

Appeals within the Fair Work jurisdiction

Process flow 1: decisions of a single Commissioner

Step 1:	Primary decision by a single Commissioner (including the President) under section 615C of the Fair Work Act 2009. Proceed to either Step 2 or Step 4.
Step 2:	The primary decision can be appealed to the Full Bench of the Fair Work Commission. This is an internal appeal within the Fair Work Commission.
Step 3:	The decision of the Full Bench of the Fair Work Commission can be appealed to the Federal Court or the High Court under subsection 75(v) of the Constitution. This is judicial review . The process ends here.
Step 4:	The primary decision can be appealed to the Federal Court or the High Court under subsection 75(v) of the Constitution. This is judicial review . The process ends here.

Process flow 2: decisions of the Full Bench

Step 1:	Primary decision by the Full Bench of the Fair Work Commission on modern award functions under section 616 or matters directed by the President under section 615 and 615A.
Step 2:	The primary decision can be appealed to the Federal Court or the High Court under subsection 75(v) of the Constitution. This is judicial review . The process ends here.

Process flow 3: decisions of the Expert Panel

Step 1:	Primary decision by the Expert Panel regarding annual wage reviews made under section 617.
Step 2:	The primary decision can be appealed to the Federal Court or the High Court under subsection 75(v) of the Constitution. This is judicial review . The process ends here.

Process flow 4: decision of a delegate of the Fair Work Commission

Step 1:	Primary decision by a delegate of the Fair Work Commission about right of entry permits made under section 625.
Step 2:	The primary decision can be appealed to the President, a Vice President or a Deputy President of the Fair Work Commission. This is an internal appeal within the Fair Work Commission.
Step 3:	The decision of the President, a Vice President or a Deputy President of the Fair Work Commission can be appealed to the Federal Court or the High Court under subsection 75(v) of the Constitution. This is judicial review . The process ends here.

Process flow 5: decision of the General Manager of the Fair Work Commission

Step 1:	Primary decision by the General Manager of the Fair Work Commission made under the Fair Work (Registered Organisations) Act 2009..
Step 2:	The primary decision can be appealed to the President, a Vice President or a Deputy President of the Fair Work Commission. This is an internal review within the Fair Work Commission.
Step 3:	The decision of the President, a Vice President or a Deputy President of the Fair Work Commission can be appealed to the Federal Court or the High Court under subsection 75(v) of the Constitution. This is judicial review . The process ends here.

Types of decisions and reviews

1.	Primary decisions	
2.	Internal appeals with the Fair Work Commission	<ul style="list-style-type: none"> • Any person aggrieved by a decision can appeal • Requires permission from the Fair Work Commission • Permission must be given if the Fair Work Commission is satisfied it is in the public interest to do so but permission may be granted on other grounds • Minister may seek review of a decision if contrary to public interest • Limits on appeals for unfair dismissal • Appeals are by way of re-hearing • Appeal powers may only be exercised if an error has been identified in the original decision <p>Where the original decision has involved a significant level of discretion, the Fair Work Commission should only intervene where a decision maker has acted upon a wrong principle, been guided by irrelevant factors, mistaken the facts or failed to take some material considerations</p>
3.	Judicial review	<p>Grounds include:</p> <ul style="list-style-type: none"> • No jurisdiction • Error of law • Improper exercise of power • Relevant/irrelevant considerations • Improper purpose • Unreasonableness • Bad faith • Breach of natural justice <p>Note: Modern award decisions and annual wage reviews are quasi-legislative and therefore may not be amenable to judicial review</p>