

FAIR WORK COMMISSION

Form F52 – Application for an order for production of documents, records or information to the Commission

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Fair Work Act 2009, s.590(2)(c); Fair Work Commission Rules 2013, rule 54 and Schedule 1

This is an application to the Fair Work Commission (Commission) for an order under s.590(2)(c) of the Fair Work Act 2009 requiring a person to produce documents, records or other information to the Commission.

The Applicant



These are the details of the party that is making this application.

If the Applicant is an individual, provide the following details:

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name			
Surname			
Postal address			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

If the Applicant is not an individual, provide the following details:

Legal name	Construction, Forestry, Maritime, Mining and Energy Union (National Office)
ACN (if a company)	
ABN (if applicable)	46 243 168 565

FAIR WORK COMMISSION

Form F52 – Application for an order for production of documents, records or information to the Commission

Trading name or registered business name (if applicable)	Construction, Forestry, Maritime, Mining and Energy Union (National Office)		
Contact person	Chris Cain		
Postal address	Level 6, 540 Elizabeth Street		
Suburb	Melbourne		
State or territory	VIC	Postcode	3000
Phone number	<u>03 9274 9201</u>	Fax number	
Email address	<u>ccain@cfmeu.org</u>		

Which party is the Applicant?

Applicant

Respondent

Other

If you answered **other** – Provide details.

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The Commission matter that this application relates to



These are the details of the main matter that the proposed order relates to.

Matter name	Application by Grahame Patrick Kelly – withdrawal from amalgamated organisation – Mining and Energy Division – Construction, Forestry, Maritime, Mining and Energy Union
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FAIR WORK COMMISSION

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Matter number	D2022/10
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1. The Application

1.1 What documents, records or other information are being sought?



Using numbered paragraphs, identify the documents, records and information you want produced to the Commission.

1. A copy of the membership roll of the United Mineworkers' Federation of Australia (**UMFA**) as at 9 February 1992;
2. A copy of any document evidencing or recording the membership of the United Mineworkers' Federation of Australia (**UMFA**) as at 9 February 1992;
3. A copy of the financial report referred to at [60](a) of Mr Grahame Patrick Kelly's statement dated 24 October 2022;
4. A copy of the United Mine Workers Division of the amalgamated organisation (the **UMW Division**) membership roll as at 2 September 1992;
5. A copy of any document evidencing or recording the membership of the UMW Division of the amalgamated organisation membership roll as at 2 September 1992;
6. A copy of any document evidencing or recording the total number of members who voted in the 1996 Mining and Energy Division elections referred to at [60] (e) of Mr Grahame Patrick Kelly's statement dated 24 October 2022;
7. A copy of any document evidencing or recording the total number of members of the Mining and Energy Division immediately before the transfer of members in 2003 referred to at [61] of Mr Grahame Patrick Kelly's statement dated 24 October 2022; and
8. A copy of any document evidencing or recording the total number of members who transferred to the Mining and Energy Division in 2003 referred to at [61] of Mr Grahame Patrick Kelly's statement dated 24 October 2022.

1.2 Why are the documents, records or other information being sought?



Using numbered paragraphs, explain why each document, record or piece of information is sought. This might include, for example, explaining the evidence that is contained in a document or how a document is relevant to the main matter

FAIR WORK COMMISSION

Form F52 – Application for an order for production of documents, records or information to the Commission

1. The documents requested are relevant to determining whether the former UMFA is separately identifiable as the Mining and Energy Division of the amalgamated organization and therefore a “constituent part” for the purpose of s 94 and s 94A of the Fair Work (Registered Organisations) Act 2009, and whether the application has been made in accordance with s 94(3).
2. The documents requested are relevant to determining the application in respect of the alternative constituent part has been authorized by the required members.
3. The documents in paragraph 3, 6, 7 and 8 are also referred to in Mr Kelly’s statement of 24 October 2022.

1.3 How will the documents, records or other information assist the Commission in reaching a decision?



Using numbered paragraphs, explain how each document, record or other piece of information could assist the Commission in deciding the main matter.

1. The information will assist the Commission in determining the matters identified at [1] and [2] of part 1.2 of the form.



You must complete the draft order attached to this form.

Disclosure of information

The Commission may provide a copy of this application and any documents you lodge in support of this application to the other parties in this matter.

Signature




If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	
Name	Jessica Dawson-Field

FAIR WORK COMMISSION

Form F52 – Application for an order for production of documents, records or information to the Commission

Date	7 November 2022
Capacity/ Position	Lawyer for the Respondent
	If you are not the Applicant and are completing this form on the Applicant's behalf, include an explanation of your authority to do so in the Capacity/Position section above.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS



DRAFT ORDER

Fair Work Act 2009

s.590(2)(c) – Order requiring a person to produce documents etc to the Fair Work Commission

Applicant(s):

Grahame Patrick Kelly

Commission Matter No:

D2022/10

COMMISSION MEMBER

DATE

TO: Grahame Patrick Kelly

215-217 Clarence Street Sydney, NSW, 2000

Pursuant to s.590(2) of the *Fair Work Act 2009* you are **ORDERED** to provide to the Fair Work Commission the documents, records and other information specified in the Schedule to this order before the Fair Work Commission at the following time, date and place:

Time: 11 November 2022
Date: 4pm
Place: Fair Work Commission, Melbourne Registry

Member

- Note:
- This order has been issued at the request of [*party applying for order*].
 - You can apply to have this order set aside or varied.
 - Instead of attending to provide the documents etc. covered by this order at the time and place specified above, you may produce them to an officer of the Commission at the place specified above not later than 4.00 pm on the day before the day specified above.
 - If you have any queries in relation to this order please contact the associate to [*member*] on [*chamber's email*].

SCHEDULE

1. A copy of the membership roll of the United Mineworkers' Federation of Australia (**UMFA**) as at 9 February 1992;
2. A copy of any document evidencing or recording the membership of the United Mineworkers' Federation of Australia (**UMFA**) as at 9 February 1992;
3. A copy of the financial report referred to at [60](a) of Mr Grahame Patrick Kelly's statement dated 24 October 2022;
4. A copy of the United Mine Workers Division of the amalgamated organisation (the **UMW Division**) membership roll as at 2 September 1992;
5. A copy of any document evidencing or recording the membership of the UMW Division of the amalgamated organisation membership roll as at 2 September 1992;
6. A copy of any document evidencing or recording the total number of members who voted in the 1996 Mining and Energy Division elections referred to at [60] (e) of Mr Grahame Patrick Kelly's statement dated 24 October 2022;
7. A copy of any document evidencing or recording the total number of members of the Mining and Energy Division immediately before the transfer of members in 2003 referred to at [61] of Mr Grahame Patrick Kelly's statement dated 24 October 2022; and
8. A copy of any document evidencing or recording the total number of members who transferred to the Mining and Energy Division in 2003 referred to at [61] of Mr Grahame Patrick Kelly's statement dated 24 October 2022.