

Form F7 – Notice of appeal

[Fair Work Act 2009](#), s.604; [Fair Work Commission Rules 2024](#), rule 128 and Schedule 1

This is an application to the Fair Work Commission to appeal a decision or order of the Commission in accordance with section 604 of the *Fair Work Act 2009*.

The Appellant



These are the details of the person who is lodging the appeal.

Title	☐ Mr ☒ Mrs ☐ Ms ☐ Other please specify:		
First name(s)	Holly Tegan		
Surname	Dahm		
Postal address	[REDACTED]		
Suburb	[REDACTED]		
State or territory	Queensland	Postcode	4017
Phone number	0401 219 842		
Email address	hollydahm@proton.me		

If the appellant is a company or organisation please also provide the following details

Legal name of business	
Trading name of business	
ABN/ACN	
Contact person	

How would you prefer us to communicate with you?

- ☒ Email (you will need to make sure you check your email account regularly)
- ☐ Post

Does the Appellant need an interpreter?



If the Appellant has trouble accessing this information, please contact us. We can arrange to provide it in another format. You can find information about [help for non-English speakers](#) on our website.

☐ Yes – Specify language

☒ No

Does the Appellant require any special assistance at the hearing or conference (eg a hearing loop)?

☒ Yes – Please specify the assistance required

☐ No

See Annexure C - Special Assistance and Participation Request.

Does the Appellant have a representative?



A representative is a person or organisation representing the Appellant. This might be a lawyer or paid agent, union, employer organisation, association of employers, peak council, or a not-for-profit association or body that provides support, advice or advocacy in relation to employment or workplace relations matters. You do not need to have a representative.

☒ Yes – Provide representative's details below

☐ No

Appellant's representative



These are the details of the person or organisation who is representing the Appellant (if any).

Name of person	Riki Lee Dahm		
Firm, organisation or company			
Representative's ABN (if applicable)			
Postal address	[REDACTED]		
Suburb	[REDACTED]		
State or territory	Queensland	Postcode	4017
Phone number	0424 161 433		
Email address	rikidahm@proton.me		

Is the Appellant's representative a lawyer or paid agent?

☐ Yes – please select:	☐ Lawyer ☐ Paid agent
☒ No	

The Respondent



These are the details of the person or business responding to an appeal. Note that the Commission will send a copy of your notice of appeal to the contact person you name below.

Title	☐ Mr ☐ Mrs ☒ Ms ☐ Other please specify:		
First name(s)	Aimee		
Surname	de Pass		
Postal address	GPO Box 5221		
Suburb	Brisbane		
State or territory	Queensland	Postcode	4001
Phone number	07 3031 5708		
Email address	aimee.depass@crownlaw.qld.gov.au		

If the respondent is a company or organisation please also provide the following details

Legal name of business	State of Queensland
Trading name of business	
ABN/ACN	
Contact person	Aimee de Pass

1. The decision to be appealed

1.1 Please provide the details of the matter you are seeking to appeal.



You will find all of these details on the decision or order you received from the Commission

Commission matter number	C2026/9566
Applicant	Holly Tegan Dahm
Respondent(s)	State of Queensland acting through Queensland Treasury
Decision maker (name of Member or delegate of the Commission)	Commissioner Simpson
Date of decision	26 August 2026

1.2 Please provide a description of the decision and/or order you are appealing.

The Appellant appeals the whole of Decision [2026] FWC 3088 (PR813237), including the dismissal at [44]. The appeal challenges the jurisdictional reasoning at [4] and [41]-[44]. The ss 725/732 objection and s 774(2) further-period application were left undetermined. No substantive determination of the alleged s 772(1) contravention is sought.

2. Grounds for appeal

2.1 What are the grounds for your appeal?



Using numbered paragraphs, set out the grounds for appeal. In unfair dismissal appeals, grounds relating to “significant errors of fact” should be set out under a separate heading. Attach extra pages if necessary.

See Annexure A - Grounds of Appeal.

3. Public interest

3.1 Please set out the matters that you believe make it in the public interest for the Commission to grant permission for the appeal.



Note: section 400(1) of the [Fair Work Act 2009](#) prohibits the Commission from granting permission to appeal from a decision made under Part 3-2 of the Fair Work Act relating to unfair dismissal unless the Commission “considers that it is in the public interest to do so.”

See Annexure B - Permission to Appeal and Public Interest.

Attach additional pages if necessary.

4. Stay under section 606 of the *Fair Work Act 2009*

4.1 Are you seeking a stay of the original decision?



A stay means that the original decision will not be enforced while the appeal is being heard.

☐ Yes

☒ No

If you answered yes to question 4.1 – specify whether a stay is sought of the whole or part of the decision or order and, if a stay of part only is sought, please specify the part.

5. Extension of time

5.1 Are you making this application within 21 days of the decision that you are appealing being issued?

☒ Yes

☐ No

If you answered no to question 5.1 – Explain the reason for the delay and the grounds on which you say an extension of time should be granted.

6. Urgent appeals



The Commission's appeal allocation procedures are intended to ensure that all appeals are heard within 12 weeks of being filed. If it is necessary for your appeal to be heard on a significantly more urgent basis than this, you must apply for your appeal to be heard on an expedited basis.

6.1 Is an expedited appeal hearing sought?

☐ Yes

☒ No

6.2 If you have answered yes to question 6.1 – Please set out the circumstances which make it necessary for your appeal to be heard on an urgent basis.

Attach additional pages if necessary.

Authority to sign and signature



For 'Authority to sign':

- If you are the Appellant–insert 'Appellant'
- If you are an employee of a company or organisation that is the Appellant–insert your position title
- If you are the Appellant's representative and have provided your details in this form–insert 'Representative'.

Authority to sign	Appellant
--------------------------	-----------



Insert your signature, name and the date. If you are completing this form electronically and do not have an electronic signature, type your name in the signature field.

Signature	
Name	Holly Tegan Dahm
Date	27 August 2026

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

ANNEXURE A - GROUNDS OF APPEAL

Form F7 - Notice of Appeal | Holly Tegan Dahm | C2026/9566

Ground 1 - Wrong statutory threshold: national-system status

1. The Commissioner erred in law by treating whether the Respondent was a national-system employer as a threshold governing whether the Appellant could make an application under s 773.

1.1 At [4], the Commissioner framed the first question as whether the Respondent was not a national-system employer "and therefore" whether the Appellant was protected by the unlawful-termination provisions.

1.2 The Appellant accepted that she was employed directly by the State of Queensland and was not a national-system employee.

1.3 Part 6-4 does not make national-system status a condition of an application under s 773.

1.4 Section 770 provides that, in Part 6-4, "employee" and "employer" have their ordinary meanings.

1.5 Section 773, as replaced with effect from 7 July 2026, permits an employee, or an industrial association entitled to represent the employee's industrial interests, to apply to the FWC where it alleges that the employee's employment was terminated in contravention of s 772(1).

1.6 Section 773 therefore makes the allegation the statutory gateway to the application. It does not require a prior determination that the employer in fact terminated the employment.

1.7 Consistently, s 774(1)(a), as amended from 7 July 2026, measures the application period from when the alleged termination took effect, and s 774(2)(b) refers to action taken to dispute the alleged termination.

1.8 Section 776(1) provides that, if an application is made under s 773, the FWC must deal with the dispute other than by arbitration.

1.9 Section 776(1A) expressly provides that, to commence that dealing, the FWC is not required to determine whether the employer terminated the employee's employment.

1.10 The sequence is therefore allegation under s 773, mandatory non-arbitral dealing under s 776, and no requirement to determine actual termination before that dealing commences.

1.11 Section 723 separately prohibits an unlawful-termination application where the person is entitled to make a general-protections court application in relation to the conduct.

1.12 Clause 134 of Schedule 1 applies the amendments to applications made on or after their commencement whether the alleged dismissal or termination occurred before, on or after commencement. C2026/9566 was lodged on 24 July 2026, after commencement on 7 July 2026.

1.13 In *Lattouf v Australian Broadcasting Corporation* (No 2) [2025] FCA 669 at [80]-[81], Rangiah J addressed the broader operation of Division 2 of Part 6-4 beyond Part 3-1 and referred to *Jacobs v Adelaide Theosophical Society Inc* [2022] FWC 79 at [72], where the Full Bench explained that one reason an employee may proceed under s 772 is that the relevant employer is not a national-system employer.

1.14 The reasons identify no statutory provision making national-system status a disqualification from s 773 and contain no determination that s 723 excluded the Appellant's application.

1.15 The error was material because the premise at [4] formed part of the jurisdictional reasoning culminating in dismissal at [44].

Ground 2 - Non-referral treated as exclusion of independent Commonwealth power

2. The Commissioner erred in law by treating Queensland's exclusion of public-sector employment from its referral as supporting want of jurisdiction without distinguishing Queensland's referral from Commonwealth legislative power existing independently of that referral.

2.1 At [41], the Commissioner relied upon s 6 of the Fair Work (Commonwealth Powers) and Other Provisions Act 2009 (Qld).

2.2 Section 6 is expressly confined to a "matter referred by section 5".

2.3 Section 5(2)(a) provides that the reference operates only if, and to the extent that, the matter is not already within the legislative powers of the Commonwealth Parliament otherwise than by a reference under s 51(xxxvii) of the Constitution.

2.4 Section 5(4) expressly preserves Commonwealth legislation supported by legislative powers possessed independently of Queensland's references.

2.5 Exclusion from Queensland's referral therefore does not establish absence of independent Commonwealth legislative power.

2.6 Sections 769 and 771 of the Fair Work Act 2009 connect Part 6-4 and Division 2 with giving effect, or further effect, to international agreements concerning discrimination and termination of employment.

2.7 In *Victoria v Commonwealth* (1996) 187 CLR 416, the High Court considered Commonwealth termination-of-employment legislation supported independently of State referral, including by the external affairs power, while separately considering constitutional limitations upon its application to States.

2.8 Commonwealth legislative power and any Melbourne Corporation limitation upon a particular operation of that power are distinct questions.

2.9 By relying upon Queensland's non-referral at [41] without determining whether independent Commonwealth legislative power supported the relevant operation of Part 6-4, the reasons gave the non-referral a legal consequence that did not follow from the Queensland legislation.

2.10 The error was material because [41] formed part of the dispositive reasoning leading to dismissal at [44].

Ground 3 - Melbourne Corporation limitation applied without identifying an impermissible statutory operation

3. The Commissioner erred in law by applying the Melbourne Corporation limitation and *The Australian Workers' Union of Employees, Queensland v State of Queensland* (Department of Communities, Child Safety and Disability Services) [2014] FWCFB 5546 (AWU) without identifying the statutory operation said significantly to impair Queensland's capacity to function as a State, or why any such limitation required dismissal of the s 773 application.

3.1 The Respondent relied upon AWU and hypothetical later court relief under s 545, including reinstatement and what it described as a pecuniary penalty.

3.2 Section 545 concerns remedial orders available to specified courts. Pecuniary penalties are separately governed by s 546.

3.3 At [43], the Commissioner held that an unidentified "order in the Applicant's favour in connection with this application in the Commonwealth jurisdiction" would impair, curtail or weaken Queensland's constitutional powers and functions.

3.4 The reasons identify neither: (a) the decision-maker; (b) the statutory source of the posited order; (c) its character or terms; (d) the statutory stage at which it could arise; nor (e) its legal or practical operation upon Queensland.

3.5 The Melbourne Corporation limitation requires examination of the legal operation and practical effect of the particular Commonwealth law upon the State. It does not confer general immunity from Commonwealth laws affecting State employment.

3.6 *Re Australian Education Union; Ex parte Victoria* (1995) 184 CLR 188 identifies constitutionally protected aspects of State governmental employment, including the number and identity of persons employed and, on redundancy grounds, the number and identity of persons dismissed.

3.7 AWU itself recorded authorities in which restrictions upon State dismissal-related conduct did not offend the implied limitation. Its conclusion concerning ss 786-787 depended upon the particular operation and practical interference of those provisions with Queensland's redundancy decision-making.

3.8 AWU therefore did not establish general constitutional immunity for State employment decisions.

3.9 *Parks Victoria v Australian Workers' Union* [2013] FWCFB 950 at [348]-[350] held that *Re Australian Education Union* did not support the proposition that the implied limitation precluded a requirement that identification of State employees for redundancy not involve discrimination.

3.10 The discrimination grounds considered there included temporary absence because of illness or injury, physical or mental impairment, and filing a complaint or participating in proceedings. Those grounds materially overlap with prohibitions in s 772(1).

3.11 C2026/9566 alleges termination contrary to s 772(1)(f).

3.12 The statutory scheme separately regulates: (a) mandatory non-arbitral dealing under s 776; (b) consensual FWC arbitration under s 777; and (c) the separate court pathway under s 778.

3.13 Section 776(1) provides that, if an application is made under s 773, the FWC must deal with the dispute other than by arbitration.

3.14 Section 776(1A) expressly provides that the FWC need not determine whether the employer terminated the employee's employment before commencing that process.

3.15 Arbitration under s 777 cannot occur unless, among other conditions: (a) the FWC has issued a certificate under s 776(3)(a); (b) the parties notify the FWC that they agree to arbitration; and (c) ss 726, 727, 728, 729, 731 and 732 do not apply.

3.16 The Respondent's unresolved s 732 objection therefore produces two alternatives: (a) if s 732 applies, s 777 arbitration is unavailable; and (b) if s 732 does not apply, arbitration still cannot occur unless Queensland agrees to it.

- 3.17** An FWC order under s 777(2), including reinstatement or compensation, therefore cannot arise merely from the s 773 application or the mandatory non-arbitral process under s 776.
- 3.18** Section 778 separately regulates access to an unlawful-termination court proceeding.
- 3.19** Sections 545 and 546 confer court remedial and penalty powers. They do not confer those powers upon the FWC when performing its non-arbitral function under s 776.
- 3.20** Section 37(1) provides that the Fair Work Act 2009 binds the Crown in each of its capacities. Section 37(4) separately provides, to the extent Commonwealth legislative power permits, for proceedings against the Crown for contravention of a civil remedy provision. Section 772(1) is a civil remedy provision.
- 3.21** Section 38 provides for a provision not to have an application exceeding Commonwealth legislative power while preserving its valid applications, unless the statutory conditions for doing otherwise are engaged.
- 3.22** The constitutional question therefore required identification of the particular application or operation said to exceed Commonwealth legislative power and the extent of any resulting limitation.
- 3.23** The possible constitutional invalidity of a particular later remedial operation did not, without identification and analysis of that operation, establish constitutional invalidity of: (a) the application of s 772(1) to the alleged conduct; (b) the s 773 application; or (c) the s 776 non-arbitral process.
- 3.24** The reasons identify no operation of s 776 producing the asserted constitutional impairment.
- 3.25** Nor do the reasons explain how contingent arbitration under s 777 or a separate court proceeding under s 778 rendered the antecedent s 773 application or s 776 process constitutionally impermissible.
- 3.26** Nor do the reasons explain why any constitutionally impermissible application or operation could not be confined consistently with s 38 without denying valid applications or operations within Commonwealth legislative power.
- 3.27** The Commissioner therefore used the asserted constitutional effect of an unidentified hypothetical future operation to dismiss the s 773 application without identifying why that concern invalidated the application or the non-arbitral statutory process.
- 3.28** The error was material because [43] supplied the immediate constitutional premise for dismissal at [44].

Ground 4 - Possible State remedies relied upon without determining their legal significance

- 4.** The Commissioner erred in law by relying upon the Appellant's possible access to State remedies at [42] without identifying the legal rule by which their mere availability affected the s 773 application and while expressly leaving the Respondent's objection under ss 725 and 732 undetermined.
- 4.1** At [42], the Commissioner relied upon the Appellant's possible standing to lodge State unfair-dismissal or general-protections proceedings.
- 4.2** The Respondent separately contended that ss 725 and 732 barred C2026/9566 because other applications had been made.
- 4.3** The statutory scheme distinguishes the availability of another remedy from an application or complaint actually made.
- 4.4** Section 723 separately regulates entitlement to make a general-protections court application as an alternative to an unlawful-termination application.
- 4.5** Sections 725 and 732 instead concern an identified application or complaint under another law satisfying the statutory conditions.
- 4.6** Section 732 relevantly requires an application or complaint under another law that: (a) has been made by or on behalf of the person; (b) is in relation to the dismissal; and (c) has not been withdrawn or failed for want of jurisdiction.
- 4.7** Section 733 separately provides that an application or complaint made only in relation to failure to provide a benefit to which the dismissed person is entitled as a result of dismissal is not treated as an application or complaint "in relation to the dismissal" for that Subdivision.
- 4.8** The Appellant's first-instance material disputed whether the State matters relied upon by the Respondent satisfied those statutory conditions and relied upon both failure for want of jurisdiction and s 733.
- 4.9** At [44], the Commissioner expressly declined to determine the remaining jurisdictional objections. The ss 725 and 732 objection therefore remains undecided.
- 4.10** If [42] was intended to apply ss 725 and 732, it depended upon statutory conditions expressly left undetermined at [44].
- 4.11** If [42] was not intended to apply ss 725 and 732, the reasons identify no other statutory power or legal principle by which the mere availability of a State remedy authorised dismissal of C2026/9566.
- 4.12** If [42] was instead used as part of the Melbourne Corporation analysis, the reasons do not explain how the existence of an alternative State forum altered the legal or practical operation of Part 6-4 upon Queensland's capacity to function as a State.

- 4.13** On every available characterisation, [42] supplied no identified legal foundation for dismissal.
- 4.14** The error was material because [42] formed part of the dispositive reasoning leading to [44].

ANNEXURE B - PERMISSION TO APPEAL AND PUBLIC INTEREST

1. Permission to appeal should be granted under s 604 of the Fair Work Act 2009 (Cth).
2. Section 604(2) requires permission to be granted if the FWC is satisfied that it is in the public interest to do so, without limiting the circumstances in which permission may otherwise be granted under s 604(1).
3. Relevant public-interest considerations include whether an appeal raises issues of importance and general application, requires appellate guidance, manifests an injustice or counter-intuitive result, or involves legal principles appearing disharmonious with other decisions: *GlaxoSmithKline Australia Pty Ltd v Makin* [2010] FWA 5343 at [26]-[27].
4. This appeal raises questions of general application concerning: (a) access to Part 6-4 by employees outside the national system; (b) the jurisdictional architecture created by the amendments commencing on 7 July 2026, including the replaced s 773, amended s 774 and new s 776(1A); (c) Queensland referral power as distinct from independent Commonwealth legislative power; (d) application of the Melbourne Corporation limitation to the distinct statutory stages in ss 773-778; and (e) the legal significance of State remedies under ss 723 and 725-733.
5. Those questions extend beyond the Appellant and are capable of affecting Queensland public-sector and other non-national-system employees seeking access to Part 6-4.
6. C2026/9566 was lodged on 24 July 2026, after commencement of the relevant amendments on 7 July 2026.
7. Clause 134 of Schedule 1 applies those amendments to applications made on or after commencement whether the alleged dismissal or termination occurred before, on or after commencement.
8. The decision is attended with sufficient doubt because: (a) [4] treats non-national-system status as adverse to the s 773 pathway despite s 770 and the reasoning in *Lattouf and Jacobs*; (b) the replaced s 773 makes an allegation of unlawful termination the gateway to the application; (c) amended s 774 measures time by reference to the alleged termination and s 776(1A) expressly removes any need to determine actual termination before commencing non-arbitral dealing; (d) [41] relies upon Queensland's non-referral without determining independent Commonwealth legislative power; (e) [43] identifies no particular statutory operation said to offend the Melbourne Corporation limitation; (f) the Act separates mandatory non-arbitral dealing under s 776, consensual arbitration under s 777 and the separate court pathway under s 778; (g) s 777 arbitration requires Queensland's agreement and is independently unavailable if s 732 applies; and (h) [42] relies upon possible State remedies although the ss 725 and 732 objection was expressly left undetermined.
9. The result is counter-intuitive in the relevant appellate sense: an application under provisions expressly using ordinary meanings of "employee" and "employer", and amended immediately before C2026/9566 to permit dealing upon an allegation of termination without first determining whether termination occurred, was dismissed on reasoning treating the Appellant's non-national-system status as adverse to access to that pathway.
10. Grounds 1-4 identify errors of law in the reasoning producing dismissal. They do not merely invite a different discretionary conclusion.
11. Substantial injustice may result if permission is refused because the Part 6-4 pathway was terminated at the jurisdictional threshold while the remaining statutory objections and further-period application were expressly left undetermined.
12. Permission should therefore be granted under s 604(2), or alternatively in the exercise of the discretion under s 604(1).

Orders sought

1. Permission to appeal be granted.
 2. The appeal be upheld.
 3. Decision [2026] FWC 3088 (PR813237) be quashed pursuant to s 607(3)(a) of the Fair Work Act 2009 (Cth).
 4. Pursuant to s 607(3)(c), the matter that is the subject of the appeal be referred to an FWC Member other than Commissioner Simpson and other than an Expert Panel Member, and that Member be required under s 607(3)(c)(i) to deal with the subject matter of the decision.
 5. Such further or other orders be made as the Full Bench considers appropriate.
- No determination of the substantive merits of the alleged contravention of s 772(1) is sought on this appeal.

ANNEXURE C - SPECIAL ASSISTANCE AND PARTICIPATION REQUEST

1. The Appellant requires all correspondence, notices and directions in writing by email.
2. The Appellant requests to participate through her representative, Riki Lee Dahm, and by written material.
3. The Appellant requests that she not be required to participate orally unless otherwise directed after consideration of the medical evidence.
4. A medical certificate dated 30 June 2026 records that the Appellant is unfit to attend and participate in a court proceeding in person or remotely and that participation would worsen her symptoms.
5. A medical certificate dated 17 August 2026 records that the Appellant is unfit for work from 17 August 2026 to 17 November 2026 inclusive.
6. The medical evidence is relied upon only for special assistance and participation arrangements. It is not relied upon to establish Grounds 1-4.