Fair Work (Registered Organisations) (Transitional Provisions) Rules 2017

I, Michaelia Cash, Minister for Employment, make the following rules.

Dated 4 April 2017

Michaelia Cash
Minister for Employment
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Part 1—Preliminary

1 Name

This instrument is the *Fair Work (Registered Organisations) (Transitional Provisions) Rules 2017*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<table>
<thead>
<tr>
<th>Provisions</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The whole of this instrument</td>
<td>At the same time as Schedule 2 to the <em>Fair Work (Registered Organisations) Amendment Act 2016</em> commences.</td>
<td></td>
</tr>
</tbody>
</table>

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under item 246 of Schedule 2 to the *Fair Work (Registered Organisations) Amendment Act 2016*.

4 Definitions

(1) In this instrument:

*Act* means the *Fair Work (Registered Organisations) Act 2009*.

*amending Act* means the *Fair Work (Registered Organisations) Amendment Act 2016*.

*commencement time* means the time this instrument commences.

*transitionally recognised* has the meaning given by subsection 5(1).

(2) Any other expression used in this instrument and in the Act has the same meaning in this instrument as it has in the Act.

5 When a person is transitionally recognised

(1) A person is *transitionally recognised*, in relation to a reporting unit, if:
Section 5

(a) immediately before the commencement time, the person:
   (i) held, or was a member of a firm that held, the position of auditor of the reporting unit; and
   (ii) was an approved auditor; and
(b) the person, or firm, has held the position of auditor of the reporting unit continuously since the commencement time; and
(c) the person has not ceased to be recognised under subsection (2); and
(d) the person’s recognition is not suspended under subsection (3); and
(e) the person’s registration as an auditor under the Corporations Act 2001 is not suspended.

(2) The person ceases to be recognised:
   (a) at the end of the 3 months beginning at the commencement time; or
   (b) if any of the following events occurs or circumstances exists during those 3 months—when the event occurs or the circumstance starts to exist:
      (i) the person is registered as an auditor under section 255B of the Act;
      (ii) the person is no longer a member of at least one of CPA Australia, The Institute of Chartered Accountants in Australia and the Institute of Public Accountants;
      (iii) if the person was an approved auditor on the basis that he or she held a current Public Practice Certificate—the person ceases to hold the certificate;
      (iv) the person’s recognition is cancelled under subsection (3).

A person who has ceased to be recognised under this subsection cannot become transitinally recognised again.

(3) The Commissioner may cancel or suspend recognition of a person in any circumstances in which, had the person been a registered auditor, the Commissioner would have been permitted under the Act or the Fair Work (Registered Organisations) Regulations 2009 to cancel or suspend the person’s registration as an auditor.

(4) In working out for the purposes of subsection (3) whether the circumstances in section 255H of the Act exist in relation to a person, the reference in that section of the Act to a person who was registered as an auditor on the basis that the person was a registered company auditor at the time of registration is taken to be a reference to a person who was an approved auditor and a registered company auditor immediately before the commencement time.

(5) Section 255J of the Act applies in relation to the Commissioner’s decision under subsection (3) of this section.

Note: This means that the Commissioner must give notice of the decision, and the decision does not take effect until the day the notice is given.
Part 2—Transitional provisions for approved auditors

6 Advice of material change in circumstances

Sections 255K and 255L of the Act apply in relation to a person who is or has been transitionally recognised as if the reference in section 255K to the person’s registration included a reference to whether the person continues to be transitionally recognised.

7 Operation of Subdivision B of Division 4, and Divisions 5 and 6, of Part 3 of Chapter 8 of the Act

A reference in:
(a) Subdivision B of Division 4, or Division 5 or 6, of Part 3 of Chapter 8 of the Act (audits); or
(b) the reporting guidelines;
to an auditor of a reporting unit includes a reference to a person who is transitionally recognised in relation to the reporting unit.

8 Operation of section 256 of the Act

(1) If the position of auditor of a reporting unit is held by a person who is, or a firm at least one of whose members is, transitionally recognised in relation to the reporting unit:
(a) the reporting unit is taken to comply with subsection 256(1) of the Act; and
(b) the requirements of subsection 256(2) of the Act are taken to be satisfied; and
(c) a reference in subsection 256(5), (6) or (6A) of the Act to a registered auditor is taken to include a reference to a person who is transitionally recognised in relation to the reporting unit.

(2) A reference in any of the following provisions of the Act to a registered auditor does not include a reference to a person who is transitionally recognised in relation to the reporting unit:
(a) paragraph 256(3)(a);
(b) paragraph 256(4)(a);
(c) paragraph 256(4A)(a).

9 Operation of section 256A of the Act

A reference in paragraph 256A(4)(b) of the Act to a registered auditor includes a reference to a person who is transitionally recognised in relation to the reporting unit.
Part 3—Financial year disclosure and reporting requirements

10 Reporting guidelines

The amendment of section 255 of the Act made by item 89 of Schedule 2 to the amending Act (inserting subsection (2A)) applies in relation to reporting guidelines for financial years beginning on or after 1 July 2017.

11 Disclosure of remuneration paid to officers

(1) An officer of an organisation, or of a branch of an organisation, is not required by section 293B of the Act to disclose, in accordance with either section 293BA or 293BB of the Act, remuneration paid to the officer before 1 July 2017, if the remuneration is or was paid to the officer:
   (a) under a contract or other arrangement entered into before the commencement time; and
   (b) on a regular basis.

(2) Except as provided by subsection (1), the officer is required by section 293B of the Act to disclose, in accordance with section 293BA or 293BB, remuneration paid to the officer after the commencement time.

12 Officer and related party disclosure statements

New requirements

(1) The requirements in section 293J of the Act apply in relation to financial years beginning on or after 1 July 2017.

Note: This means that the first officer and related party disclosure statement is to be prepared after 30 June 2018 in relation to the financial year beginning on 1 July 2017.

(2) Section 293BC of the Act applies in relation to an organisation, or a branch of an organisation, for financial years beginning on or after 1 July 2017.

(3) Section 293G of the Act applies in relation to an organisation, or a branch of an organisation, for financial years beginning on or after 1 July 2017.

Old requirements

(4) Despite the repeal of Division 3A of Part 2 of Chapter 5 of the Act made by Schedule 2 to the amending Act, that Division, as in force immediately before the commencement time, continues to apply on and after the commencement time in relation to an organisation until immediately before the start of the first financial year beginning on or after 1 July 2017.

(5) A reference in that Division, as it applies under subsection (4) on and after the commencement time, to FWC or the General Manager is taken to be a reference to the Commissioner (within the meaning of the Act, as amended by the amending Act).
13 Disclosure of material personal interests of officers

(1) This section applies if, at the commencement time, a person who is a disclosing officer for the purposes of section 293C of the Act has a material personal interest that the person is required to disclose under subsection 293C(2) or (3) of the Act.

(2) Paragraph 293C(5)(a) of the Act is taken to be satisfied if the person discloses the material personal interest under subsection 293C(2) or (3) before the end of the 3 months beginning at the commencement time.