **I am fully authorised in compliance with the Act and the rules to make this Application.**
5. **The material facts set out in the statement of claim in Schedule 1 are to the best of my knowledge, information and belief, true and correct.**

(Signature of Applicant)
Deponent

[Sworn] [Affirmed] by the deponent at _____, on _____
(place) (day, month, year)

before me: _____
(Signature)

(print name)

[Justice of the Peace][Commissioner for Declarations][lawyer]

NOTE 1: TO EMPLOYER: if you wish to oppose this application or to argue that any different decision should be made, you must attend before the commission in person or, if appropriate, by your lawyer or agent at the time on the date and at the place fixed by the registrar and you will be heard. If you do not attend as required a decision may be given against you in terms of the decision sought and costs, where appropriate, without further reference to you.

NOTE 2: The Commission will require the parties to attend a conference before the Commission prior to any reinstatement application being listed for formal hearing.

NOTE 3: An employee who has authorised an employee organisation to make this application (S 74(3)(b)) must complete the form of consent below.

Form of consent for employee organisation

I, _____
(full name of employee)
of _____
(address of employee)
consent to the _____
(full name of organisation)
of _____
(address)

making this application concerning my dismissal. The employee organisation's rules entitle it to represent my industrial interests.

Dated at _____ on _____
(place) (day, month, year)

(Signature of employee)

SCHEDULE 1

1. Decision sought

The applicant seeks the following orders:—

- (A) That the employee be reinstated in [his][her] former position (or as nearly as is possible) without prejudice to the employee's former conditions of employment.
- (B) That the respondent pay the remuneration lost between the date the dismissal took effect...../...../..... and the date of reinstatement.
(day, month year)
- (C) That the respondent pay the employee the amount of compensation the Commission considers appropriate.
- (D) (*other orders sought*)
- (E) Such further or other order as the Commission considers appropriate.

2. The material facts

NOTE: The material facts should clearly set out the causes, incidents surrounding and details of the dismissal and any other relevant circumstances which have lead to the reinstatement application. A written record of the actual words used in conversations is useful in identifying the facts surrounding the dismissal. You may also attach any documentation to support your facts.

The material facts relied on to support the application are as follows:

(IF ADDITIONAL SPACE IS REQUIRED, PLEASE INSERT A PAGE OVER)

3. Employee's work history

Employed by employer from whom you are claiming reinstatement as a:

(give details of classification or state duties performed)

at _____

(place of work – location, address, as appropriate)

from _____ to _____

(date of commencement - day, month, year) (date dismissal took effect – day, month, year)

under _____

(title of award, agreement covering employment – if any)

4. Employment status

(Tick relevant box[es])

- | | |
|---|---|
| <input type="checkbox"/> Full Time | <input type="checkbox"/> Seasonal |
| <input type="checkbox"/> Part Time | <input type="checkbox"/> Employed for a Specific Period |
| <input type="checkbox"/> Casual (see also Q. 5(4) over) | <input type="checkbox"/> Employed for a Specific Task |
-

5. Excluded employees

(Certain employees are excluded from access to all, or parts, of the Unfair Dismissal provisions in the Industrial Relations Act 1999. Refer to Chapter 3, Part 1))

(Please tick relevant box)

Were you:-

- (1) (i) dismissed during a “probationary period”
(ie. During the first 3 months of employment unless there was a written agreement between the employee and employer for a shorter, or no probationary period)?
- Yes No Unsure
- (ii) dismissed during a “probationary period” longer than 3 months, where you agreed in writing with your employer, before you commenced your employment, for a longer probationary period?
- Yes No Unsure If yes, length of probationary period
- (2) in receipt of annual wages more than the amount prescribed by Regulation, and you were not an officer of the public service employed on tenure and you were not covered by an Award, Certified Agreement, QWA or Enterprise Flexibility Agreement]?
- Yes No Unsure
- (3) either an apprentice or a trainee?
- Yes No Unsure
-

If you answered “Yes” or “Unsure” to any of the above questions you may wish to seek independent advice before lodging your application as you may be excluded – in whole or part – by the legislation.

(4) If you were a casual employee:-

(a) were you employed for a period of at least one year?

Yes

No

(b) were you employed on a regular and systematic basis during that time?

Yes

No

Unsure

If you answered "No" to either part of this question you may wish to seek independent advice before lodging your application as you may be excluded by the legislation.

(Also read carefully the pages headed "Chapter 3 – Dismissals" attached to the back of this application form).

6. Federal award employees

Were you employed under a Federal Award?

Yes

No

Unsure

REMINDER: Applications alleging a dismissal was unfair need to be lodged within 21 days after the dismissal took effect. If you are seeking independent advice about any matter in this application you should still lodge the application within the 21 day time limit as a safeguard.

7. Conference before the commission

Available for a conference at any time: YES / NO (please circle)

NOT available for a conference on the following date[s]:

NOTE TO EMPLOYER:

Any employer who disputes any of the material contained within sections 2, 3, 4, 5, or 6 in schedule 1 to the application should lodge details of the disputed area(s) at least 48 hours before the conference, by letter to: Industrial Registry, GPO Box 373 Brisbane Qld 4001 or by fax to 07-3221 6074.

PARTICULARS OF THE APPLICANT *(See first page of application)*

[PARTICULARS OF THE EMPLOYEE IF EMPLOYEE IS NOT THE APPLICANT

Name:

Residential or business address:

Employee's phone number or contact phone number:

Employee's fax number *(if any)*:

Employee's e-mail address *(if any)*:]

[IF APPLICANT HAS A LAWYER

Applicant's lawyer's name:

and firm name:

Lawyer's business address:

Address for service:

Phone:

Fax:

E-mail address *(if any)*:]

[IF APPLICANT HAS AN AGENT *(An appointment of agent form must accompany this application, R 12(1)(l))*

Applicant's agent's name:

and organisation, corporation or business name:

Agent's business address:

Address for service:

Phone:

Fax:

E-mail address *(if any)*:]

PARTICULARS OF THE RESPONDENT *(see first page of application)*

[IF RESPONDENT HAS A LAWYER *(this information should be given if known)*

Respondent's lawyer's name:

and firm name:

Lawyer's business address:

Address for service:

Phone:

Fax:

E-mail address *(if any)*:]

[IF RESPONDENT HAS AN AGENT *(this information should be given if known)*

Respondent's agent's name:

and corporation or business name:

Agent's business address:

Address for service:

Phone:

Fax:

E-mail address *(if any)*