Fair Work Regulations 2009

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made under the

Fair Work Act 2009

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About this compilation

This compilation

This is a compilation of the *Fair Work Regulations 2009* that shows the text of the law as amended and in force on 6 July 2024 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Chapter 1—Introduction

Part 1-1—Introduction

Division 1—Preliminary

1.01 Name of Regulations

These Regulations are the *Fair Work Regulations 2009*.

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Part 1-2—Definitions

Division 1—Introduction

1.03 Definitions

In these Regulations:

Act means the *Fair Work Act 2009*.

high performance sport: see subregulation 2.15(4).

performance support professional: see subregulation 2.15(2).

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in a year.

WHS entry permit has the same meaning as in the *Work Health and Safety Act 2011*.

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Division 2—The Dictionary

1.04 Meaning of *designated outworker term*

For paragraph (f) of the definition of ***designated outworker term*** in section 12 of the Act, each of the following terms is prescribed:

(a) a term that deals with the filing of records about work to which outworker terms of a modern award apply;

(b) a term that deals with the provision of materials;

(c) a term that is incidental to a designated outworker term, including a term dealing with the observance of the award.

1.05 Meaning of eligible State or Territory court

For the purposes of paragraph (d) of the definition of ***eligible State or Territory court*** in section 12 of the Act, the South Australian Employment Court is prescribed.

1.06 Meaning of *prescribed State industrial authority*

For the definition of ***prescribed State industrial authority*** in section 12 of the Act, the following State tribunals are prescribed:

(a) the Industrial Relations Commission of New South Wales;

(b) the Queensland Industrial Relations Commission;

(c) the Western Australian Industrial Relations Commission;

(d) the South Australian Employment Tribunal;

(e) the Tasmanian Industrial Commission.

1.07 Meaning of *serious misconduct*

(1) For the definition of ***serious misconduct*** in section 12 of the Act, serious misconduct has its ordinary meaning.

(2) For subregulation (1), conduct that is serious misconduct includes both of the following:

(a) wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;

(b) conduct that causes serious and imminent risk to:

(i) the health or safety of a person; or

(ii) the reputation, viability or profitability of the employer's business.

(3) For subregulation (1), conduct that is serious misconduct includes each of the following:

(a) the employee, in the course of the employee's employment, engaging in:

(i) theft; or

(ii) fraud; or

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(iii) assault; or
(iv) sexual harassment;

(b) the employee being intoxicated at work;

(c) the employee refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.

(4) Subregulation (3) does not apply if the employee is able to show that, in the circumstances, the conduct engaged in by the employee was not conduct that made employment in the period of notice unreasonable.

(5) For paragraph (3)(b), an employee is taken to be intoxicated if the employee's faculties are, by reason of the employee being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug), so impaired that the employee is unfit to be entrusted with the employee's duties or with any duty that the employee may be called upon to perform.

1.08 Meaning of *TCF award*

For the definition of ***TCF award*** in section 12 of the Act, each instrument mentioned in the following table is prescribed.

Item	Instrument
1	Clothing Trades Award 1999
2	Felt Hatting Industry Award 1999
3	Footwear Industries Award 2000
4	Notional Agreements Preserving the State Award that includes terms and conditions derived from the New South Wales Clothing Trades (State) Award, The
5	Notional Agreements Preserving the State Award that includes terms and conditions derived from the New South Wales Footwear Manufacturing Industry (State) Award, The
6	Notional Agreements Preserving the State Award that includes terms and conditions derived from the New South Wales Textile Industry (State) Award, The
7	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Queensland Clothing Trades Award—Southern and Central Divisions 2003, The
8	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Queensland Clothing Trades Award—State (Excluding South-East Queensland) 2003, The
9	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Queensland Footwear Manufacturing Award—State 2005, The
10	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Queensland Surgical Bootmaking, Bespoke Bootmaking and Boot Repairing Award—State 2003, The
11	Notional Agreements Preserving the State Award that includes terms and conditions derived from the South Australian Boot and Shoe Award 2006, The
12	Notional Agreements Preserving the State Award that includes terms and conditions derived from the South Australian Clothing Trades Award, The

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Item	Instrument
13	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Tasmanian Bootmakers Award, The
14	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Tasmanian Clothing Industry Award, The
15	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Tasmanian Textile Award, The
16	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Western Australian Bag, Sack and Textile Award, The
17	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Western Australian Bespoke Bootmakers' and Repairers' Award No. 4 of 1946, The
18	Notional Agreements Preserving the State Award that includes terms and conditions derived from the Western Australian Clothing Trades Award 1973, The
19	Textile Industry Award 2000
20	Textile, Clothing, Footwear and Associated Industries Award 2010

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Division 4—Other definitions

1.09 Meaning of *base rate of pay*—pieceworkers (national system employee)

(1) For paragraph 16(2)(c) of the Act, this regulation provides for the determination of the base rate of pay for the purposes of the National Employment Standards for a national system employee who is an award/agreement free employee and a pieceworker.

Note: The Act defines ***award/ agreement free employee*** in section 12 and ***pieceworker*** in section 21.

(2) The base rate of pay, expressed as an hourly rate of pay, is worked out using the formula:

$$\frac{TA}{TH}$$

where:

TA is the total amount earned by the employee during the relevant period.

TH is the total hours worked by the employee during the relevant period.

the ***relevant period*** is:

(a) for an employee who was continuously employed by the employer for a period of 12 months or more immediately before the base rate of pay is to be worked out—the 12 months before the rate is to be worked out; or

(b) for an employee who was continuously employed by the employer for a period of less than 12 months immediately before the base rate of pay is to be worked out—that period.

1.10 Meaning of *base rate of pay*—pieceworkers (enterprise agreement)

(1) For subsection 16(3) of the Act, this regulation provides for the determination of the base rate of pay for the purpose of section 206 of the Act for a pieceworker who is covered by a modern award.

Note: Section 206 of the Act deals with an employee's base rate of pay under an enterprise agreement

(2) The base rate of pay is the rate in the modern award identified as the base rate of pay for the purposes of the National Employment Standards.

1.11 Meaning of ordinary hours of work for award/agreement free employees

(1) For subsection 20(4) of the Act, this regulation provides for the determination of hours that are taken to be the usual weekly hours of work of an award/agreement free employee who:

(a) is not a full-time employee; and

(b) does not have usual weekly hours of work.

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Note: Under section 20 of the Act, the usual weekly hours of work of an award/agreement free employee are relevant to establishing the employee's ordinary hours of work.

(2) To work out the usual weekly hours of work for an employee who has been employed by the employer for at least 4 weeks:

(a) identify the total number of hours that the employee has worked during the previous 4 completed weeks; and

(b) divide the result by 4.

(3) To work out the usual weekly hours of work for an employee who has been employed by the employer for less than 4 weeks:

(a) identify the total number of hours that the employee has worked during the period; and

(b) divide the result by the number of completed weeks for which the employee has been employed by the employer.

1.12 Meaning of *pieceworker*

(1) For paragraph 21(1)(c) of the Act, this regulation prescribes a class of award/agreement free employees as pieceworkers.

Note: Under paragraph 21(1)(c) of the Act, a pieceworker is an award/agreement free employee who is in a class of employees prescribed by the regulations as pieceworkers.

(2) The class is award/agreement free employees who:

(a) are paid a rate set by reference to a quantifiable output or task; and

(b) are not paid a rate set by reference to a period of time worked.

Examples of rates set by reference to a quantifiable output or task

1 A rate of pay calculated by reference to the number of articles produced.

2 A rate of pay calculated by reference to the number of kilometres travelled.

3 A rate of pay calculated by reference to the number of articles delivered.

4 A rate of pay calculated by reference to the number of articles sold.

5 A rate of pay calculated by reference to the number of tasks performed.

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Part 1-3—Application of the Act

Division 2—Interaction with State and Territory laws

1.13 State and Territory laws that are not excluded by section 26 of the Act—prescribed laws

For paragraph 27(1)(b) of the Act, each of the following laws of a State or Territory is a law to which section 26 of the Act does not apply:

(a) a law dealing with the suspension, cancellation or termination of a training contract;

(aa) a law dealing with the suspension, cancellation or termination of a contract of employment that is:

(i) associated with a training contract; and

(ii) entered into as part of a training arrangement;

(b) a law dealing with a period of probation of an employee that:

(i) is part of a training arrangement; but

(ii) is not a period of probationary employment;

(c) a law that provides protection for an employee who discloses information or makes a complaint under a law that deals with any of the following:

(i) whistleblowers;

(ii) environmental protection;

(iii) health services;

(iv) transport safety or operations;

(v) the supply of essential services.

Note: Under subsection 27(1) of the Act, section 26 of the Act does not apply to a law of a State or Territory so far as the law is prescribed by the regulations as a law to which section 26 does not apply.

1.14 Act excludes prescribed State and Territory laws

For subsection 28(1) of the Act, each of the following laws of a State or Territory is prescribed:

(a) a law relating to child labour, to the extent to which it deals with terms and conditions of employment that:

(i) are provided for by the National Employment Standards; or

(ii) may be included in a modern award; or

(iii) may be included in an enterprise agreement under section 55 of the Act;

but not to the extent to which it deals with the times at which, or the periods during which, a child may be employed;

(b) a law relating to training arrangements, to the extent to which it deals with terms and conditions of employment that:

(i) are provided for by the National Employment Standards; or

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(ii) may be included in a modern award; or

(iii) may be included in an enterprise agreement under section 55 of the Act;

(c) the *Contracts Review Act 1980* of New South Wales, to the extent to which it relates to contracts of employment.

Note: Under subsection 28(1) of the Act, the Act is intended to apply to the exclusion of a law of a State or Territory that is prescribed by the regulations.

1.15 Interaction of modern awards and enterprise agreements with State and Territory laws

For subsection 29(3) of the Act, each of the following laws of a State or Territory is prescribed:

(a) a law relating to child labour, to the extent to which it deals with terms and conditions of employment that:

(i) are provided for by the National Employment Standards; or

(ii) may be included in a modern award; or

(iii) may be included in an enterprise agreement under section 55 of the Act;

but not to the extent to which it deals with the times at which, or the periods during which, a child may be employed;

(b) a law relating to training arrangements, to the extent to which it deals with terms and conditions of employment that:

(i) are provided for by the National Employment Standards; or

(ii) may be included in a modern award; or

(iii) may be included in an enterprise agreement under section 55 of the Act;

(c) the *Contracts Review Act 1980* of New South Wales, to the extent that it relates to contracts of employment.

Note: Under subsection 29(3) of the Act, a term of a modern award or enterprise agreement does not apply subject to a law of a State or Territory that is prescribed by the regulations as a law to which modern awards and enterprise agreements are not subject.

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Division 2A—Application of Act in a referring State

1.15A State public sector employer

For paragraph (e) of the definition of ***State public sector employer*** in section 30A of the Act, the following kinds of employers are specified:

(a) an employer:

(i) that is a public entity within the meaning of the **Public Administration Act 2004** of Victoria; and

(ii) to which paragraphs (a), (b) and (c) of the definition of ***State public sector employer*** do not apply;

(b) an employer:

(i) that is a special body within the meaning of the **Public Administration Act 2004** of Victoria; and

(ii) to which paragraphs (a), (b) and (c) of the definition of ***State public sector employer*** do not apply.

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Division 3—Geographical application of the Act

1.15B Definitions for Division 3

In this Division:

coastal trading has the meaning given by section 7 of the *Coastal Trading (Revitalising Australian Shipping) Act 2012*.

continuous voyage permit:

(a) means a continuing permit issued under section 286 of the *Navigation Act 1912* as in force immediately before 1 July 2012; and

(b) includes a continuing permit granted in relation to an application to which paragraphs 5(a) and (b) of Schedule 2 to the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012* apply.

emergency licence has the meaning given by subsection 6(1) of the *Coastal Trading (Revitalising Australian Shipping) Act 2012*.

emergency licensed ship means a ship used to undertake a voyage authorised by an emergency licence.

general licence has the meaning given by subsection 6(1) of the *Coastal Trading (Revitalising Australian Shipping) Act 2012*.

general licensed ship means a ship:

(a) in relation to which a general licence has been issued and is in force; and

(b) which engages in coastal trading under the licence.

innocent passage has the meaning it has under the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982.

majority Australian-crewed ship means a ship (other than an Australian ship, an emergency licensed ship, a general licensed ship, a transitional general licensed ship or a temporary licensed ship) of which:

(a) the majority of the crew are residents of Australia; and

(b) the operator:

(i) is a resident of Australia; or

(ii) has its principal place of business in Australia, or

(iii) is incorporated in Australia.

single voyage permit:

(a) means a single voyage permit issued under section 286 of the *Navigation Act 1912* as in force immediately before 1 July 2012; and

(b) includes a single voyage permit granted in relation to an application to which paragraphs 5(a) and (b) of Schedule 2 to the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012* apply.

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temporary licence has the meaning given by subsection 6(1) of the *Coastal Trading (Revitalising Australian Shipping) Act 2012*.

temporary licensed ship means a ship:

(a) that is used to undertake a voyage authorised by a temporary licence; and

(b) to which one of the following applies:

(i) within 12 months before commencing the voyage, the ship commenced at least 2 other voyages authorised by a temporary licence;

(ii) within 12 months before commencing the voyage:

(A) the ship commenced at least one other voyage authorised by a temporary licence; and

(B) was issued with a single voyage permit;

(iii) within 12 months before commencing the voyage, the ship was issued with at least 2 single voyage permits;

(iv) within 15 months before commencing the voyage, the ship was issued with a continuous voyage permit.

transitional general licence means a licence issued under Division 1 of Part 4 of the *Coastal Trading (Revitalising Australian Shipping) Act 2012* following an application made under item 10 of Schedule 2 to the *Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012*.

transitional general licensed ship means a ship:

(a) in relation to which a transitional general licence has been issued and is in force; and

(b) which engages in coastal trading under the licence.

transit passage has the meaning it has under the United Nations Convention on the Law of the Sea done at Montego Bay on 10 December 1982.

WA government employer means a public sector body (within the meaning of the *Public Sector Management Act 1994* (WA) as in force at the commencement of Schedule 1 to the *Fair Work Amendment (Christmas Island and Cocos (Keeling) Islands) Regulations 2018*). However, to avoid doubt, the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands are not WA government employers.

1.15C Meanings of *Australian employer* and *Australian-based employee*

For paragraph 35(1)(g) of the Act, the employer of a person who is a member of the crew performing duties on a majority Australian-crewed ship is prescribed as an Australian employer.

1.15D Modification of application of Act—ships engaged in innocent passage

For section 32 of the Act, the Act does not apply in relation to all the waters of the sea on the landward side of the outer limits of the territorial sea of Australia,

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including such waters within the limits of a State or Territory to the extent to which its application would be inconsistent with a right of innocent passage or transit passage being exercised by a ship other than:

(a) an emergency licensed ship; or
(b) a general licensed ship; or
(c) a temporary licensed ship; or
(d) a transitional general licensed ship; or
(e) a majority Australian-crewed ship.

1.15DA Modification of application of Act—Christmas Island and Cocos (Keeling) Islands

For the purposes of section 32 of the Act, the Act applies in relation to the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands as if:

(a) paragraph 14(1)(f) of the Act did not apply to the extent it would make a WA government employer a national system employer; and
(b) Part 3-1 of the Act did not apply to action taken in the Territory by or in relation to:
  (i) a WA government employer that would be a national system employer but for paragraph (a); or
  (ii) an individual so far as he or she is employed, or usually employed, by a WA government employer mentioned in subparagraph (i); and
(c) paragraph 789FD(3)(b) of the Act did not apply to a business or undertaking conducted in the Territory by a WA government employer.

Note 1: Paragraph (a) does not prevent provisions of the Act applying in relation to a WA government employer as a non-national system employer (see for example Parts 6-3 and 6-4 of the Act).

Note 2: Paragraph (c) does not prevent Part 6-4B of the Act applying in relation to a business or undertaking conducted by a WA government employer that is a constitutional corporation: see subparagraph 789FD(3)(a)(i) of the Act.

1.15E Extension of Act to the exclusive economic zone and the continental shelf—ships

(1) For subsection 33(3) of the Act, the Act is extended to and in relation to each of the following ships in the exclusive economic zone or the waters above the continental shelf:
  (a) an emergency licensed ship;
  (b) a general licensed ship;
  (c) a temporary licensed ship;
  (d) a transitional general licensed ship.

(2) For subsection 33(3) of the Act, the Act is extended to and in relation to a majority Australian-crewed ship in the exclusive economic zone or the waters above the continental shelf.

Note: The extension of this Act to emergency licensed ships, general licensed ships, temporary licensed ships, transitional general licensed ships and majority

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Australian-crewed ships in the exclusive economic zone and the waters above the continental shelf (including provisions relating to compliance and enforcement, administration and right of entry by reason of the extension of the rest of the Act, so far as it relates to the specified provisions) is subject to:

(a) Australia's international obligations relating to foreign ships; and

(b) the concurrent jurisdiction of a foreign State.

1.15F Extension of Act beyond the exclusive economic zone and the continental shelf

(1) For subsection 34(3) of the Act, the Act is extended to:

(a) an Australian employer; and

(b) an Australian-based employee;

in relation to the Australian Antarctic Territory.

(2) For subsection 34(3) of the Act, the provisions of the Act mentioned in the following table, and the rest of the Act so far as it relates to those provisions, are extended to:

(a) an Australian employer in relation to the employer's Australian-based employees; and

(b) an Australian-based employee in relation to the employee's employer if the same enterprise agreement applies to both of them;

in relation to all of the area outside the outer limits of the exclusive economic zone and the continental shelf.

Item	Provision of the Act
1	Part 2-1—core provisions for Chapter 2
2	Part 2-2—the National Employment Standards
3	Part 2-3—modern awards
4	Part 2-6—minimum wages
5	Part 2-7—equal remuneration
6	Part 2-8—transfer of business
7	Part 2-9—other terms and conditions of employment

(3) For subsection 34(3) of the Act, the provisions of the Act mentioned in the following table, and the rest of the Act so far as it relates to those provisions, are extended to:

(a) an Australian employer in relation to the employer's Australian-based employees; and

(b) an Australian-based employee in relation to the employee's employer;

in relation to all of the area outside the outer limits of the exclusive economic zone and the continental shelf.

Item	Provision of the Act
1	Part 2-1—core provisions for Chapter 2

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Item	Provision of the Act
2	Part 2-4—enterprise agreements
3	Part 2-5—workplace determinations
4	Part 3-3—industrial action

(4) For subsection 34(3) of the Act, Part 3-1 of the Act, and the rest of the Act so far as it relates to that Part, are extended to:

(a) an Australian employer; and

(b) an Australian-based employee;

in relation to all of the area outside the outer limits of the exclusive economic zone and the continental shelf.

Note: Part 3-1 of the Act relates to general protections.

(5) For subsection 34(3) of the Act, Part 3-2 of the Act, and the rest of the Act so far as it relates to that Part, are extended to an Australian-based employee in relation to the employee's Australian employer in relation to all of the area outside the outer limits of the exclusive economic zone and the continental shelf.

Note: Part 3-2 of the Act relates to unfair dismissal.

(6) For subsection 34(3) of the Act, Part 3-5 of the Act, and the rest of the Act so far as it relates to that Part, are extended to an Australian employer in relation to the employer's Australian-based employees in relation to all of the area outside the outer limits of the exclusive economic zone and the continental shelf.

Note 1: Part 3-5 of the Act relates to stand down.

Note 2: Provisions of the Act that are specified as extending beyond the exclusive economic zone and the continental shelf (including provisions relating to compliance and enforcement, administration and right of entry by reason of the extension of the rest of the Act, so far as it relates to the specified provisions) are subject to:

(a) Australia's international obligations relating to foreign ships; and

(b) the concurrent jurisdiction of a foreign State.

1.15G Amendments made by *Fair Work Amendment Regulation 2012 (No. 2)*

The amendments of regulations 1.15B, 1.15D and 1.15E made by Schedule 1 to the *Fair Work Amendment Regulation 2012 (No. 2)* do not apply in relation to:

(a) a licensed ship within the meaning of regulation 1.15B as in force immediately before the commencement of the *Fair Work Amendment Regulation 2012 (No. 2)*; or

(b) a permit ship within the meaning of regulation 1.15B as in force immediately before the commencement of the *Fair Work Amendment Regulation 2012 (No. 2)*.

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Division 4—Miscellaneous

1.16 Interaction between fair work instruments and public sector employment laws

For paragraph 40(2)(b) of the Act, a fair work instrument or a term of a fair work instrument (other than an FWC order or a term of an FWC order) is prescribed for the purposes of the following laws:

(a) an ordinance made under the *Seat of Government (Administration) Act 1910* that:
  (i) deals with public sector employment; and
  (ii) was, immediately before the repeal of the *Workplace Relations Act 1996*, inconsistent with that Act or an agreement, award order or determination made under that Act;

(b) an enactment, within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*, that:
  (i) deals with public sector employment; and
  (ii) was, immediately before the repeal of the *Workplace Relations Act 1996*, inconsistent with that Act or an agreement, award order or determination made under that Act;

(c) a determination mentioned in paragraph 53(6)(b) of the *Northern Territory (Self-Government) Act 1978* that was, immediately before the repeal of the *Workplace Relations Act 1996*, inconsistent with an award or workplace agreement (within the meaning of the *Workplace Relations Act 1996*).

Note: Under subsection 40(2) of the Act, fair work instruments, or terms of fair work instruments, that deal with public sector employment prevail over the public sector employment laws as described in that subsection.

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Chapter 2—Terms and conditions of employment

Part 2-2—The National Employment Standards

Division 5—Parental leave and related entitlements

Subdivision B—Parental leave

2.00 Flexible unpaid parental leave

For the purposes of subsection 72A(1) of the Act, the following higher number of days is prescribed:

(a) if the date of birth or day of placement of the child is during the period starting on 1 July 2024 and ending on 30 June 2025—110 days of flexible unpaid parental leave in relation to the child;

(b) if the date of birth or day of placement of the child is during the period starting on 1 July 2025 and ending on 30 June 2026—120 days of flexible unpaid parental leave in relation to the child;

(c) if the date of birth or day of placement of the child is on or after 1 July 2026—130 days of flexible unpaid parental leave in relation to the child.

Note: For a date of birth or day of placement of a child before 1 July 2024, see subsection 72A(1) of the Act.

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Division 12—Fair Work Ombudsman to prepare and publish statements

2.01 Fair Work Ombudsman to prepare and publish Fair Work Information Statement—content

(1) For subsection 124(4) of the Act, a Fair Work Information Statement must contain an explanation of the effect on an employee's entitlements under the National Employment Standards if:

(a) the transfer of a business occurs as described in section 311 of the Act; and

(b) the employee becomes a transferring employee.

Note: Section 311 of the Act identifies the participants in the transfer of the business as including a "transferring employee".

(2) For subsection 124(4) of the Act, a Fair Work Information Statement must set out the circumstances, described in subsections 65(1A) and (1B) of the Act, in which an employee may request a change in working arrangements.

2.02 Fair Work Ombudsman to prepare and publish Fair Work Information Statement—manner of giving Statement to employees

(1) For subsection 124(4) of the Act, each of the following is a manner in which an employer may give the Fair Work Information Statement to an employee.

(2) The employer may give the Statement to the employee personally.

(3) The employer may send the Statement by pre-paid post to:

(a) the employee's residential address; or

(b) a postal address nominated by the employee.

(4) The employer may send the Statement to:

(a) the employee's email address at work; or

(b) another email address nominated by the employee.

(5) The employer may send to the employee's email address at work (or to another email address nominated by the employee):

(a) an electronic link to the page of the Fair Work Ombudsman's website on which the Statement is located; or

(b) an electronic link that takes the employee directly to a copy of the Statement on the employer's intranet.

(6) The employer may fax the Statement to:

(a) the employee's fax number at work; or

(b) the employee's fax number at home; or

(c) another fax number nominated by the employee.

(7) Subregulations (2) to (6) do not prevent the employer from using another manner of giving the Statement to the employee.

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2.02A Fair Work Ombudsman to prepare and publish Casual Employment Information Statement—manner of giving Statement to casual employees

(1) For subsection 125A(4) of the Act, each of the following is a manner in which an employer may give the Casual Employment Information Statement to an employee.

(2) The employer may give the Statement to the employee personally.

(3) The employer may send the Statement by pre-paid post to:
  (a) the employee's residential address; or
  (b) a postal address nominated by the employee.

(4) The employer may send the Statement to:
  (a) the employee's email address at work; or
  (b) another email address nominated by the employee.

(5) The employer may send to the employee's email address at work (or to another email address nominated by the employee):
  (a) an electronic link to the page of the Fair Work Ombudsman's website on which the Statement is located; or
  (b) an electronic link that takes the employee directly to a copy of the Statement on the employer's intranet.

(6) The employer may fax the Statement to:
  (a) the employee's fax number at work; or
  (b) the employee's fax number at home; or
  (c) another fax number nominated by the employee.

(7) Subregulations (2) to (6) do not prevent the employer from using another manner of giving the Statement to the employee.

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Division 13—Miscellaneous

2.03 What can be agreed to etc. in relation to award/agreement free employees

For paragraph 129(a) of the Act, employers and award/agreement free employees may agree to the provision of either or both of:

(a) extra annual leave in exchange for foregoing an equivalent amount of pay; and

(b) extra personal/carer's leave in exchange for foregoing an equivalent amount of pay.

2.03A Claims to offset certain amounts

(1) This regulation applies if:

(a) a person is employed by an employer on the basis that the person is a casual employee; and

(b) the employer pays the person an amount (the ***loading amount***) that is clearly identifiable as an amount paid to compensate the person for not having one or more relevant NES entitlements during a period (the ***employment period***); and

(c) during all or some of the employment period, the person was in fact an employee other than a casual employee for the purposes of the National Employment Standards; and

(d) the person makes a claim to be paid an amount in lieu of one or more of the relevant NES entitlements.

Note 1: This regulation is intended to apply if the person has been mistakenly classified as a casual employee during all or some of the employment period.

Note 2: For the purposes of paragraph (b), examples of where it may be clearly identifiable that an amount is paid to compensate the person for not having one or more relevant NES entitlements include in correspondence, pay slips, contracts and relevant industrial instruments.

(2) To avoid doubt, the employer may make a claim to have the loading amount taken into account in determining any amount payable by the employer to the person in lieu of one or more relevant NES entitlements.

(3) This regulation does not affect the matters to which a court may otherwise have regard, at law or in equity, in determining an employer's claim to have the loading amount taken into account.

(4) A reference in this regulation to a ***relevant NES entitlement*** is a reference to an entitlement under the National Employment Standards that casual employees do not have.

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Part 2-4—Enterprise agreements

Division 3—Bargaining and representation during bargaining

2.04 Notice of employee representational rights—how notice is given

(1) For subsection 173(5) of the Act, each of the following is a manner in which the employer for a proposed enterprise agreement may give employees who will be covered by the agreement notice of the right to be represented by a bargaining representative for the agreement.

(2) The employer may give the notice to the employee personally.

(3) The employer may send the notice by pre-paid post to:
  (a) the employee's residential address; or
  (b) a postal address nominated by the employee.

(4) The employer may send the notice to:
  (a) the employee's email address at work; or
  (b) another email address nominated by the employee.

(5) The employer may send to the employee's email address at work (or to another email address nominated by the employee) an electronic link that takes the employee directly to a copy of the notice on the employer's intranet.

(6) The employer may fax the notice to:
  (a) the employee's fax number at work; or
  (b) the employee's fax number at home; or
  (c) another fax number nominated by the employee.

(7) The employer may display the notice in a conspicuous location at the workplace that is known by and readily accessible to the employee.

(8) Subregulations (2) to (7) do not prevent the employer from using another manner of giving the notice to the employee.

2.05 Notice of employee representational rights—prescribed form

For subsection 174(1A) of the Act, the notice of employee representational rights in Schedule 2.1 is prescribed.

2.06 Appointment of bargaining representatives—independence

A bargaining representative of an employee must be:
  (a) free from control by the employee's employer or another bargaining representative; and
  (b) free from improper influence from the employee's employer or another bargaining representative.

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Division 4—Approval of enterprise agreements

2.06AA Disclosure of benefits by organisations and employers—requirements for documents

Disclosure by organisations that are bargaining representatives

(1) For the purposes of paragraph 179(4)(d) of the Act, the document must:
  (a) set out the following for each section 179 disclosable benefit:
    (i) the name of the person who will or can reasonably be expected to provide the benefit (if known by the organisation);
    (ii) if it is not reasonably practicable to describe the amount of the benefit—the basis on which the amount is or will be determined; and
  (b) be in the form set out in Schedule 2.1A.

Disclosure by employers

(2) For the purposes of paragraph 179A(3)(d) of the Act, the document must:
  (a) set out the following for each section 179A disclosable benefit:
    (i) the name of the person who will or can reasonably be expected to provide the benefit (if known by the employer);
    (ii) if it is not reasonably practicable to describe the amount of the benefit—the basis on which the amount is or will be determined; and
  (b) be in the form set out in Schedule 2.1A.

Note: Strict compliance with the form is not required and substantial compliance is sufficient: see section 25C of the *Acts Interpretation Act 1901* (as in force on 25 June 2009).

2.06A Bargaining representative must apply for FWC approval of an enterprise agreement—requirements for signing agreement

(1) For subsection 185(5) of the Act, this regulation prescribes the requirements for the signing of an enterprise agreement.

(2) For paragraph 185(2)(a) of the Act, a copy of an enterprise agreement is a signed copy only if:
  (a) it is signed by:
    (i) the employer covered by the agreement; and
    (ii) at least 1 representative of the employees covered by the agreement; and
  (b) it includes:
    (i) the full name and address of each person who signs the agreement; and
    (ii) an explanation of the person's authority to sign the agreement.

Note: Paragraph 185(2)(a) of the Act requires an application for approval of an enterprise agreement to be accompanied by a signed copy of the agreement.

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(3) Unless the representative of the employees covered by the agreement is an employee in a class of employees who will be bound by the agreement, the representative's signature is not taken to indicate that the representative intends to be bound by the agreement.

2.07 FWC may approve an enterprise agreement with undertakings—requirements for signing undertaking

For subsection 190(5) of the Act, an undertaking relating to a an enterprise agreement must be signed by each employer who gives the undertaking.

2.08 Model flexibility term for enterprise agreement

For subsection 202(5) of the Act, the model flexibility term for enterprise agreements is set out in Schedule 2.2.

2.09 Model consultation term for enterprise agreement

For subsection 205(3) of the Act, the model consultation term is set out in Schedule 2.3.

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Division 7—Variation and termination of enterprise agreements

Subdivision A—Variation of enterprise agreements by employers and employees: general circumstances

2.09A Requirements for signing variation of enterprise agreement

(1) For subsection 210(4) of the Act, this regulation prescribes the requirements for the signing of a variation to an enterprise agreement.

(2) For paragraph 210(2)(a) of the Act, a copy of a variation to an enterprise agreement is a signed copy only if:

(a) it is signed by:

(i) the employer covered by the agreement as varied; and

(ii) at least 1 representative of the employees covered by the agreement as varied; and

(b) it includes:

(i) the full name and address of each person who signs the variation; and

(ii) an explanation of the person's authority to sign the variation.

Note: Paragraph 210(2)(a) of the Act requires an application for approval of a variation to an enterprise agreement to be accompanied by a signed copy of the variation.

(3) Unless the representative of the employees covered by the agreement as varied is an employee in a class of employees who will be bound by the agreement as varied, the representative's signature is not taken to indicate that the representative intends to be bound by the agreement as varied.

2.10 FWC may approve variation of enterprise agreement with undertaking—requirements for signing undertaking for variation

For subsection 212(4) of the Act, an undertaking relating to the variation of an enterprise agreement must be signed by each employer who gives the undertaking.

2.10A Approval of variations of enterprise agreements—modification of requirement to take into account statement of principles on genuine agreement

(1) For the purposes of subsection 211(6) of the Act, section 188 of the Act has effect with the modifications prescribed by this regulation for the purpose of the FWC deciding, in considering an application for the approval of a variation of an enterprise agreement, whether it is satisfied of the matter referred to in paragraph 211(1)(a) of the Act.

(2) In taking into account the statement of principles made under section 188B of the Act:

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(a) the matter mentioned in paragraph 188B(3)(b) of the Act is taken to be a matter relating to the capacity of employees to be represented in relation to the proposed variation of the enterprise agreement; and

(b) the matters mentioned in paragraphs 188B(3)(a), (c), (d) and (e) of the Act are taken to be matters relating to the proposed variation of the enterprise agreement.

Subdivision AA—Variation of supported bargaining agreement to add employer and employees (with consent)

2.10B Requirements for signing variations of supported bargaining agreements to add employer and employees (with consent)

(1) For the purposes of subsection 216AA(4) of the Act, this regulation prescribes requirements relating to the signing of a variation of a supported bargaining agreement made jointly under section 216A of the Act by the employer who will be covered by the agreement if the variation is approved and the affected employees for the variation.

Note: Paragraph 216AA(2)(a) of the Act requires an application for approval of a variation of a supported bargaining agreement to add an employer and employees to be accompanied by a signed copy of the variation.

(2) The variation must be signed by the following:

(a) the employer or a person authorised by the employer to sign the variation on the employer's behalf;

(b) at least 1 representative of the affected employees.

(3) The variation must include, for each person who signs the variation:

(a) the full name and address of the person; and

(b) an explanation of the person's authority to sign the variation.

(4) Unless the representative of the affected employees is an affected employee, the representative's signature is not taken to indicate that the representative intends to be bound by the agreement as varied.

Subdivision AB—Variation of supported bargaining agreement to add employer and employees (without consent)

2.10C Requirements for signing variations of supported bargaining agreements to add employer and employees (without consent)

(1) For the purposes of subsection 216B(3) of the Act, this regulation prescribes requirements relating to the signing of a variation of a supported bargaining agreement proposed by an employee organisation that is covered by the agreement.

Note: Paragraph 216B(2)(a) of the Act requires an application for approval of a variation of a supported bargaining agreement to add an employer and employees to be accompanied by a signed copy of the variation.

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(2) The variation must be signed by the employee organisation.

(3) The variation must include, for each person who signs the variation:
(a) the full name and address of the person; and
(b) an explanation of the person's authority to sign the variation.

Subdivision AC—Variation of cooperative workplace agreement to add employer and employees

2.10D Requirements for signing variations of cooperative workplace agreements to add employer and employees

(1) For the purposes of subsection 216CA(4) of the Act, this regulation prescribes requirements relating to the signing of a variation of a cooperative workplace agreement made jointly under section 216C of the Act by the employer who will be covered by the agreement if the variation is approved and the affected employees for the variation.

Note: Paragraph 216CA(2)(a) of the Act requires an application for approval of a variation of a cooperative workplace agreement to add an employer and employees to be accompanied by a signed copy of the variation.

(2) The variation must be signed by the following:
(a) the employer or a person authorised by the employer to sign the variation on the employer's behalf;
(b) at least 1 representative of the affected employees.

(3) The variation must include, for each person who signs the variation:
(a) the full name and address of the person; and
(b) an explanation of the person's authority to sign the variation.

(4) Unless the representative of the affected employees is an affected employee, the representative's signature is not taken to indicate that the representative intends to be bound by the agreement as varied.

Subdivision AD—Variation of single interest employer agreement to add employer and employees

2.10E Requirements for signing variations of single interest employer agreements to add employer and employees (with consent)

(1) For the purposes of subsection 216DA(4) of the Act, this regulation prescribes requirements relating to the signing of a variation of a single interest employer agreement made jointly under section 216D of the Act by the employer who will be covered by the agreement if the variation is approved and the affected employees for the variation.

Note: Paragraph 216DA(2)(a) of the Act requires an application for approval of a variation of a single interest employer agreement to add an employer and employees to be accompanied by a signed copy of the variation.

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(2) The variation must be signed by the following:
  (a) the employer or a person authorised by the employer to sign the variation on the employer's behalf;
  (b) at least 1 representative of the affected employees.

(3) The variation must include, for each person who signs the variation:
  (a) the full name and address of the person; and
  (b) an explanation of the person's authority to sign the variation.

(4) Unless the representative of the affected employees is an affected employee, the representative's signature is not taken to indicate that the representative intends to be bound by the agreement as varied.

2.10F Requirements for signing variations of single interest employer agreements to add employer and employees (without consent)

(1) For the purposes of subsection 216DB(3) of the Act, this regulation prescribes requirements relating to the signing of a variation of a single interest employer agreement proposed by an employee organisation that is covered by the agreement.

Note: Paragraph 216DB(2)(a) of the Act requires an application for approval of a variation of a single interest employer agreement to add an employer and employees to be accompanied by a signed copy of the variation.

(2) The variation must be signed by the employee organisation.

(3) The variation must include, for each person who signs the variation:
  (a) the full name and address of the person; and
  (b) an explanation of the person's authority to sign the variation.

Subdivision AE—Variation of multi-enterprise agreement to remove employer and employees

2.10G Requirements for signing variations of multi-enterprise agreements to remove employer and employees (with consent)

(1) For the purposes of subsection 216EA(4) of the Act, this regulation prescribes requirements relating to the signing of a variation of a multi-enterprise agreement made jointly under section 216E of the Act by an employer who will cease to be covered by the agreement if the variation is approved and the affected employees for the variation.

(2) The variation must be signed by the following:
  (a) the employer or a person authorised by the employer to sign the variation on the employer's behalf;
  (b) at least 1 representative of the affected employees.

(3) The variation must include, for each person who signs the variation:
  (a) the full name and address of the person; and

(b) an explanation of the person's authority to sign the variation.

Subdivision D—Termination of enterprise agreements after nominal expiry date

2.10H Requirements for signing guarantee of termination entitlements

(1) For the purposes of paragraph 226A(1)(c) of the Act, this regulation prescribes requirements relating to the signing of a guarantee of termination entitlements given by an employer covered by an enterprise agreement.

(2) The guarantee must be signed by the employer.

(3) The guarantee must include, for each person who signs the guarantee:
(a) the full name and address of the person; and
(b) an explanation of the person's authority to sign the guarantee.

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Division 8—FWC's general role in facilitating bargaining

2.11 What a bargaining order must specify—bargaining order for reinstatement of employee

(1) For paragraph 231(3)(b) of the Act, this regulation provides for the FWC to take action and make orders in connection with, and to deal with matters relating to, a bargaining order for reinstatement of an employee under paragraph 231(2)(d) of the Act.

(2) The FWC may make any of the following orders:

(a) an order to reappoint the employee to the position in which he or she was employed immediately before the termination of his or her employment;

(b) an order to appoint the employee to another position for which the terms and conditions of employment are no less favourable than those under which he or she was employed immediately before the termination of his or her employment;

(c) any order that the FWC thinks appropriate to maintain continuity of the employee's employment;

(d) an order that the employer who terminated the employment of the employee pay the employee an amount for remuneration lost, or likely to have been lost, because of the termination.

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Part 2-9—Other terms and conditions of employment

Division 2—Payment of wages

2.12A Employee authorised deductions—authorisation requirements

Deduction for specified amount

(1) For the purposes of paragraph 324(2)(aa) of the Act, a written authorisation by an employee under subparagraph 324(2)(a)(i) of the Act specifying the amount of a deduction must also include the following:
  (a) the purpose of the deduction;
  (b) the date on which the deduction is to be made;
  (c) the name of the person to whom the amount of the deduction is to be given.

Multiple or ongoing deductions

(2) For the purposes of paragraph 324(2)(aa) of the Act, a written authorisation by an employee under subparagraph 324(2)(a)(ii) of the Act for multiple or ongoing deductions must also include the following:
  (a) the purpose of the deductions;
  (b) if the deductions are for a specified amount or amounts—those amounts;
  (c) either:
    (i) the dates on which the deductions are to be made; or
    (ii) the date after which, and the frequency with which, the deductions are to be made;
  (d) the name of the person to whom the amounts of the deductions are to be given.

No application to saved authorisations

(3) This regulation does not apply in relation to an authorisation covered by clause 90 of Schedule 1 to the Act.

Note: Clause 90 of Schedule 1 to the Act continues the operation of authorisations made before the commencement of Schedule 5 to the *Fair Work Legislation Amendment (Protecting Worker Entitlements) Act 2023*.

2.12 Certain terms have no effect—reasonable and not reasonable deductions

Reasonable deductions

(1) For subsection 326(2) of the Act, a circumstance in which a deduction mentioned in subsection 326(1) of the Act is reasonable is that:
  (a) the deduction is made in respect of the provision of goods or services:
    (i) by an employer, or a party related to the employer; and
    (ii) to an employee; and

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(b) the goods or services are provided in the ordinary course of the business of the employer or related party; and

(c) the goods or services are provided to members of the general public on:

(i) the same terms and conditions as those on which the goods or services were provided to the employee; or

(ii) on terms and conditions that are not more favourable to the members of the general public.

Example 1: A deduction of health insurance fees made by an employer that is a health fund.

Example 2: A deduction for a loan repayment made by an employer that is a financial institution.

(2) For subsection 326(2) of the Act, a circumstance in which a deduction mentioned in subsection 326(1) of the Act is reasonable is that the deduction is for the purpose of recovering costs directly incurred by the employer as a result of the voluntary private use of particular property of the employer by an employee (whether authorised or not).

Examples of costs

1 The cost of items purchased on a corporate credit card for personal use by the employee.

2 The cost of personal calls on a company mobile phone.

3 The cost of petrol purchased for the private use of a company vehicle by the employee.

Deductions not reasonable

(3) For subsection 326(2) of the Act, and subject to subregulations (1) and (2), a circumstance in which a deduction mentioned in subsection 326(1) of the Act is not reasonable is that the deduction is for an amount that may be varied from time to time.

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Division 3—Guarantee of annual earnings

2.13 High Income threshold

(1) For subsection 333(1) of the Act, this regulation sets out the manner in which the high income threshold is to be worked out.

Note: For the high income threshold for the purposes of subsection 333F(2) of the Act (about exceptions to fixed term contract limitations), see regulation 2.14.

(2) The high income threshold for the period starting on 1 July 2009 and ending at the end of 30 June 2010 is worked out using the following steps.

First indexation

Step 1 Identify the assessment of current average weekly ordinary time earnings published by the Australian Statistician for February 2008 and in effect on 1 July 2008.

Note: This is the amount of the average weekly ordinary time earnings, seasonally adjusted, for full-time adult employees of all employees in Australia for that day.

Step 2 Divide it by the assessment of current average weekly ordinary time earnings published by the Australian Statistician for May 2007 and in effect on 27 August 2007.

Note: This is the amount of the average weekly ordinary time earnings, seasonally adjusted, for full-time adult employees of all employees in Australia for that day.

Step 3 Round the result to 3 decimal places. If the fourth decimal place is 5 or above, round it up.

If the rounded result is less than 1, the rounded result becomes 1.

Multiply $100 000 by the rounded result.

If the result is not a multiple of $100, round the result to the nearest multiple of $100. If the result is a multiple of $50, round it up to the next multiple of $100.

This result will be indexed again in step 6.

Second indexation

Step 4 Identify the assessment of current average weekly ordinary time earnings published by the Australian Statistician for February 2009 and in effect on 1 July 2009.

Note: This is the amount of the average weekly ordinary time earnings, seasonally adjusted, for full-time adult employees of all employees in Australia for that day.

Step 5 Divide it by the assessment of current average weekly ordinary time earnings published by the Australian Statistician for February 2008 and in effect on 1 July 2008.

Note: This is the amount of the average weekly ordinary time earnings, seasonally adjusted, for full-time adult employees of all employees in Australia for that day.

Step 6 Round the result to 3 decimal places. If the fourth decimal place is 5 or above, round it up.

If the rounded result is less than 1, the rounded result becomes 1.

Multiply the amount worked out in step 3 by the rounded result.

If the result is not a multiple of $100, round the result to the nearest multiple of $100. If the result is a multiple of $50, round it up to the next multiple of $100.

The result is the high income threshold for the period starting on 1 July 2009 and ending at the end of 30 June 2010.

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(3) The high income threshold for the year starting on 1 July 2010, or a later year starting on 1 July, is the threshold for the previous year, indexed using the following steps.

Step 1 Identify the assessment of current average weekly ordinary time earnings published by the Australian Statistician and in effect on 1 July in the current year.

Note: This is the amount of the average weekly ordinary time earnings, seasonally adjusted, for full-time adult employees of all employees in Australia for that day.

Step 2 Divide it by the assessment of current average weekly ordinary time earnings published by the Australian Statistician and in effect on 1 July of the previous year.

Note: This is the amount of the average weekly ordinary time earnings, seasonally adjusted, for full-time adult employees of all employees in Australia for that day.

Step 3 Round the result to 3 decimal places. If the fourth decimal place is 5 or above, round it up.

If the rounded result is less than 1, the rounded result becomes 1.

Multiply the high income threshold for the previous year by the rounded result.

If the result is not a multiple of $100, round the result to the nearest multiple of $100. If the result is a multiple of $50, round it up to the next multiple of $100.

The result is the high income threshold for the year starting on 1 July.

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Division 5—Fixed term contracts

2.14 Limitations on fixed term contracts—high income threshold exception

(1) For the purposes of subsection 333F(2) of the Act, the high income threshold for that year for an employee (the ***engaged employee***) mentioned in paragraph 333F(2)(a) or (b) of the Act is taken to be the amount worked out under subregulation (2).

(2) The amount is to be worked out as follows:
   (a) begin with the number of hours that, under the terms of the contract mentioned in subsection 333F(2) of the Act, the engaged employee is required to work in that year;
   (b) divide that number of hours by the number of hours that a full-time employee would work in that year (rounding to 3 decimal places, and rounding up if the fourth decimal place is 5 or more);
   (c) multiply the result of paragraph (b) by the high income threshold, for the financial year in which the contract is entered into, worked out under regulation 2.13.

(3) A number of hours referred to in paragraph (2)(a) or (b) may include a part of an hour.

(4) For the purposes of paragraph (2)(b), assume the number of hours that a full-time employee would work is:
   (a) if an enterprise agreement or a modern award applies to the engaged employee at the time the contract is entered into—the number of hours that a full-time employee is required to work under the enterprise agreement or modern award; or
   (b) if paragraph (a) does not apply—the number of hours of work of any other full-time employees of the employer employed in the same position as (or in a position that is comparable to) the position of the engaged employee; or
   (c) if the number of hours cannot be worked out under paragraph (a) or (b)—38 hours per week.

2.15 Contracts to which limitations on fixed term contracts do not apply

Organised sport

(1) For the purposes of paragraph 333F(1)(i) of the Act, a contract entered into by a person and an employee is prescribed if:
   (a) the employee is engaged under the contract to primarily perform work as:
      (i) an athlete participating in an organised sport; or
      (ii) a coach for an athlete participating in an organised sport; or
      (iii) another kind of performance support professional for an athlete participating in an organised sport; or

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(iv) a match official for an organised sport; or

(v) a performance support professional for a match official for an organised sport; and

(b) the person is:

(i) a National Sporting Organisation or a National Sporting Organisation for People with Disability recognised by the Australian Sports Commission; or

(ii) the governing body for an organised sport in a State or a Territory; or

(iii) if the governing bodies for an organised sport in a State or a Territory are split between metropolitan and non-metropolitan areas—the governing body for the non-metropolitan areas; or

(iv) a body conducting a State or Territory level competition for an organised sport; or

(v) a member of, or a person otherwise affiliated with, an Organisation or body referred to in subparagraph (i), (ii), (iii) or (iv); and

(c) the contract is entered into:

(i) on or after 6 December 2023; and

(ii) before 1 November 2025.

(2) A ***performance support professional*** is a person whose work primarily involves direct support or assessment of:

(a) an athlete's participation in an organised sport; or

(b) the performance of a match official for an organised sport.

High performance sport—international event organising bodies

(3) For the purposes of paragraph 333F(1)(i) of the Act, a contract entered into by a person and an employee is prescribed if:

(a) the employee is engaged under the contract to perform work that primarily involves direct support of the administration or organisation of a particular international event for a high performance sport; and

(b) the international event is not regularly held in Australia; and

(c) either:

(i) the international organising body or the international event has granted the person the right to host the particular international event; or

(ii) the person is seeking to be granted the right to host the particular international event by the international organising body for the international event; and

(d) the person is:

(i) the international organising body for the international event; or

(ii) the Australian organising body for the international event; or

(iii) the Australian organising body for the particular international event; and

(e) the contract is entered into:

(i) on or after 6 December 2023; and

(ii) before 1 November 2025.

(4) A ***high performance sport*** is:
(a) the part of a sport that is performed at the elite level by athletes; or
(b) the part of a sport that is performed at the elite level by athletes with disability.

Live performance industry employees

(5) For the purposes of paragraph 333F(1)(i) of the Act, a contract entered into by a person and an employee is prescribed if:
(a) at the time the contract is entered into, the employee is covered by the *Live Performance Award 2020*; and
(b) the contract is entered into:
(i) on or after 6 December 2023; and
(ii) before 1 November 2025; and
(c) the identifiable period (see paragraph 333E(1)(b) of the Act) at the end of which the contract will terminate is not greater than 12 months.

Higher education employees

(6) For the purposes of paragraph 333F(1)(i) of the Act, a contract entered into by a person and an employee is prescribed if:
(a) at the time the contract is entered into, the employee is covered by the *Higher Education Industry—Academic Staff—Award 2020* or the *Higher Education Industry—General Staff—Award 2020*; and
(b) the contract is entered into:
(i) on or after 6 December 2023; and
(ii) before 1 January 2025.

Non-government funded—philanthropic entities

(7) For the purposes of subparagraph 333F(1)(f)(i) of the Act, funding is prescribed if:
(a) the funding is either:
(i) provided by an entity (a ***philanthropic entity***) registered under the *Australian Charities and Not-for-profits Commission Act 2012* as the type of entity mentioned in column 1 of item 1 of the table in subsection 25-5(5) of that Act; or
(ii) provided as a testamentary gift or testamentary contribution to a philanthropic entity for a charitable purpose (within the meaning of the *Charities Act 2013*) of the philanthropic entity; and
(b) the person who entered into the contract with the employee is not an associated entity of the philanthropic entity; and
(c) the contract is entered into:
(i) on or after 6 December 2023; and
(ii) before 1 November 2025.

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Chapter 3—Rights and responsibilities of employees, employers, organisations etc.

Part 3-1—General protections

Division 5—Other protections

3.01 Temporary absence—illness or injury

(1) For section 352 of the Act, this regulation prescribes kinds of illness or injury.

Note: Under section 352 of the Act, an employer must not dismiss an employee because the employee is temporarily absent from work because of illness or injury of a kind prescribed by the regulations.

(2) A prescribed kind of illness or injury exists if the employee provides a medical certificate for the illness or injury, or a statutory declaration about the illness or injury, within:

(a) 24 hours after the commencement of the absence; or

(b) such longer period as is reasonable in the circumstances.

Note: The Act defines ***medical certificate*** in section 12.

(3) A prescribed kind of illness or injury exists if the employee:

(a) is required by the terms of a workplace instrument:

(i) to notify the employer of an absence from work; and

(ii) to substantiate the reason for the absence; and

(b) complies with those terms.

(4) A prescribed kind of illness or injury exists if the employee has provided the employer with evidence, in accordance with paragraph 107(3)(a) of the Act, for taking paid personal/carer's leave for a personal illness or personal injury, as mentioned in paragraph 97(a) of the Act.

Note: Paragraph 97(a) of the Act provides that an employee may take paid personal/carer's leave if the leave is taken because the employee is not fit for work because of a personal illness, or personal injury, affecting the employee.

(5) An illness or injury is not a prescribed kind of illness or injury if:

(a) either:

(i) the employee's absence extends for more than 3 months; or

(ii) the total absences of the employee, within a 12 month period, have been more than 3 months (whether based on a single illness or injury or separate illnesses or injuries); and

(b) the employee is not on paid personal/carer's leave (however described) for a purpose mentioned in paragraph 97(a) of the Act for the duration of the absence.

(6) In this regulation, a period of paid personal/carer's leave (however described) for a purpose mentioned in paragraph 97(a) of the Act does not include a period

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when the employee is absent from work while receiving compensation under a law of the Commonwealth, a State or a Territory that is about workers' compensation.

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Division 8—Compliance

Subdivision A—Contraventions involving dismissal

3.02 Application fees

(1) For subsection 367(2) of the Act, this regulation sets out matters relating to a fee for making an application to the FWC under section 365 of the Act.

Fee at commencement of Regulations

(2) If the application is made in the financial year starting on 1 July 2009, the fee is $59.50.

Method for indexing the fee

(3) If the application is made in a financial year starting on 1 July 2010, or 1 July in a later year (the ***application year***), the amount of the fee is to be worked out as follows:

(a) identify the amount of the fee for an application made in the previous financial year;

(b) multiply it by the indexation factor for the application year (see subregulation (4));

(c) round the result to the nearest multiple of 10 cents, rounding up if the result ends in 5 cents.

(4) The indexation factor for the application year is worked out using the following formula, and then rounded under subregulation (5):

$$\frac{\text{Sum of index numbers for quarters in most recent March year}}{\text{Sum of index numbers for quarters in previous March year}}$$

where:

index number, for a quarter, means the All Groups Consumer Price Index Number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

most recent March year means the period of 12 months ending on 31 March in the financial year that occurred immediately before the application year.

previous March year means the period of 12 months immediately preceding the most recent March year.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

(5) The result under subregulation (4) must be rounded up or down to 3 decimal places, rounding up if the result ends in 0.0005.

(6) A calculation under subregulation (4):

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(a) is to be made using the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and
(b) is to be made disregarding index numbers that are published in substitution for previously published index numbers (unless the substituted numbers are published to take account of changes in the reference base).

No fee—hardship

(7) If the FWC is satisfied that the person making an application will suffer serious hardship if the person is required to pay the fee, no fee is payable for making the application.

Refund of fee—discontinuing application

(8) The FWC must repay to the person an amount equal to the fee if:
(a) the fee has been paid; and
(b) the application is subsequently discontinued as mentioned in section 588 of the Act; and
(c) either:
(i) at the time the application is discontinued, the application has not yet been listed for conducting a conference; or
(ii) if the application has, at or before that time, been listed for conducting a conference on a specified date or dates—the discontinuance occurs at least 2 days before that date or the earlier of those dates.

Subdivision B—Other contraventions

3.03 Application fees

(1) For subsection 373(2) of the Act, this regulation sets out matters relating to a fee for making an application to the FWC under section 372 of the Act.

Fee at commencement of Regulations

(2) If the application is made in the financial year starting on 1 July 2009, the fee is $59.50.

Method for indexing the fee

(3) If the application is made in a financial year starting on 1 July 2010, or 1 July in a later year (the ***application year***), the amount of the fee is to be worked out as follows:
(a) identify the amount of the fee for an application made in the previous financial year;
(b) multiply it by the indexation factor for the application year (see subregulation (4));
(c) round the result to the nearest multiple of 10 cents, rounding up if the result ends in 5 cents.

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(4) The indexation factor for the application year is worked out using the following formula, and then rounded under subregulation (5):

$$\frac{\text{Sum of index numbers for quarters in most recent March year}}{\text{Sum of index numbers for quarters in previous March year}}$$

where:

index number, for a quarter, means the All Groups Consumer Price Index Number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

most recent March year means the period of 12 months ending on 31 March in the financial year that occurred immediately before the application year.

previous March year means the period of 12 months immediately preceding the most recent March year.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

(5) The result under subregulation (4) must be rounded up or down to 3 decimal places, rounding up if the result ends in 0.0005.

(6) A calculation under subregulation (4):
  (a) is to be made using the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and
  (b) is to be made disregarding index numbers that are published in substitution for previously published index numbers (unless the substituted numbers are published to take account of changes in the reference base).

No fee—hardship

(7) If the FWC is satisfied that the person making an application will suffer serious hardship if the person is required to pay the fee, no fee is payable for making the application.

Refund of fee—discontinuing application

(8) The FWC must repay to the person an amount equal to the fee if:
  (a) the fee has been paid; and
  (b) the application is subsequently discontinued as mentioned in section 588 of the Act; and
  (c) either:
    (i) at the time the application is discontinued, the application has not yet been listed for conducting a conference; or
    (ii) if the application has, at or before that time, been listed for conducting a conference on a specified date or dates—the discontinuance occurs at least 2 days before that date or the earlier of those dates.

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Subdivision C—Conference costs

3.04 Schedule of costs

(1) For section 376 of the Act, the schedule of costs set out in Schedule 3.1 is prescribed.

(2) In awarding costs:

(a) the FWC is not limited to the items of expenditure mentioned in Schedule 3.1; but

(b) if an item of expenditure is mentioned in Schedule 3.1, the FWC must not award costs for that item at a rate or of an amount in excess of the rate or amount mentioned in Schedule 3.1 for that item.

Note: An application for an order for costs must be made in accordance with the procedural rules.

(3) A bill of costs must identify, by an item number, each cost and disbursement claimed.

(4) In Schedule 3.1:

folio means 72 words.

Note: There are generally 3 folios to a page.

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Part 3-2—Unfair dismissal

Division 2—Protection from unfair dismissal

3.05 When a person is protected from unfair dismissal—high income threshold

(1) For subparagraph 382(b)(iii) of the Act, this regulation explains how to work out amounts for the purpose of assessing whether the high income threshold applies in relation to the dismissal of a person at a particular time.

Note: Under section 382 of the Act, a person is protected from unfair dismissal if specified circumstances apply. One of the circumstances is that the sum of the person's annual rate of earnings, and such other amounts (if any) worked out in relation to the person in accordance with the regulations, is less than the high income threshold.

Piece rates

(2) Subregulations (3), (4) and (5) apply if part or all of the person's income at the time of the dismissal is paid as piece rates that are:

(a) set by reference to a quantifiable output or task; and

(b) not paid as a rate set by reference to a period of time worked.

(3) If the person was continuously employed by the employer and was not on leave without full pay at any time during the period of 12 months immediately before the dismissal, the total amount of piece rates paid or payable to the person in respect of the period of 12 months ending immediately before the dismissal is an amount for subparagraph 382(b)(iii) of the Act.

(4) If the person was continuously employed by the employer and was on leave without full pay at any time during the period of 12 months immediately before the dismissal, the total of:

(a) for the days during that period that the employee was not on leave without full pay—the actual piece rates received by the employee; and

(b) for the days that the employee was on leave without full pay—an amount worked out using the formula:

$$\frac{\text{Piece rates mentioned in paragraph (a)} \times \text{Days on leave without full pay}}{\text{Days not on leave without full pay}}$$

is an amount for subparagraph 382(b)(iii) of the Act.

(5) If the person was continuously employed by the employer for a period of less than 12 months immediately before the dismissal, the total amount of piece rates worked out using the formula:

$$\frac{\text{Piece rates} \times 365}{\text{Days employed}}$$

is an amount for subparagraph 382(b)(iii) of the Act.

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Regulation 3.05

Benefits other than payment of money

(6) If:

(a) the person is entitled to receive, or has received, a benefit in accordance with an agreement between the person and the person's employer; and

(b) the benefit is not an entitlement to a payment of money and is not a non-monetary benefit within the meaning of subsection 332(3) of the Act; and

(c) the FWC is satisfied, having regard to the circumstances, that:

(i) it should consider the benefit for the purpose of assessing whether the high income threshold applies to a person at the time of the dismissal; and

(ii) a reasonable money value of the benefit has not been agreed by the person and the employer; and

(iii) the FWC can estimate a real or notional money value of the benefit;

the real or notional money value of the benefit estimated by the FWC is an amount for subparagraph 382(b)(iii) of the Act.

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Division 4—Remedies for unfair dismissal

3.06 Remedy—compensation (amount taken to have been received by the employee)

For paragraph 392(6)(b) of the Act:

(a) an employee who was on leave without pay for any part of a period is taken to have received the remuneration that the employee would ordinarily have received during the period of leave if the employee had not been on leave without pay; and

(b) an employee who was on leave without full pay for any part of a period is taken to have received the remuneration that the employee would ordinarily have received during the period of leave if the employee had not been on leave without full pay.

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Division 5—Procedural matters

3.07 Application fees

(1) For subsection 395(2) of the Act, this regulation sets out matters relating to a fee for making an application to the FWC under Division 5 of Part 3-2 of the Act.

Fee at commencement of Regulations

(2) If the application is made in the financial year starting on 1 July 2009, the fee is $59.50.

Method for indexing the fee

(3) If the application is made in a financial year starting on 1 July 2010, or 1 July in a later year (the ***application year***), the amount of the fee is to be worked out as follows:

(a) identify the amount of the fee for an application made in the previous financial year;

(b) multiply it by the indexation factor for the application year (see subregulation (4));

(c) round the result to the nearest multiple of 10 cents, rounding up if the result ends in 5 cents.

(4) The indexation factor for the application year is worked out using the following formula, and then rounded under subregulation (5):

$$\frac{\text{Sum of index numbers for quarters in most recent March year}}{\text{Sum of index numbers for quarters in previous March year}}$$

where:

index number, for a quarter, means the All Groups Consumer Price Index Number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

most recent March year means the period of 12 months ending on 31 March in the financial year that occurred immediately before the application year.

previous March year means the period of 12 months immediately preceding the most recent March year.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

(5) The result under subregulation (4) must be rounded up or down to 3 decimal places, rounding up if the result ends in 0.0005.

(6) A calculation under subregulation (4):

(a) is to be made using the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and

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(b) is to be made disregarding index numbers that are published in substitution for previously published index numbers (unless the substituted numbers are published to take account of changes in the reference base).

No fee—hardship

(7) If the FWC is satisfied that the person making an application will suffer serious hardship if the person is required to pay the fee, no fee is payable for making the application.

Circumstances in which fee may be refunded

(8) For the purposes of paragraph 395(2)(c) of the Act, a circumstance in which the FWC must refund an amount equal to the fee paid by a person for the application is that:

(a) the application is subsequently discontinued under section 588 of the Act; and

(b) either:

(i) at the time of that discontinuance, the application has not been listed for a conciliation, conference or hearing; or

(ii) if the application has been listed for a conciliation, conference or hearing, on or from a specified date—that discontinuance occurs at least 2 days before that date.

3.08 Schedule of costs

(1) For subsection 403(1) of the Act, the schedule of costs set out in Schedule 3.1 is prescribed.

Note 1: Under subsection 403(2) of the Act, in awarding costs, the FWC is not limited to the items of expenditure mentioned in Schedule 3.1. However, if an item of expenditure is mentioned in Schedule 3.1, the FWC must not award costs for that item at a rate or of an amount in excess of the rate or amount mentioned in Schedule 3.1 for that item.

Note 2: An application for an order for costs must be made in accordance with the procedural rules.

(2) The FWC may allow the costs of briefing more than one counsel only if the FWC certifies that the attendance is necessary.

Note: It is likely that certification under subregulation (2) would occur only in relation to a very large or complex case.

(3) If the FWC considers it appropriate, a charge in Schedule 3.1 that is applicable to a solicitor is applicable to a person who:

(a) is not a solicitor; but

(b) is mentioned in section 596 of the Act.

Note: Section 596 of the Act sets out who may represent a party to a proceeding before the FWC.

(4) A bill of costs must identify, by an item number, each cost and disbursement claimed.

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Regulation 3.08

(5) In exercising its discretion under item 1002 of Schedule 3.1, the FWC must have regard to commercial rates for copying and binding, and is not obliged to apply the photographic or machine-made copy costs otherwise allowable in the Schedule.

(6) In Schedule 3.1:

folio means 72 words.

Note: There are generally 3 folios to a page.

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Part 3-3—Industrial action

Division 2—Protected industrial action

3.09 Purposes prescribed for continuity of employment when employer response action occurs

For section 416A of the Act, the following purposes are prescribed:

(a) superannuation;

(b) remuneration and promotion, as affected by seniority;

(c) any entitlements under the National Employment Standards.

Note: Section 416A of the Act deals with employer response action. Under the section, employer response action for a proposed enterprise agreement does not affect the continuity of employment of the employees who will be covered by the agreement for such purposes as are prescribed by the regulations.

Division 6—Suspension or termination of protected industrial action by the FWC

3.10 Persons who can apply for an order to suspend or terminate protected industrial action

For subparagraph 424(2)(b)(iii) of the Act, the following persons may apply for an order suspending or terminating protected industrial action for a proposed enterprise agreement:

(a) if the industrial action is being engaged in, or is threatened, impending or probable, in a State that is not a referring State as defined in section 30B or 30L of the Act—the Minister of the State who has responsibility for workplace relations matters in the State;

(b) an organisation or other person directly affected, or who would be directly affected, by the industrial action other than an employee who will be covered by the agreement.

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Division 8—Protected action ballots

3.11 Requirements for protected action ballot agent

(1) For the purposes of paragraph 444(1D)(c) of the Act, this regulation prescribes requirements that the FWC must be satisfied have been met before a person becomes the protected action ballot agent for a protected action ballot.

Note: The person must also be a fit and proper person to conduct a protected action ballot.

(2) The person must be capable of ensuring the secrecy and security of votes cast in the ballot.

(3) The person must be capable of ensuring that the ballot will be fair and democratic.

(4) The person must be capable of conducting the ballot expeditiously.

(5) The person must have agreed to be a protected action ballot agent.

(6) The person must be bound to comply with the *Privacy Act 1988* in respect to the handling of information relating to the protected action ballot.

(7) If the person is an industrial association or a body corporate, the FWC must be satisfied that:

(a) each individual who will carry out the functions of the protected action ballot agent for the industrial association or body corporate is a fit and proper person to conduct the ballot; and

(b) the requirements in subregulations (2) to (6) are met for the individual.

3.12 Requirements for independent advisor

(1) For subparagraph 444(3)(c)(ii) of the Act, this regulation sets out requirements that the FWC must be satisfied have been met before a person becomes the independent advisor for a protected action ballot.

Note: The person must also be sufficiently independent of each applicant for the protected action ballot order.

(2) The person must be capable of giving the protected action ballot agent:

(a) advice that is directed towards ensuring that the ballot will be fair and democratic; and

(b) recommendations that are directed towards ensuring that the ballot will be fair and democratic.

(3) The person must have agreed to be the independent advisor.

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Regulation 3.13

3.13 Notice of protected action ballot order—notifying employees

(1) For section 445 and paragraph 469(b) of the Act, this regulation sets out procedures to be followed for notifying employees in relation to the conduct of a protected action ballot.

Content of notice

(2) The protected action ballot agent for the ballot must, as soon as practicable after the FWC makes the protected action ballot order, take all reasonable steps to notify each employee who is eligible to be included on the roll of voters that the FWC has made the order.

(3) The notice must include:
- (a) any matter specified by the FWC in the ballot order; and
- (b) the voting method or methods to be used; and
- (c) each location (if any) at which the ballot will be conducted; and
- (d) either:
  - (i) the date or dates on which the ballot will be conducted; or
  - (ii) the period during which the ballot will be conducted; and
- (e) contact details for the protected action ballot agent; and
- (f) contact details for the independent advisor (if any).

(4) The notice must also include:
- (a) a statement that the employee may contact the protected action ballot agent to find out whether the employee is on the roll of voters; and
- (b) a statement that the employee may ask the protected action ballot agent to add or remove the employee's name from the roll of voters; and
- (c) a statement that the employee may raise any concerns or complaints about the conduct of the ballot (including any alleged irregularity) with:
  - (i) the protected action ballot agent; or
  - (ii) if the protected action ballot agent is not the Australian Electoral Commission—the FWC; or
  - (iii) the independent advisor (if any).

Note: Section 453 of the Act sets out the circumstances in which an employee is eligible to be included on the roll of voters for the protected action ballot.

Manner of notification

(5) The protected action ballot agent may give the notice to an employee by doing any of the following:
- (a) giving the notice to the employee personally;
- (b) sending the notice by pre-paid post to:
  - (i) the employee's residential address; or
  - (ii) a postal address nominated by the employee;
- (c) sending the notice to:
  - (i) the employee's email address at work; or

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(ii) another email address nominated by the employee;

(d) sending to the employee's email address at work (or to another email address nominated by the employee) an electronic link that takes the employee directly to a copy of the notice on the employer's intranet;

(e) faxing the notice to:

(i) the employee's fax number at work; or

(ii) the employee's fax number at home; or

(iii) another fax number nominated by the employee;

(f) displaying the notice in a conspicuous location at the workplace that is known by and readily accessible to the employee.

(6) Subregulation (5) does not prevent a protected action ballot agent from giving notice to an employee by another means.

Protected action ballot agent—access to workplace

(7) An employer must allow the protected action ballot agent access to the workplace for the purpose of notifying employees of the information about the protected action ballot.

Note: Subregulation (7) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(8) An employer must allow the protected action ballot agent access to the workplace for the purpose of preparing for, or conducting the protected action ballot.

Note: Subregulation (8) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

3.14 Conduct of protected action ballot—directions about ballot paper

For paragraphs 449(2)(e) and 469(b) of the Act, the protected action ballot agent for a protected action ballot may provide with the ballot paper:

(a) directions to be followed by an employee entitled to vote in the ballot so that the vote complies with the Act and these Regulations; and

(b) other directions that the agent reasonably believes may assist in ensuring an irregularity does not occur in the conduct of the ballot; and

(c) notes to assist an employee who is entitled to vote in the ballot by informing him or her of matters relating to conduct of the ballot.

3.15 Compilation of roll of voters

(1) For section 452 and paragraph 469(b) of the Act, this regulation applies if:

(a) an applicant for a protected action ballot order; or

(b) the employer of an employee who is to be balloted;

provides information under subsection 450(4) or 452(3) of the Act.

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Note: Subsection 450(4) of the Act allows the FWC to direct the provision of information required to assist in compiling a roll of voters. Subsection 452(3) allows the protected action ballot agent to make a similar direction.

(2) The applicant or employer must include with the information a declaration in writing that the applicant or employer reasonably believes that the information is complete, up-to-date and accurate.

3.16 Protected action ballot papers—form

(1) For paragraph 455(1)(a) of the Act, the form of a ballot paper for a protected action ballot that is to be conducted by attendance voting or postal voting is set out in Form 1 of Schedule 3.2.

(2) For paragraphs 455(1)(b) and 469(c) of the Act, a ballot paper for a protected action ballot that is to be conducted by electronic voting must include the information and the content set out in Form 1 of Schedule 3.2.

3.16A Conduct of protected action ballot by electronic voting

(1) If a protected action ballot is conducted by electronic voting, the protected action ballot agent must ensure that:
  (a) only employees on the roll of voters are provided with access to the electronic voting system; and
  (b) each employee to be balloted can vote only once in the ballot; and
  (c) there is a record of who has voted; and
  (d) there is no way of identifying how any employee has voted; and
  (e) the sum of the votes cast for each proposition and the votes cast against each proposition is the same as the total votes cast.

3.17 Report about conduct of protected action ballot—independent advisor

(1) For section 458 and paragraphs 469(b) and (e) of the Act, this regulation sets out requirements for the preparation of a report under subsection 458(2) or (3) of the Act by the independent advisor for a protected action ballot agent.

Note: Subsection 458(2) of the Act requires a protected action ballot agent or independent advisor to prepare a report about the conduct of the ballot. Subsection 458(3) of the Act requires the agent or advisor to prepare a report at the direction of the FWC.

(2) For the purpose of preparing the report, the independent advisor may:
  (a) be present at the conduct of any part of a protected action ballot (including the scrutiny of the roll of voters); and
  (b) request information held by the protected action ballot agent for the ballot; and
  (c) make a recommendation to the ballot agent for the purpose of ensuring the conduct of the protected action ballot will be fair and democratic; and
  (d) set out in his or her report:
    (i) a description of any recommendation made under paragraph (c); and

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(ii) whether the protected action ballot agent complied with the recommendation.

Subdivision G—Miscellaneous

3.18 Conduct of protected action ballot—ballot papers

(1) For paragraph 469(b) of the Act, this regulation sets out procedures to be followed in relation to the conduct of a protected action ballot.

Ballot paper

(2) The protected action ballot agent for the ballot must:
(a) for attendance voting or postal voting—issue to each employee who is to be balloted a ballot paper that bears:
(i) the agent's initials; or
(ii) a facsimile of the agent's initials; and
(b) for electronic voting—ensure that the protected action ballot identifies the protected action ballot agent who is authorised to conduct the protected action ballot.

(2A) For subregulation (2), a ballot paper may be issued to an employee by post, email or electronically.

(3) If the ballot is conducted by postal voting, the agent must, as soon as practicable, post to each employee who is to be balloted a sealed envelope that contains:
(a) the ballot paper; and
(b) information about:
(i) the closing date of the ballot; and
(ii) the time, on the closing date, by which the agent must receive the employee's vote; and
(c) an envelope in which the employee must place his or her ballot paper; and
(d) a prepaid envelope addressed to the protected action ballot agent and that may be posted without cost to the employee; and
(e) any other material that the protected action ballot agent considers to be relevant to the ballot.

(4) The envelope mentioned in paragraph (3)(c) must:
(a) set out a form of declaration that the employee has not voted before in the ballot; and
(b) have a place on which the employee can sign the envelope; and
(c) be able to fit into the prepaid envelope mentioned in paragraph (3)(d).

Electronic voting

(4A) If the ballot is conducted by electronic voting, the protected action ballot agent must, as soon as practicable, issue to each employee who is to be balloted the following:

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(a) instructions that allow the employee to access the relevant electronic voting program, including a unique identifier that allows the employee to access the relevant electronic voting program;
(b) information about the closing date for the ballot and the time, on the closing date, by which the protected action ballot agent must receive the employee's vote;
(c) any other material that the protected action ballot agent considers to be relevant to the ballot.

Examples of unique identifiers

1 A username and password.

2 A username and a personal identification number.

Replacement ballot paper—postal voting

(5) An employee who is to be balloted by postal voting may ask the protected action ballot agent for a replacement ballot paper because:
(a) the employee did not receive the documents mentioned in subregulation 3.13(3); or
(b) the employee did not receive a ballot paper in those documents; or
(c) the ballot paper has been lost or destroyed; or
(d) the ballot paper has been spoilt.

(6) The request must:
(a) be received by the protected action ballot agent on or before the closing day of the ballot; and
(b) state the reason for the request; and
(c) if practicable, be accompanied by evidence that verifies, or tends to verify, the reason; and
(d) include a declaration by the employee that the employee has not voted at the ballot.

(7) The protected action ballot agent must give the employee a replacement ballot paper if the agent is satisfied that:
(a) the reason for the request is a reason mentioned in subregulation (5); and
(b) the request is in accordance with the requirements mentioned in subregulation (6); and
(c) the employee has not voted at the ballot.

Replacement information—electronic voting

(7A) An employee may ask the protected action ballot agent for a replacement of the information provided under subregulation (4A) if:
(a) the employee did not receive information about how to access the electronic voting system; or
(b) the information provided under subregulation (4A) has been lost or destroyed; or

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(c) the unique identifier provided for under subregulation (4A) did not allow the employee to access the electronic voting system.

(7B) A request under subregulation (7A) must:
(a) be received by the protected action ballot agent on or before the closing day for the ballot; and
(b) state the reason for the request; and
(c) if it is available, be accompanied by evidence that verifies, or tends to verify, the reason given for the request; and
(d) include a declaration by the employee that the employee has not voted in the ballot.

(7C) The protected action ballot agent must give an employee replacement information if the protected action ballot agent is satisfied that:
(a) the reason for the request is a reason mentioned in subregulation (7A); and
(b) the request is in accordance with the requirements mentioned in subregulation (7B); and
(c) the employee has not voted in the ballot.

Replacement ballot paper—attendance voting

(8) If:
(a) an employee is to be balloted by attendance voting; and
(b) the employee satisfies the protected action ballot agent, before depositing the ballot paper in the repository that serves to receive or hold ballot papers, that the employee has accidentally spoilt the paper;
the protected action ballot agent must give the employee a replacement ballot paper.

(9) The protected ballot agent must also:
(a) mark "spoilt" on the ballot paper and initial the marking; and
(b) keep the ballot paper.

3.19 Conduct of protected action ballot—scrutiny of ballot

(1) For paragraph 469(b) of the Act, this regulation sets out procedures to be followed in relation to the conduct of a protected action ballot.

Counting votes

(2) The protected action ballot agent for the ballot must determine the result of the ballot by conducting a scrutiny in accordance with this regulation.

(3) As soon as practicable after the close of the ballot, the protected action ballot agent must:
(a) admit the valid ballot papers and reject the informal ballot papers; and
(b) count the valid ballot papers; and
(c) record the number of votes:

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(i) in favour of the question or questions; and
(ii) against the question or questions; and

(d) count the informal ballot papers.

Informal votes

(4) A vote is informal only if:
(a) for an attendance vote or a postal vote—the ballot paper does not bear:
(ii) the initials of the protected action ballot agent; or
(ii) a facsimile of the agent's initials; or
(b) the ballot paper is marked in a way that allows the employee to be identified; or
(c) the ballot paper is not marked in a way that makes it clear how the employee meant to vote; or
(d) a direction under regulation 3.14 that was to be followed by an employee entitled to vote in the ballot has not been complied with.

(5) However, a vote is not informal because of paragraph (4)(a) if the protected action ballot agent is satisfied that the ballot paper is authentic.

(6) If the protected action ballot agent is informed by a scrutineer that the scrutineer objects to a ballot paper being admitted as formal, or rejected as informal, the agent must:
(a) decide whether the ballot paper is to be admitted as formal or rejected as informal; and
(b) for an attendance vote or a postal vote—endorse the decision on the ballot paper and initial the endorsement.

(7) If the protected action ballot agent conducting the ballot is informed by a scrutineer to the effect that, in the scrutineer's opinion, an error has been made in the conduct of the scrutiny, the authorised ballot agent must:
(a) decide whether an error has been made; and,
(b) if appropriate, direct what action is to be taken to correct or mitigate the error.

(8) To preserve the secrecy of a postal vote or an electronic vote, the protected action ballot agent must ensure that the independent advisor or a scrutineer does not have access to any evidence that may allow the ballot paper to be identified as having been completed by a particular employee.

Control of scrutiny process

(9) If a person:
(a) is not entitled to be present, or to remain present, at a scrutiny; or
(b) interrupts the scrutiny of a ballot, except to perform a function mentioned in subregulation (3);

the protected action ballot agent conducting the ballot may direct the person to leave the place where the scrutiny is being conducted.

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(10) A person to whom a direction is given under subregulation (9) must comply with the direction.

Note: Subregulation (10) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

3.20 Conduct of protected action ballot—scrutineers

(1) For paragraph 469(d) of the Act, this regulation sets out matters relating to the qualifications, appointment, powers and duties of scrutineers for a protected action ballot.

Appointment

(2) The employer may appoint 1 or more scrutineers to perform the functions set out in this regulation.

(3) The applicant for a protected action ballot may appoint 1 or more scrutineers to perform the functions set out in this regulation.

(4) An appointment under subregulation (2) or (3) must be made by an instrument signed on behalf of the employer or applicant.

(5) A person who does not have a current appointment under subregulation (2) or (3):
(a) is not a scrutineer; and
(b) is not permitted to attend the scrutiny of ballot material as a scrutineer; and
(c) is not permitted to perform the functions set out in this regulation.

Functions

(6) A scrutineer may be present at the scrutiny of ballot material as follows:
(a) if the ballot is conducted by postal voting or by electronic voting, the scrutineer may be present after the protected action ballot agent has acted under subregulation 3.19(8) to remove evidence of an employee's identity;
(b) if the ballot is not conducted by postal voting or by electronic voting, the scrutineer may be present when the protected action ballot agent is ready to conduct the scrutiny of the ballot material.

(7) However:
(a) the total number of scrutineers in attendance at a particular time at the scrutiny of the ballot material must not exceed the total number of people who are:
(i) performing functions and duties as, or on behalf of, the protected action ballot agent; and
(ii) engaged on the scrutiny of the ballot material at that time; and
(b) if a person fails to produce the person's instrument of appointment as a scrutineer for inspection by the protected action ballot agent for the ballot,

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when requested by the agent to do so, the agent may refuse to allow the person to attend or act as a scrutineer.

(8) At the scrutiny of the ballot material:

(a) if the scrutineer objects to a decision that a vote is formal or informal, the scrutineer may inform the protected action ballot agent of the objection; and

(b) if the scrutineer considers that an error has been made in the conduct of the scrutiny, the scrutineer may inform the protected action ballot agent of the scrutineer's opinion.

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Division 9—Payments relating to periods of industrial action

3.21 Payments relating to partial work bans—working out proportion of reduction of employee's payments

For subsection 471(3) of the Act, the proportion mentioned in paragraph 471(2)(a) of the Act is worked out for an employee or a class of employees by carrying out the following steps.

Step 1 Identify the work that an employee or a class of employees is failing or refusing to perform, or is proposing to fail or refuse to perform.

Step 2 Estimate the usual time that the employee or the class of employees would spend performing the work during a day.

Step 3 Work out the time estimated in Step 2 as a percentage of an employee's usual hours of work for a day.

The solution is the proportion by which the employee's payment will be reduced for a day.

3.22 Payments relating to partial work bans—form of partial work ban notice

For paragraph 471(6)(a) of the Act, a notice given under paragraph 471(1)(c) or (4)(c) of the Act about the reduction of an employee's payments due to a partial work ban must be in a legible form and in English.

3.23 Payments relating to partial work bans—content of partial work ban notice

(1) For paragraph 471(6)(b) of the Act, a notice about a partial work ban given to an employee under paragraph 471(1)(c) or (4)(c) of the Act must:
  (a) specify the day on which the notice is issued; and
  (b) specify the industrial action engaged in, or proposed to be engaged in, that constitutes the partial work ban; and
  (c) state that the notice will take effect from the later of:
    (i) the start of the first day of the partial work ban; and
    (ii) the start of the first day after the day on which the notice is given to the employee, if the employee performs work on that day; and
  (d) state that the notice will cease to have effect at the end of the day on which the partial work ban ceases.

(2) If the notice is given under paragraph 471(1)(c) of the Act, it must also:
  (a) state that the employee's payments will be reduced by an amount specified in the notice for each day the employee engages in the partial work ban; and
  (b) specify an estimate of the usual time the employer considers an employee would spend during a day performing the work that is the subject of the work ban; and
  (c) specify the amount by which the employee's payments will be reduced for each day the employee engages in the work ban.

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(3) If the notice is given under paragraph 471(4)(c) of the Act, it must also state that the employee will not be entitled to any payment for a day on which the employee engages in the partial work ban.

3.24 Manner of giving notice about partial work ban

(1) For paragraph 471(7)(b) of the Act, this regulation prescribes how the employer may give employees notice for paragraph 471(1)(c) or (4)(c) of the Act.

(2) The employer may give the notice to the employee personally.

(3) The employer may send the notice by pre-paid post to:
  (a) the employee's residential address; or
  (b) a postal address nominated by the employee.

(4) The employer may send the notice to:
  (a) the employee's email address at work; or
  (b) another email address nominated by the employee.

(5) The employer may fax the notice to:
  (a) the employee's fax number at work; or
  (b) the employee's fax number at home; or
  (c) another fax number nominated by the employee.

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Part 3-4—Right of entry

Division 2—Entry to investigate suspected contravention relating to TCF award workers

3.24A Prescribed accreditation body

(1) Ethical Clothing Australia is specified as the prescribed body for the purposes of paragraph 483A(6)(a) of the Act.

(2) Ethical Clothing Australia means the Homeworker Code Committee Inc trading as Ethical Clothing Australia.

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Division 3—State or Territory OHS rights

3.25 Meaning of *State or Territory OHS law*

For subsection 494(3) of the Act, each law mentioned in the following table is prescribed.

Item	Law
1	*Work Health and Safety Act 2011* of New South Wales
2	*Occupational Health and Safety Act 2004* of Victoria
3	*Work Health and Safety Act 2011* of Queensland
4	(a) sections 49G and 49I to 49O of the *Industrial Relations Act 1979* (WA), but only to the extent to which those provisions provide for, or relate to, a right of entry to investigate a suspected contravention of the *Work Health and Safety Act 2020* (WA); and (b) the *Work Health and Safety Act 2020* (WA)
4A	*Work Health and Safety Act 2012* (SA)
5	*Work Health and Safety Act 2012* of Tasmania
6	*Work Health and Safety Act 2011* of the Australian Capital Territory
7	*Work Health and Safety (National Uniform Legislation) Act 2011* of the Northern Territory

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Division 6—Entry permits, entry notices and certificates

3.26 Requirements for entry permits

For the purposes of section 521 of the Act, an entry permit issued on or after 1 July 2019 must include the following:

(a) the permit holder's full name;

(b) the name of the organisation that applied for the entry permit;

(c) an expiry date for the entry permit;

(d) a recent photograph of the permit holder that:

(i) shows the holder's full face; and

(ii) meets requirements that are considered appropriate by the FWC;

(e) the permit holder's signature.

3.26A Photographic identification to be produced with certain entry permits

(1) For the purposes of paragraph 521(b) of the Act, if a permit holder, in accordance with section 489 or 497 of the Act, produces for inspection an entry permit that was issued before 1 July 2019, the permit holder must also produce for inspection with the entry permit a document that:

(a) is covered by subregulation (2); and

(b) is in force or effect, or ceased to be in force not more than 2 years before the document is produced; and

(c) provides photographic identification of the permit holder.

(2) A document is covered by this subregulation if the document:

(a) is issued to, or generated for, the permit holder:

(i) as an authorisation for the permit holder to drive a vehicle; and

(ii) under a law of a State or Territory; or

(b) is issued to, or generated for, the permit holder:

(i) for the purpose of proving the permit holder's age; and

(ii) under a law of a State or Territory; or

(c) is issued to, or generated for, the permit holder:

(i) for identity verification purposes; and

(ii) by or on behalf of the Australian Postal Corporation; or

(d) is a passport issued under the *Australian Passports Act 2005* to the permit holder.

3.27 Form of entry notice

For paragraph 521(a) of the Act, the form of an entry notice is set out in Form 2 in Schedule 3.3.

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3.28 Form of exemption certificate

For paragraph 521(a) of the Act, the form of an exemption certificate issued to an organisation is set out in Form 3 in Schedule 3.3.

3.29 Form of affected member certificate

For paragraph 521(a) of the Act, the form of an affected member certificate issued to an organisation is set out in Form 4 in Schedule 3.3.

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Part 3-5A—Prohibiting sexual harassment connected with work

Division 3—Dealing with sexual harassment disputes

3.29A Applications for the FWC to deal with sexual harassment disputes—defence members

(1) This regulation sets out the circumstances in which subsection 527F(3) of the Act does not prevent a person referred to in subsection 527F(2) of the Act from applying for the FWC to make a stop sexual harassment order in relation to a dispute if the aggrieved person in relation to the alleged contravention that is the subject of that dispute was a defence member at the time the contravention allegedly occurred.

(2) The person is not prevented from making the application if at least one of the respondents in relation to the alleged contravention:

(a) was not a defence member at the time the contravention allegedly occurred; or

(b) is not a defence member at the time the application is made.

(3) The person is also not prevented from making the application if a respondent in relation to the alleged contravention was a defence member at the time the contravention allegedly occurred and at least one of the following circumstances exist:

(a) in response to a request by the aggrieved person under section 37G of the *Defence Regulation 2016* for a review of a decision made in response to an application for a stop sexual harassment direction under section 37C of those Regulations, either:

(i) a stop sexual harassment direction is not issued in relation to that request; or

(ii) a stop sexual harassment direction is issued in relation to that request, and the person is dissatisfied with the direction;

(b) the person is not eligible to use the process under Part 6A of the *Defence Regulation 2016* to resolve the dispute;

(c) the process under Part 6A of the *Defence Regulation 2016* is available to the person to resolve the dispute but is not suitable because:

(i) a respondent in relation to the alleged contravention would be involved in conducting the process; and

(ii) there is no other person that is authorised or empowered under that Part to conduct the process in place of the respondent.

Note: Paragraph (b) may apply, for example, if the person is undertaking a placement in a workplace that is not a Defence workplace.

(4) In this regulation:

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defence member has the same meaning as in the *Defence Force Discipline Act 1982*.

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Part 3-6—Other rights and responsibilities

Division 2—Notification and consultation relating to certain dismissals

Subdivision A—Requirement to notify Centrelink

3.30 Employer to notify Centrelink of certain proposed dismissals—form of notice

For subsection 530(2) of the Act, the form of a notice to Centrelink of a proposed dismissal under subsection 530(1) is set out in Form 1 of Schedule 3.4.

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Division 3—Employer obligations in relation to employee records and pay slips

Note about Subdivision 1

The regulations in Subdivision 1 set out the kinds of records that must be made and kept for the purposes of sections 535 and 796 of the Act. These records are required to be kept by employers for 7 years.

An employer must keep a record in respect of each employee about:

(a) basic employment details such as the name of the employer and the employee and the nature of their employment (e.g. part-time, full-time, permanent, temporary or casual); and
(b) pay; and
(c) overtime hours; and
(d) averaging arrangements; and
(e) leave entitlements; and
(f) superannuation contributions; and
(g) termination of employment (where applicable); and
(h) individual flexibility arrangements and guarantees of annual earnings.

There are also obligations on old employers and new employers in transfer of business situations.

Records must be properly maintained. For example, regulation 3.31 sets out form requirements to make sure that records are legible and readily accessible to an inspector. Regulation 3.44 sets out requirements to ensure that records are accurate at all times.

This subdivision also deals with obligations for employers in relation to facilitate the inspection and copying of records by employees (see also the inspector powers set out at Part 5-2 of the Act).

Most of the obligations in this Part are civil remedy provisions. This means that Part 4-1 of the FW Act will apply (including the course of conduct rule in section 550).

Note about Subdivision 2

The regulations in Subdivision 2 deal with the form and content of pay slips for the purposes of section 536 of the Act.

Pay slips must include the information set out in regulation 3.46 and must not include the information set out in regulation 3.47. Pay slips must also comply with the requirements for reporting paid family and domestic violence leave set out in regulation 3.48.

Subdivision 1—Employee records

3.31 Records—form

(1) For subsection 535(1) of the Act, an employee record made and kept by an employer for this Subdivision must be of the following kind:
  (a) a record in a legible form and in the English language;
  (b) a record in a form that is readily accessible to an inspector.

  Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 of the Act deal with infringement notices relating to alleged contraventions of civil remedy provisions.

(2) For section 796 of the Act, an employee record made and kept by an employer for this Subdivision must be of the following kind:
  (a) a record in a legible form and in the English language;
  (b) a record in a form that is readily accessible to an inspector.

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Note: Subregulation (2) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

3.32 Records—content

For subsection 535(1) of the Act, a kind of employee record that an employer must make and keep is a record that specifies:

(a) the employer's name; and

(b) the employee's name; and

(c) whether the employee's employment is full-time or part-time; and

(d) whether the employee's employment is permanent, temporary or casual; and

(e) the date on which the employee's employment began; and

(f) on and after 1 January 2010—the Australian Business Number (if any) of the employer.

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.33 Records—pay

(1) For subsection 535(1) of the Act, a kind of employee record that an employer must make and keep is a record that specifies:

(a) the rate of remuneration paid to the employee; and

(b) the gross and net amounts paid to the employee; and

(c) any deductions made from the gross amount paid to the employee.

(2) If the employee is a casual or irregular part-time employee who is guaranteed a rate of pay set by reference to a period of time worked, the record must set out the hours worked by the employee.

(3) If the employee is entitled to be paid:

(a) an incentive-based payment; or

(b) a bonus; or

(c) a loading; or

(d) a penalty rate; or

(e) another monetary allowance or separately identifiable entitlement;

the record must set out details of the payment, bonus, loading, rate, allowance or entitlement.

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

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3.34 Records—overtime

For subsection 535(1) of the Act, if a penalty rate or loading (however described) must be paid for overtime hours actually worked by an employee, a kind of employee record that the employer must make and keep is a record that specifies:

(a) the number of overtime hours worked by the employee during each day; or

(b) when the employee started and ceased working overtime hours.

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.35 Records—averaging of hours

For subsection 535(1) of the Act, if an employer and employee agree in writing to an averaging of the employee's hours of work, a copy of the agreement is a kind of employee record that the employer must make and keep.

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.36 Records—leave

(1) For subsection 535(1) of the Act, if an employee is entitled to leave, a kind of employee record that the employer must make and keep is a record that sets out:

(a) any leave that the employee takes; and

(b) the balance (if any) of the employee's entitlement to that leave from time to time.

(2) If an employer and employee agree to cash out an accrued amount of leave:

(a) a copy of the agreement is a kind of employee record that the employer must make and keep; and

(b) a kind of employee record that the employer must make and keep is a record that sets out:

(i) the rate of payment for the amount of leave that was cashed out; and

(ii) when the payment was made

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.37 Records—superannuation contributions

(1) For subsection 535(1) of the Act, if an employer is required to make superannuation contributions for the benefit of an employee, a kind of employee record that the employer must make and keep is a record that specifies:

(a) the amount of the contributions made; and

(b) the period over which the contributions were made; and

(c) the date on which each contribution was made; and

(d) the name of any fund to which a contribution was made; and

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(e) the basis on which the employer became liable to make the contribution, including:

(i) a record of any election made by the employee as to the fund to which contributions are to be made; and

(ii) the date of any relevant election.

(2) In subregulation (1):

contributions does not include a contribution in respect of a defined benefit interest (within the meaning of the *Superannuation Industry (Supervision) Regulations 1994*) in a defined benefit fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*).

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.38 Records—individual flexibility arrangement

For subsection 535(1) of the Act, if an employer and employee agree in writing on an individual flexibility arrangement under the Act:

(a) a copy of the agreement is a kind of employee record that the employer must make and keep; and

(b) a copy of a notice or agreement that terminates the agreement is a kind of employee record that the employer must make and keep.

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.39 Records—guarantee of annual earnings

(1) For subsection 535(1) of the Act, if an employer gives a guarantee of annual earnings under section 330 of the Act, the guarantee is a kind of employee record that the employer must make and keep.

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

(2) For subsection 535(1) of the Act, if an employer revokes a guarantee of annual earnings under section 330 of the Act, a kind of employee record that the employer must make and keep is a record of the date of the revocation.

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.40 Records—termination of employment

For subsection 535(1) of the Act, if an employee's employment is terminated, a kind of employee record that the employer must make and keep is a record that sets out:

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(a) whether the employment was terminated:
  (i) by consent; or
  (ii) by notice; or
  (iii) summarily; or
  (iv) in some other manner (specifying the manner); and
(b) the name of the person who acted to terminate the employment.

Note: Subsection 535(1) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.41 Records—transfer of business

(1) For section 796 of the Act, this regulation applies if a transfer of business occurs as described in section 311 of the Act.

Note: Section 311 identifies the participants in the transfer of the business as:
(a) the old employer; and
(b) the new employer; and
(c) a transferring employee.

(2) The old employer must transfer to the new employer each employee record concerning a transferring employee that the old employer was required to keep for subsection 535(1) of the Act at the time at which the connection between the old employer and the new employer mentioned in paragraph 311(1)(d) of the Act occurs.

Note: Subregulation (2) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(3) If the old employer is a Commonwealth authority, the old employer only has to provide copies of those records.

(4) If the transferring employee becomes an employee of the new employer after the time at which the connection between the old employer and the new employer mentioned in paragraph 311(1)(d) of the Act occurs, the new employer must ask the old employer to give the new employer the employee records concerning the transferring employee.

Note: Subregulation (4) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(5) If the old employer receives a request under subregulation (4), the old employer must give the employee records to the new employer.

Note: Subregulation (5) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(6) The new employer who receives transferred employee records must keep the records, as if they had been made by the new employer at the time at which they were made by the old employer.

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Note: Subregulation (6) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(7) The new employer is not required to make employee records relating to the transferring employee's employment with the old employer.

3.42 Records—inspection and copying of a record

(1) For subsection 535(3) of the Act, an employer must make a copy of an employee record available for inspection and copying on request by the employee or former employee to whom the record relates.

Note: Subregulation (1) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(2) The employer must make the copy available in a legible form to the employee or former employee for inspection and copying.

Note: Subregulation (2) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(3) If the employee record is kept at the premises at which the employee works or the former employee worked, the employer must:

(a) make the copy available at the premises within 3 business days after receiving the request; or

(b) post a copy of the employee record to the employee or former employee within 14 days after receiving the request.

Note: Subregulation (3) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(4) If the employee record is not kept at the premises at which the employee works or the former employee worked, the employer must, as soon as practicable after receiving the request.

(a) make the copy available at the premises; or

(b) post a copy of the employee record to the employee or former employee.

Note 1: Subregulation (4) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

Note 2: Under the Act, an inspector is also permitted to inspect and copy an employee record for the purposes of the Act. The inspector may also require the production of the employee record.

3.43 Records—information concerning a record

(1) An employer who has been asked by an employee or former employee to make a copy of an employee record available for inspection must tell the employee or former employee, on request, where employee records relating to the employee or former employee are kept.

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Note: Subregulation (1) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(2) The employee or former employee may interview the employer, or a representative of the employer, at any time during ordinary working hours, about an employee record that the employer has made or will make.

Note: Part 5-2 of Chapter 5 of the Act sets out the circumstances in which an inspector can inspect employee records and require the production of employee records.

3.44 Records—accuracy

(2) An employer must correct a record that the employer is required to keep under the Act or these Regulations as soon as the employer becomes aware that it contains an error.

Note: Subregulation (2) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(3) An employer must ensure that a record that the employer is required:

(a) to keep under the Act or these Regulations; and

(b) to correct in accordance with subregulation (2);

contains a notation of the nature of the corrected error with the correction.

Note: Subregulation (3) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(4) An employer must not alter a record that the employer is required to keep under the Act or these Regulations except:

(a) in compliance with subregulation (2) or (3); or

(b) to any extent otherwise permitted by the Act or these Regulations.

Note: Subregulation (4) is a civil remedy provision to which Part 4-1 applies. Division 4 of Part 4-1 deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(5) An employer must ensure that a record that the employer is required to keep under the Act or these Regulations is not altered by another person except:

(a) in compliance with subregulation (2) or (3); or

(b) to any extent otherwise permitted by the Act or these Regulations.

Note: Subregulation (5) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

(6) A person must not make use of an entry in an employee record made and kept by an employer for this Subdivision if the person does so knowing that the entry is false or misleading.

Note: Subregulation (6) is a civil remedy provision to which Part 4-1 of the Act applies. Division 4 of Part 4-1 of the Act deals with infringement notices relating to alleged contraventions of civil remedy provisions.

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Subdivision 2—Pay slips

3.45 Pay slips—form

For paragraph 536(2)(a) of the Act, a pay slip must be:

(a) in electronic form; or

(b) a hard copy.

Note: Subsection 536(2) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.46 Pay slips—information to be included in pay slips

(1) For paragraph 536(2)(b) of the Act, a pay slip must specify:

(a) the employer's name; and

(b) the employee's name; and

(c) the period to which the pay slip relates; and

(d) the date on which the payment to which the pay slip relates was made; and

(e) the gross amount of the payment; and

(f) the net amount of the payment; and

(g) any amount paid to the employee that is a bonus, loading, allowance, penalty rate, incentive-based payment or other separately identifiable entitlement; and

(h) on and after 1 January 2010—the Australian Business Number (if any) of the employer.

(2) If one or more amounts are deducted from the gross amount of the payment under subsection 324(1) of the Act, the pay slip must also include, for each deduction:

(a) the amount of the deduction; and

(b) the name, or the name and number, of the fund or account into which the deduction was paid.

(3) If the employee is paid at an hourly rate of pay, the pay slip must also include:

(a) the rate of pay for the employee's ordinary hours (however described); and

(b) the number of hours in that period for which the employee was employed at that rate; and

(c) the amount of the payment made at that rate.

(4) If the employee is paid at an annual rate of pay, the pay slip must also include the rate as at the latest date to which the payment relates.

(5) If the employer has made, or intends to make, superannuation contributions for the benefit of the employee, the pay slip must also include:

(a) the amount of each contribution that the employer made during the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contribution was made; or

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(b) the amounts of contributions that the employer intends to make in relation to the period to which the pay slip relates, and the name, or the name and number, of any fund to which the contributions will be made.

(5A) For the purposes of subregulation (5), a pay slip is not required to include the name, or the name and number, of a fund if:

(a) the pay slip is required to be given to the employee within the period of 14 days commencing on the first day on which the employer pays an amount to the employee in relation to the performance of work; and

(b) by the time the pay slip is given to the employee:

(i) there is no chosen fund for the employee (within the meaning of Division 4 of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*); and

(ii) the Commissioner of Taxation has not notified the employer or the employer's agent (as applicable), in accordance with section 32R of that Act, of whether the Commissioner is satisfied that there is a stapled fund for the employee or, if the Commissioner is satisfied that there is a stapled fund, of the details of the fund.

(6) In subregulation (5):

contributions does not include a contribution in respect of a defined benefit interest (within the meaning of the *Superannuation Industry (Supervision) Regulations 1994*) in a defined benefit fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*).

Note: Subsection 536(2) of the Act is a civil remedy provision. Section 558 of the Act and Division 4 of Part 4-1 deal with infringement notices relating to alleged contraventions of civil remedy provisions.

3.47 Pay slips—information about paid family and domestic violence leave not to be included in pay slips

For the purposes of paragraph 536(2)(c) of the Act, the information in relation to paid family and domestic violence leave that must not be included in a pay slip is:

(a) a statement that an amount paid to an employee is a payment in respect of the employee's entitlement to paid family and domestic violence leave; and

(b) a statement that a period of leave taken by the employee has been taken as a period of paid family and domestic violence leave; and

(c) the balance of an employee's entitlement to paid family and domestic violence leave.

3.48 Pay slips—requirements for reporting paid family and domestic violence leave

(1) This regulation is made for the purposes of paragraph 536(2)(d) of the Act.

(2) Subject to subregulation (3), an amount paid to an employee for taking a period of paid family and domestic violence leave:

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(a) must not be reported on a pay slip as an amount paid to the employee for taking a period of leave; and

(b) must instead be reported on the pay slip as an amount paid to the employee:

(i) for the performance of the employee's ordinary hours of work; or

(ii) as another kind of payment made in relation to the performance of the employee's work, including (but not limited to) an allowance, bonus or a payment of overtime.

(3) If the employee has requested the employer to report the amount on the pay slip as an amount paid for taking a period of a particular kind of leave (other than a period of paid family and domestic violence leave), the amount may be reported on the pay slip as an amount paid to the employee for taking a period of that kind of leave.

Note 1: A pay slip is not false or misleading merely because it complies with this regulation: see subsection 536(3A) of the Act.

Note 2: During the grace period of 4 months, this regulation is subject to regulation 7.06.

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Chapter 4—Compliance and enforcement

Part 4-1—Civil remedies

Division 2—Orders

4.01A Applications for orders in relation to contraventions of civil remedy provisions

(1) For subsection 539(3) of the Act, a provision referred to in an item of the table in subregulation (2) is a civil remedy provision.

(2) For each civil remedy provision in an item of the table, the table sets out:
  (a) the persons who would be referred to in column 2 of the table in subsection 539(2) of the Act if there were an item for the civil remedy provision in that table; and
  (b) the Courts that would be referred to in column 3 of that table; and
  (c) the maximum penalty that would be referred to in column 4 of that table.

Item	Civil remedy provision	Persons	Courts	Maximum penalty
1	subregulation 3.13(7)	An applicant for the protected action ballot order The protected action ballot agent An employee organisation An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
2	subregulation 3.13(8)	An applicant for the protected action ballot order The protected action ballot agent An employee organisation An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
3	subregulation 3.19(10)	The protected action ballot agent An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units

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Item	Civil remedy provision	Persons	Courts	Maximum penalty
4	subregulation 3.31(2)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
5	subregulation 3.41(2)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
6	subregulation 3.41(4)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
7	subregulation 3.41(5)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
8	subregulation 3.41(6)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
9	subregulation 3.42(1)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
10	subregulation 3.42(2)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units

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Item	Civil remedy provision	Persons	Courts	Maximum penalty
11	subregulation 3.42(3)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
12	subregulation 3.42(4)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
13	subregulation 3.43(1)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
15	subregulation 3.44(2)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
16	subregulation 3.44(3)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
17	subregulation 3.44(4)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units
18	subregulation 3.44(5)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units

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Item	Civil remedy provision	Persons	Courts	Maximum penalty
19	subregulation 3.44(6)	An employee An inspector	Federal Court Federal Circuit and Family Court of Australia (Division 2) An eligible State or Territory Court	20 penalty units

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Division 3—Small claims procedure

4.01 Plaintiffs may choose small claims procedure

(1) For the purposes of paragraphs 548(1)(c) and (1B)(b) of the Act, the manner in which a person must indicate that he or she wants a small claims procedure to apply to an action that the person has commenced is:

(a) by:

(i) endorsing the papers initiating the action with a statement that the person wants a small claims procedure to apply to the action; or

(ii) lodging with the magistrates court or the Federal Circuit and Family Court of Australia (Division 2) a paper that identifies the action and states that the person wants a small claims procedure to apply to the action; and

(b) by serving a copy of the papers initiating the action, together with a copy of the paper (if any) mentioned in subparagraph (a)(ii), on every other party to the action.

(2) Subregulation (1) does not apply to an action that a person starts in a magistrates court or the Federal Circuit and Family Court of Australia (Division 2) if rules of court relating to that court prescribe the manner in which the person indicates that he or she wants a small claims procedure to apply to the action.

(3) For subsection 548(8) of the Act, a party to small claims proceedings in the Federal Circuit and Family Court of Australia (Division 2) may be represented by an official of an industrial association if the party is granted leave to do so by the Federal Circuit and Family Court of Australia (Division 2).

(4) For subsection 548(8) of the Act, a party to small claims proceedings heard in a magistrates court may be represented by an official of an industrial association if:

(a) the party is granted leave to do so by that court; and

(b) the law of the State allows a party to be represented in that court, in the circumstances mentioned in paragraph (a), by officials of bodies representing interests related to the matters in dispute.

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Division 4—General provisions relating to civil remedies and infringement notices

4.02 General

(1) For subsection 558(1) of the Act, this Division provides for a person who is alleged to have contravened a civil remedy provision to pay a penalty to the Commonwealth as an alternative to civil proceedings

(2) This Division does not:
  (a) require an infringement notice to be issued to a person for an alleged contravention of a civil remedy provision; or
  (b) affect the liability of a person to proceedings for contravention of a civil remedy provision if an infringement notice is not issued to the person for the alleged contravention; or
  (c) affect the liability of a person to proceedings for contravention of a civil remedy provision if the person does not comply with an infringement notice for the alleged contravention; or
  (d) limit or otherwise affect the penalty that may be imposed by a court on a person for a contravention other than the contravention of the civil remedy provision for which the infringement notice was issued.

4.03 Definitions for Division 4

In this Division:

civil remedy provision means a civil remedy provision in:
  (a) item 29 or 29AA of the table in subsection 539(2) of the Act; or
  (b) items 4 to 19 of the table in subregulation 4.01A(2).

contravention means a contravention of a civil remedy provision.

infringement notice means an infringement notice under regulation 4.04.

nominated person means the person to whom a recipient can apply:
  (a) to have an infringement notice withdrawn; or
  (b) to be allowed more time to pay a penalty.

recipient means a person to whom an infringement notice is given under subregulation 4.04(1).

4.03A Course of conduct

For paragraph 557(2)(s) of the Act, each civil remedy provision mentioned in items 4 to 19 of the table in subregulation 4.01A(2) is prescribed.

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Regulation 4.04

4.04 When an infringement notice can be given

(1) If an inspector reasonably believes that a person has committed 1 or more contraventions of a particular civil remedy provision, the inspector may give to the person an infringement notice relating to the alleged contravention or contraventions.

(2) An infringement notice must be given within 12 months after the day on which the contravention or contraventions are alleged to have taken place.

(3) This regulation does not authorise the giving of 2 or more infringement notices to a person in relation to contraventions of a particular civil remedy provision that:
  (a) allegedly took place on the same day; and
  (b) allegedly relate to the same action or conduct by the person.

(4) An inspector must not give an infringement notice in respect of a contravention if the Fair Work Ombudsman has accepted an enforceable undertaking from the person under section 715 of the Act in relation to the relevant civil remedy provision.

4.05 Content of infringement notice

(1) An infringement notice must:
  (a) specify the recipient's full name; and
  (b) specify the recipient's address; and
  (c) specify the name of the inspector who issued it; and
  (d) specify its date of issue; and
  (e) set out brief details of the alleged contravention, including the civil remedy provision that has been allegedly contravened; and
  (f) specify the penalty for the alleged contravention that is payable under the notice; and
  (g) state where and how the penalty can be paid; and
  (h) specify the maximum penalty that a court could impose on the recipient for the alleged contravention; and
  (i) identify the nominated person; and
  (j) explain how the recipient can apply to the nominated person:
    (i) to have the infringement notice withdrawn; or
    (ii) to be allowed more time to pay the penalty; and
  (k) state the effect of the recipient paying the penalty within the required time, as explained in regulation 4.09; and
  (l) be signed by the inspector who issued it.

(2) The infringement notice may contain any other information that the inspector who issues it thinks necessary.

(3) If a maximum penalty for a serious contravention of a civil remedy provision is specified in subsection 539(2) of the Act, the penalty specified in accordance with paragraph (1)(f) of this regulation in an infringement notice given to a

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person in respect of an alleged contravention of that civil remedy provision must not exceed one-tenth of the maximum penalty that a court could have ordered the person to pay under section 546 of the Act for a contravention of that civil remedy provision that is not a serious contravention.

Note: If there is no maximum penalty for a serious contravention of a civil remedy provision specified in subsection 539(2) of the Act, the maximum penalty payable under an infringement notice for an alleged contravention of that civil remedy provision is one-tenth of the maximum penalty that a court could impose: see subsection 558(2) of the Act.

4.06 Time for payment of penalty

(1) The penalty stated in an infringement notice must be paid within 28 days after the day on which the notice is served on the recipient unless subregulation (2), (3) or (4) applies.

(2) If the recipient applies for a further period of time in which to pay the penalty, and the application is granted, the penalty must be paid within the further period allowed.

(3) If the recipient applies for a further period of time in which to pay the penalty, and the application is refused, the penalty must be paid within 7 days after the notice of the refusal is served on the recipient.

(4) If the recipient applies for the notice to be withdrawn, and the application is refused, the penalty must be paid within 28 days after the notice of the refusal is served on the person.

4.07 Extension of time to pay penalty

(1) Before the end of 28 days after receiving an infringement notice, the recipient may apply, in writing, to the nominated person for a further period of up to 28 days in which to pay the penalty stated in the notice.

(2) Within 14 days after receiving the application, the nominated person must:
   (a) grant or refuse a further period not longer than the period sought (but less than 28 days); and
   (b) notify the person in writing of the decision and, if the decision is a refusal, the reasons for the decision.

4.08 Withdrawal of infringement notice

(1) Before the end of 28 days after receiving the infringement notice, the recipient may apply, in writing, to the nominated person for the infringement notice to be withdrawn.

(2) Within 14 days after receiving the application, the nominated person must:
   (a) withdraw or refuse to withdraw the infringement notice; and
   (b) notify the recipient in writing of the decision and, if the decision is a refusal, the reasons for the decision.

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(3) If the nominated person has not approved, or refused to approve, the withdrawal of the infringement notice within the period allowed by subregulation (2), the application is taken to have been refused.

(4) An inspector may also withdraw an infringement notice issued by him or her by serving a notice of withdrawal on the recipient without an application having been made.

(5) A notice of the withdrawal of an infringement notice must:
  (a) specify the recipient's full name; and
  (b) specify the recipient's address; and
  (c) specify its date of issue; and
  (d) state that the infringement notice is withdrawn.

4.09 Effect of payment of penalty

If an infringement notice is not withdrawn, and the recipient pays the penalty stated in the notice:
  (a) any liability of the recipient for the alleged contravention is discharged; and
  (b) no proceedings may be brought against the recipient, by any person, for the alleged contravention; and
  (c) the recipient is not taken to have admitted to having contravened the civil remedy provision; and
  (d) the recipient is not taken to have been convicted of a contravention.

4.10 Refund of penalty

If an infringement notice is withdrawn after the penalty stated in it has been paid, the Commonwealth must refund the amount of the penalty to the person who paid it.

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Division 5—Unclaimed money

4.11 Unclaimed money

For paragraph 559(3)(b) of the Act, the form of a claim for the payment of unclaimed money is set out in Schedule 4.1.

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Chapter 5—Administration

Part 5-1—Fair Work Commission

Division 5—FWC members

5.01 Delegation by President of functions and powers of FWC

Functions and powers in relation to protected action ballots

(1) For the purposes of paragraph 625(2)(i) of the Act, each of the following are prescribed functions or powers:

(a) giving a copy of a protected action ballot order to a person under section 445 of the Act;

(b) conducting a conference in accordance with section 448A of the Act;

(c) approving a person as an eligible protected action ballot agent under subsection 468A(2) of the Act;

(d) the functions and powers conferred on the FWC by subsections 468A(4) and (5) of the Act (review of eligible protected action ballot agent's approval, and actions on review).

Other functions and powers

(2) For paragraph 625(2)(i) of the Act, each of the following functions is a prescribed function:

(a) being satisfied under subregulation 3.02(7) that a person making an application to the FWC under section 365 of the Act will suffer serious hardship if the person is required to pay the fee for the application;

(b) being satisfied under subregulation 3.03(7) that a person making an application to the FWC under section 372 of the Act will suffer serious hardship if the person is required to pay the fee for the application;

(c) being satisfied under subregulation 3.07(7) that a person making an application to the FWC under Division 5 of Part 3-2 of the Act will suffer serious hardship if the person is required to pay the fee for the application;

(d) being satisfied under subregulation 6.05(7) that a person making an application to the FWC under section 773 of the Act will suffer serious hardship if the person is required to pay the fee for the application;

(e) being satisfied under subregulation 6.07A(7) that a person making an application to the FWC under subsection 789FC(1) of the Act will suffer serious hardship if the person is required to pay the fee for the application.

(3) For paragraph 625(2)(i) of the Act, the power to issue a WHS entry permit to a person under section 134 of the *Work Health and Safety Act 2011* is a prescribed power.

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5.01A Delegation by the President of functions or powers of FWC—prescribed class of employees

For the purposes of paragraph 625(3)(c) of the Act, the following classes of employees are prescribed:

(a) APS employees who hold or perform duties of an Executive Level 1 position, or an equivalent position;

(b) APS employees who hold or perform duties of an Executive Level 2 position, or an equivalent position.

5.01B Appointment of Vice President

For clause 32 of Schedule 3 of the Act, if a person appointed as a Vice President of the FWC under section 626 of the Act was, under item 1 of Schedule 18 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, taken to be a Deputy President of FWA:

(a) the person has the same rank, status and precedence as a Judge of the Federal Court; and

(b) to avoid doubt, if the *Judges' Pension Act 1968* applies to the person, that Act continues to apply to the person; and

(c) if the salary payable to the person under section 79 of the *Workplace Relations Act 1996* is more than the salary that would be payable to the person as Vice President under section 637 of the Act—the person is entitled to receive the amount that was payable to the person under section 79 of the *Workplace Relations Act 1996* immediately prior to the appointment; and

(d) section 639 of the Act does not apply to the person.

5.02 Dual federal and Territory appointments of Deputy Presidents or Commissioners

(1) For paragraph 632(a) of the Act, the following Commonwealth tribunals are prescribed:

(a) the Defence Force Remuneration Tribunal;

(b) the Pharmaceutical Benefits Remuneration Tribunal;

(c) the Road Safety Remuneration Tribunal.

(2) For paragraph 632(a) of the Act, the following Territory tribunals are prescribed:

(a) the Prison Officers Arbitral Tribunal of the Northern Territory;

(b) the Police Officers Arbitral Tribunal of the Northern Territory.

5.03 Oath and affirmation of office

(1) For section 634 of the Act, the oath and affirmation for an FWC Member are set out in Schedule 5.1.

(2) An oath or affirmation to be taken by the President must be taken before:

(a) the Governor-General; or

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(b) a Justice of the High Court; or
(c) a Judge of the Federal Court; or
(d) a Judge of the Supreme Court of a State or a Territory.

(3) An oath or affirmation to be taken by an FWC Member other than the President must be taken before:
(a) the Governor-General; or
(b) a Justice of the High Court; or
(c) a Judge of the Federal Court; or
(d) a Judge of the Supreme Court of a State or a Territory; or
(e) the President.

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Division 7—Seals and additional powers of the President and the General Manager

5.04 President must provide certain information etc. to the Minister and Fair Work Ombudsman

(1) For subsection 654(1) of the Act:

(a) the information and copies of documents which the President must provide to the Minister are set out in Part 1 of Schedule 5.2; and

(b) the information and copies of documents which the President must provide to the Fair Work Ombudsman are set out in Part 2 of Schedule 5.2.

Note: Information prescribed in Schedule 5.2 is minimum information only.

(2) Schedule 5.2 also sets out the time by which the information and documents must be provided.

(3) In addition to the matters in Schedule 5.2, the Minister may request from the President a copy of:

(a) an order or interim order made by the FWC; or

(b) an instrument made under section 262, 266, 269, 320 or 458 of the Act.

(4) If the Minister requests a copy of an instrument or order, the President must provide the copy:

(a) within 24 hours after the request; or

(b) if the instrument, order or interim order has not been written within that period—as soon as practicable.

(5) For the Minister:

(a) information, or a copy of a document, may be provided:

(i) in paper form; or

(ii) in electronic form, in accordance with any particular information technology requirements notified to the President by the Secretary; and

(b) subparagraph (a)(ii) does not prevent the President from including other relevant information with information provided to the Minister in electronic form; and

(c) a copy of a document that is provided to the Minister in paper form must be posted to the address notified to the President by the Secretary; and

(d) information, or a copy of a document, that is provided to the Minister in electronic form must be sent to the e-mail address notified to the President by the Secretary; and

(e) the President must ensure that:

(i) all copies of documents that are to be provided to the Minister in paper form during a week are given at the same time in that week; and

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(ii) all information, or copies of documents, of a particular kind that are to be provided to the Minister in electronic form during a week are provided at the same time in that week.

(6) The President may provide information mentioned in subitem 15.1 of Schedule 5.2:

(a) by providing the Minister with a copy of a relevant statutory declaration provided by an employer in accordance with paragraph 185(2)(b) of the Act and the procedural rules; or

(b) by other means.

(7) For the Fair Work Ombudsman:

(a) information, or a copy of a document, may be provided:

(i) in paper form; or

(ii) in electronic form, in accordance with any particular information technology requirements notified to the President by the Fair Work Ombudsman; and

(b) subparagraph (a)(ii) does not prevent the President from including other relevant information with information provided to the Fair Work Ombudsman in electronic form; and

(c) a copy of a document that is provided to the Fair Work Ombudsman in paper form must be posted to the address notified to the President by the Fair Work Ombudsman; and

(d) information, or a copy of a document, that is provided to the Fair Work Ombudsman in electronic form must be sent to the e-mail address notified to the President by the Fair Work Ombudsman; and

(e) the President must ensure that:

(i) all copies of documents that are to be provided to the Fair Work Ombudsman in paper form during a week are given at the same time in that week; and

(ii) all information, or copies of documents, of a particular kind that are to be provided to the Fair Work Ombudsman in electronic form during a week are provided at the same time in that week.

5.04A Delegation by General Manager to staff

For the purposes of paragraph 671(1)(b) of the Act, the following classes of employees are prescribed:

(a) APS employees who hold or perform duties of an Executive Level 1 position, or an equivalent position;

(b) APS employees who hold or perform duties of an Executive Level 2 position, or an equivalent position.

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Part 5-2—Office of the Fair Work Ombudsman

Division 3—Office of the Fair Work Ombudsman

Subdivision D—Functions and powers of Fair Work Inspectors—general

5.05 Powers and functions of inspectors—notification of failure to observe requirements

If an inspector is satisfied that a person has failed to observe a requirement imposed by or for the Act, these Regulations or a fair work instrument, the inspector may, by notice in writing:

(a) inform the person of the failure; and

(b) require the person to take the action specified in the notice, within the period specified in the notice, to rectify the failure; and

(c) require the person to notify the inspector in accordance with the notice of any action taken to comply with the notice; and

(d) advise the person of the actions the inspector may take if the person fails to comply with the notice.

Subdivision DA—Power to enter premises

5.06 Powers of inspectors while on premises—taking samples of goods and substances

For paragraph 709(f) of the Act, an inspector must not take a sample of goods or a substance until the inspector has informed:

(a) the owner; or

(b) another person in charge of the goods or substances; or

(c) a representative of the owner or other person;

of the inspector's intention to take the sample.

Subdivision DB—Powers to ask questions and require records and documents

5.07 Definitions for Subdivision DB

In this Subdivision:

public transport means any form of passenger transport that is available for use by the public on payment of a fare.

specified place means the place specified in the FWO notice under paragraph 712AC(d) of the Act as the place for the attendance.

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Taxation Office Determination means the determination that sets out the amounts that the Commissioner of Taxation considers are reasonable for the purposes of the substantiation exception in Subdivision 900-B of the *Income Tax Assessment Act 1997* for domestic travel allowance expenses and reasonable overtime meal allowance expenses, as in force or existing when this regulation commences.

5.08 Form of FWO notice

For the purposes of paragraph 712AC(a) of the Act:

(a) Form 1 of Schedule 5.3 to these Regulations sets out the form of an FWO notice that requires a person to give information to the Fair Work Ombudsman or a specified member of the staff of the Office of the Fair Work Ombudsman; and

(b) Form 2 of Schedule 5.3 to these Regulations sets out the form of an FWO notice that requires a person to produce documents to the Fair Work Ombudsman or a specified member of the staff of the Office of the Fair Work Ombudsman; and

(c) Form 3 of Schedule 5.3 to these Regulations sets out the form of an FWO notice that requires a person to attend before the Fair Work Ombudsman, or a specified member of the staff of the Office of the Fair Work Ombudsman who is an SES employee or an acting SES employee, and answer questions relevant to an investigation.

5.09 Expenses incurred in attending as required by an FWO notice

For the purposes of subsection 712C(1) of the Act, regulations 5.10 to 5.13 set out the allowances payable to a person (the ***attendee***) who attends as required by an FWO notice.

Note: The attendee is not entitled to be paid allowances under section 712C of the Act unless the attendee:

(a) applies, in writing, to the Fair Work Ombudsman for payment of the expenses within 3 months after the attendance; and

(b) provides to the Fair Work Ombudsman sufficient evidence to establish that the attendee incurred the expenses.

5.10 Travelling allowance

(1) The attendee is entitled to a payment (a ***travelling allowance***) towards meeting the expenses that the attendee incurs in travelling between the attendee's place of work or residence (being a place in Australia) and the specified place.

(2) The amount of the travelling allowance is as follows:

(a) if it is reasonable for the attendee to travel by air—the amount that is payable for economy class air travel;

(b) if public transport is available—the amount that the attendee actually and properly pays for the public transport;

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(c) if public transport is not available and the attendee travels using their private motor vehicle—the amount calculated at the rate of $0.74 per kilometre travelled.

(3) However, the maximum amount payable for the travelling allowance is $2,000.

(4) When deciding whether public transport is or is not available, regard must be had to whether a public transport system is operating by which the attendee could conveniently:
(a) travel to the specified place in a reasonable time before the attendee's required attendance; and
(b) return to the attendee's place of work or residence in a reasonable time after the attendee's attendance at the specified place.

5.11 Accommodation allowance

(1) The attendee is entitled to a payment (an ***accommodation allowance***) towards meeting the expenses that the attendee incurs for accommodation when the attendee is necessarily absent overnight from the attendee's place of residence to attend as required by the FWO notice.

(2) The amount of the accommodation allowance is the amount calculated at the accommodation rate specified in the Taxation Office Determination for the lowest salary range.

(3) The amount must be calculated having regard to:
(a) the time of the latest public transport by which the witness could conveniently travel to the specified place in a reasonable time before the attendee's required attendance; and
(b) the time by which the attendee could conveniently return to the attendee's place of work or residence using the earliest public transport in a reasonable time after the attendee's attendance at the specified place.

5.12 Attendance allowance

(1) The attendee is entitled to a payment (an ***attendance allowance***) towards meeting any loss of earnings that the attendee incurs when the attendee is necessarily absent from the attendee's work to attend as required by the FWO notice.

(2) The amount of the attendance allowance is the amount (the ***usual pay***) that the attendee would otherwise have been entitled to receive for performing his or her normal duties during the attendee's absence from work to attend the specified place.

(3) When claiming the attendance allowance, the attendee must provide evidence that confirms:
(a) the attendee's usual pay; and
(b) that the attendee did not receive the attendee's usual pay for the time when the attendee was necessarily absent from the attendee's work to attend the specified place.

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5.13 Legal allowance

(1) The attendee is entitled to a payment (a ***legal allowance***) towards meeting the legal costs and disbursements that the attendee reasonably incurs for a lawyer to represent the attendee at the specified place.

(2) The amount of the legal allowance is an amount calculated using the costs for general federal law proceedings set out in the *Federal Circuit Court Rules 2001*, as in force when this regulation commences.

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Chapter 6—Miscellaneous

Part 6-2—Dealing with disputes

Division 2—Dealing with disputes

Subdivision A—Model term about dealing with disputes

6.01 Model term about dealing with disputes

For section 737 of the Act, the model term for dealing with disputes for enterprise agreements is set out in Schedule 6.1.

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Part 6-3—Extension of National Employment Standards entitlements

Division 2—Extension of entitlement to unpaid parental leave and related entitlements

6.02 Modification of meaning of *base rate of pay* for pieceworkers (non-national system employees)

(1) For section 16 of the Act, as modified by section 749 of the Act, this regulation provides for the determination of the base rate of pay for the purposes of the extended parental leave provisions for a non-national system employee who is a pieceworker.

Note 1: Section 749 of the Act modifies section 16 of the Act by giving it effect as if a paragraph 16(2)(d) were added.

Note 2: The Act defines ***pieceworker*** in section 21. The effect of section 21 is modified for a non-national system employees by section 754 of the Act.

(2) The base rate of pay, expressed as an hourly rate of pay, is the rate provided in, or calculated in accordance with, a State industrial instrument that applies to the employee.

(3) If there is no rate provided in, or calculated in accordance with, a State industrial instrument that applies to the employee, the base rate of pay, expressed as an hourly rate of pay, is worked out using the formula:

$$\frac{TA}{TH}$$

where:

TA is the total amount earned by the employee during the relevant period.

TH is the total hours worked by the employee during the relevant period.

the ***relevant period*** is:

(a) for an employee who was continuously employed by the employer for a period of 12 months or more immediately before the base rate of pay is to be worked out—the 12 months before the rate is to be worked out; or

(b) for an employee who was continuously employed by the employer for a period less than 12 months immediately before the base rate of pay is to be worked out—that period.

6.03 Meaning of *pieceworker*

(1) For section 21 of the Act, as modified by section 754 of the Act, this regulation prescribes a class of non-national system employees as pieceworkers.

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Note: Section 754 of the Act modifies section 21 by giving it effect as if a paragraph 21(1)(d) were added.

Under the new paragraph 21(1)(d), a pieceworker is a non-national system employee who is in a class of employees prescribed by the regulations as pieceworkers.

(2) The class is non-national system employees who:

(a) are paid a rate set by reference to a quantifiable output or task; and

(b) are not paid a rate set by reference to a period of time worked.

Examples of rates set by reference to a quantifiable output or task

1 A rate of pay calculated by reference to the number of articles produced.

2 A rate of pay calculated by reference to the number of kilometres travelled.

3 A rate of pay calculated by reference to the number of articles delivered.

4 A rate of pay calculated by reference to the number of articles sold.

5 A rate of pay calculated by reference to the number of tasks performed.

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Part 6-3A—Transfer of business from State public sector employer

6.03A FWC orders about coverage for employee organisations

For paragraph 768BB(3)(a) of the Act, a circumstance in which the FWC may make an order mentioned in subsection 768BB(1) of the Act is that the order is to be made:

(a) on the FWC's own initiative; or

(b) on application to the FWC by a transferring employee, or a person who is likely to be a transferring employee; or

(c) on application to the FWC by the new employer, or a person who is likely to be the new employer; or

(d) on application to the FWC by an employee organisation that is entitled to represent the industrial interests of an employee mentioned in paragraph (b).

6.03B Model term for dealing with disputes about matters arising under a copied State instrument

For section 768BK of the Act, the model term for dealing with disputes about matters arising under a copied State instrument is set out in Schedule 6.1A.

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Part 6-4—Additional provisions relating to termination of employment

Division 2—Termination of employment

6.04 Temporary absence—illness or injury

(1) For paragraph 772(1)(a) of the Act, this regulation prescribes kinds of illness or injury.

Note: Under section 772 of the Act, an employer must not terminate an employee's employment because the employee is temporarily absent from work because of illness or injury of a kind prescribed by the regulations.

(2) A prescribed kind of illness or injury exists if the employee provides a medical certificate for the illness or injury, or a statutory declaration about the illness or injury, within:
  (a) 24 hours after the commencement of the absence; or
  (b) such longer period as is reasonable in the circumstances.

Note: The Act defines ***medical certificate*** in section 12.

(3) A prescribed kind of illness or injury exists if the employee:
  (a) is required by the terms of a workplace instrument:
    (i) to notify the employer of an absence from work; and
    (ii) to substantiate the reason for the absence; and
  (b) complies with those terms.

(4) An illness or injury is not a prescribed kind of illness or injury if:
  (a) either:
    (i) the employee's absence extends for more than 3 months; or
    (ii) the total absences of the employee, within a 12 month period, have been more than 3 months (whether based on a single illness or injury or separate illnesses or injuries); and
  (b) the employee is not on paid personal/carer's leave (however described) for a purpose mentioned in paragraph 97(a) of the Act for the duration of the absence.

(5) In this regulation, a period of paid personal/carer's leave (however described) for a purpose mentioned in paragraph 97(a) of the Act does not include a period when the employee is absent from work while receiving compensation under a law of the Commonwealth, a State or a Territory that is about workers' compensation.

6.05 Application fees

(1) For subsection 775(2) of the Act, this regulation sets out matters relating to a fee for making an application to the FWC under section 773 of the Act.

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Regulation 6.05

Fee at commencement of Regulations

(2) If the application is made in the financial year starting on 1 July 2009, the fee is $59.50.

Method for indexing the fee

(3) If the application is made in a financial year starting on 1 July 2010, or 1 July in a later year (the ***application year***), the amount of the fee is to be worked out as follows:

(a) identify the amount of the fee for an application made in the previous financial year;

(b) multiply it by the indexation factor for the application year (see subregulation (4));

(c) round the result to the nearest multiple of 10 cents, rounding up if the result is 5 cents.

(4) The indexation factor for the application year is worked out using the following formula, and then rounded under subregulation (5):

$$\frac{\text{Sum of index numbers for quarters in most recent March year}}{\text{Sum of index numbers for quarters in previous March year}}$$

where:

index number, for a quarter, means the All Groups Consumer Price Index Number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

most recent March year means the period of 12 months ending on 31 March in the financial year that occurred immediately before the application year.

previous March year means the period of 12 months immediately preceding the most recent March year.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

(5) The result under subregulation (4) must be rounded up or down to 3 decimal places, rounding up if the result is 0.0005.

(6) A calculation under subregulation (4):

(a) is to be made using the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and

(b) is to be made disregarding index numbers that are published in substitution for previously published index numbers (unless the substituted numbers are published to take account of changes in the reference base).

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No fee—hardship

(7) If the FWC is satisfied that the person making an application will suffer serious hardship if the person is required to pay the fee, no fee is payable for making the application.

Refund of fee—discontinuing application

(8) The FWC must repay to the person an amount equal to the fee if:
  (a) the fee has been paid; and
  (b) the application is subsequently discontinued as mentioned in section 588 of the Act; and
  (c) either:
    (i) at the time the application is discontinued, the application has not yet been listed for conducting a conference; or
    (ii) if the application has, at or before that time, been listed for conducting a conference on a specified date or dates—the discontinuance occurs at least 2 days before that date or the earlier of those dates.

6.06 Schedule of costs

(1) For section 780 of the Act, the schedule of costs set out in Schedule 3.1 is prescribed.

(2) In awarding costs:
  (a) the FWC is not limited to the items of expenditure mentioned in Schedule 3.1; but
  (b) if an item of expenditure is mentioned in Schedule 3.1, the FWC must not award costs for that item at a rate or of an amount in excess of the rate or amount mentioned in Schedule 3.1 for that item.

Note: An application for an order for costs must be made in accordance with the procedural rules.

(3) A bill of costs must identify, by an item number, each cost and disbursement claimed.

(4) In Schedule 3.1:

folio means 72 words.

Note: There are generally 3 folios to a page.

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Division 3—Notification and consultation requirements relating to certain terminations of employment

Subdivision B—Requirement to notify Centrelink

6.07 Employer to notify Centrelink of certain proposed terminations—form of notice

For subsection 785(2) of the Act, the form of a notice to Centrelink of a proposed termination under subsection 785(1) is set out in Form 1 of Schedule 6.2.

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Part 6-4B—Workers bullied at work

Division 2—Stopping workers being bullied at work

6.07A Application fees

(1) For subsection 789FC(4) of the Act, this regulation sets out matters relating to a fee for making an application to the FWC under subsection 789FC(1) of the Act.

Fee at commencement of this regulation

(2) If an application is made on or after 1 January 2014 but before 1 July 2014, the fee is $65.50.

Method for indexing the fee

(3) If an application is made in a financial year starting on or after 1 July 2014 (the ***application year***), the amount of the fee is to be worked out as follows:

(a) identify the amount of the fee for an application made in the later of:

(i) the year commencing on 1 January 2014; and

(ii) the previous financial year;

(b) multiply it by the indexation factor for the application year (see subregulation (4));

(c) round the result to the nearest multiple of 10 cents, rounding up if the result ends in 5 cents.

(4) The indexation factor for the application year is worked out using the following formula, and then rounded under subregulation (5):

$$\frac{\text{Sum of index numbers for quarters in most recent March year}}{\text{Sum of index numbers for quarters in previous March year}}$$

where:

index number, for a quarter, means the All Groups Consumer Price Index Number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

most recent March year means the period of 12 months ending on 31 March in the financial year that occurred immediately before the application year.

previous March year means the period of 12 months immediately preceding the most recent March year.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

(5) The result under subregulation (4) must be rounded up or down to 3 decimal places, rounding up if the result ends in 0.0005.

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(6) A calculation under subregulation (4):

(a) is to be made using the index numbers published in terms of the most recently published index reference for the Consumer Price Index; and

(b) is to be made disregarding index numbers that are published in substitution for previously published index numbers (unless the substituted numbers are published to take account of changes in the index reference).

No fee—hardship

(7) If the FWC is satisfied that the person making an application will suffer serious hardship if the person is required to pay the fee, no fee is payable for making the application.

Refund of fee—discontinuing application

(8) The FWC must repay to the person an amount equal to the fee if:

(a) the fee has been paid; and

(b) the application is subsequently discontinued as mentioned in section 588 of the Act; and

(c) at the time the application is discontinued, the application has not yet been listed for conducting a conference or hearing.

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Part 6-4C—Coronavirus economic response

Division 1—Introduction

6.07B 10% decline in turnover test—modification

(1) This regulation is made for the purposes of paragraph 789GCB(1)(d) of the Act.

(2) The decline in turnover test, as applied under paragraph 789GCB(1)(b) of the Act, is modified by providing that current GST turnover is to be calculated in the same way as current GST turnover is calculated for the purposes of the actual decline in turnover test within the meaning of the jobkeeper payment rules.

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Division 5A—Flexibility provisions relating to employers previously entitled to jobkeeper payment

6.07C Jobkeeper enabling stand down—employer previously entitled to jobkeeper payment for employee

For the purposes of subparagraph 789GJA(1)(b)(ii) of the Act, for each employee of an employer in a class of employees specified in column 1 of the following table, the number of ordinary hours of work for the purposes of that subparagraph are those specified in column 2 of the following table.

Employees—ordinary hours of work

Item	Column 1 Class of employee	Column 2 Ordinary hours of work
1	Employees whose ordinary hours of work for the employer have changed on or after 1 March 2020 for reasons (***non-COVID reasons***) that are attributable to neither: (a) the COVID-19 pandemic; nor (b) government initiatives to slow the transmission of COVID-19	The ordinary hours of work of the employee as most recently changed for non-COVID reasons, disregarding the effect of any jobkeeper enabling stand down direction applying to the employee
2	Employees not employed by the employer on 1 March 2020	Either: (a) the ordinary hours of work of the employee when the employee started employment with the employer; or (b) if those hours of work have changed for non-COVID reasons—those hours of work as most recently changed for non-COVID reasons; disregarding the effect of any jobkeeper enabling stand down direction applying to the employee

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Part 6-4D—The National Construction Industry Forum

6.07CA Travel allowances—prescribed rates

(1) For the purposes of subsection 789GZM(2) of the Act, this regulation sets out the rate of travel allowance that a member of the National Construction Industry Forum who is not a Minister or a member of the Parliament is entitled to be paid to attend a meeting of the Forum.

Note: For the right or entitlement of a substitute member of the Forum, or a person invited to participate in a meeting of the Forum, to be paid the same rate of travel allowance to attend meetings of the Forum, see subsections 789GZK(3) and 789GZL(4) of the Act.

Rates of travel allowance for travel

(2) The rates of travel allowance are as follows:
- (a) for travel by air—the actual amount that is payable for the travel, but not exceeding the amount that is payable for the travel by business class;
- (b) for travel by the member's private motor vehicle—the rate of $0.78 per kilometre;
- (c) for travel by public transport, taxi or similar means—the actual amount that is payable for the travel.

(3) However, the rate of travel allowance covered by paragraph (2)(c) to attend a meeting of the Forum must not exceed $300.

Rates of travel allowance for overnight stays

(4) If the member is necessarily absent overnight from the member's principal place of residence to attend the meeting of the Forum:
- (a) the member is entitled to travel allowance for each night of absence for accommodation, meals and expenses incidental to the travel (the ***travel expenses***); and
- (b) the rate of that allowance is the actual amount that is payable for the travel expenses, but not exceeding the amount worked out for the travel in accordance with the determination titled *TD 2022/10* (published by the Australian Taxation Office, as existing on 1 July 2023) as the reasonable amount for domestic travel expenses for a person with a salary between $133,451 and $237,520.

Note: The determination could in 2023 be viewed on the Australian Taxation Office's website (https://www.ato.gov.au).

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Part 6-4DA—Transitional matters relating to employers etc. ceasing to be national system employers etc.

Division 1—Western Australian local government employers etc.

6.07D Definitions

In this Division:

endorsement means the *Fair Work (State Declarations—employers not to be national system employers) Endorsement 2022 (No. 1)*.

non-preserved FWC application means an application or referral:

(a) made by a preserved affected person to the FWC; and

(b) made by the preserved affected person:

(i) in or in relation to the person's capacity (at the time of the conduct that is the subject of the application or referral) as a national system employer or national system employee; or

(ii) in respect of another person's capacity (at the time of the conduct that is the subject of the application or referral) as a national system employer or national system employee; and

(c) that is not a preserved FWC application.

preserved affected person means any of the following:

(a) an employer listed in Schedule 1 to the endorsement;

(b) an individual who, before the transition time, was employed or usually employed by, or a prospective employee of, an employer mentioned in paragraph (a);

(c) an employer organisation of which an employer mentioned in paragraph (a) was, before the transition time, a member;

(d) an employee organisation, a registered employee association or an industrial association that, before the transition time, represented the industrial interests of an individual mentioned in paragraph (b).

preserved FWC application means an application or referral:

(a) made by a preserved affected person to the FWC under a provision in Part 2-2, 3-2, 3-5 or 6-2 of the Act; and

(b) made by the preserved affected person:

(i) in or in relation to the person's capacity (at the time of the conduct that is the subject of the application or referral) as a national system employer or national system employee; or

(ii) in respect of another person's capacity (at the time of the conduct that is the subject of the application or referral) as a national system employer or national system employee.

transition time means the time when the endorsement commences.

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Note: The endorsement commences on 1 January 2023.

6.07E Purpose of this Division

This Division is made for the purposes of paragraphs 14A(1)(a) and (b) of the Act.

6.07F Transitional—FWC matters

Applications after the transition time

(1) A preserved affected person may make a preserved FWC application after the transition time in relation to conduct occurring before that time.

Note: Conduct includes an omission: see the definition of ***conduct*** in section 12 of the Act.

(2) The FWC may dismiss a preserved FWC application if the FWC is satisfied that:
  (a) an application (the ***other application***) has been made to another body in relation to the same conduct; and
  (b) in dealing with the other application, the other body:
    (i) is or will be dealing with the same, or substantially the same, matters as the matters that the FWC would be likely to deal with if the preserved FWC application were not dismissed; and
    (ii) has available to it the same, or substantially the same, remedies that the FWC would be likely to apply in respect of the preserved FWC application if that application were not dismissed.

(3) Subregulation (2) does not limit when the FWC may dismiss a preserved FWC application.

Note 1: For other powers of the FWC to dismiss applications, see section 587 of the Act.

Note 2: An application may be dismissed on the initiative of the FWC or on application: see subsection 587(3) of the Act.

Continuing matters

(4) After the transition time, the FWC may, in accordance with the Act, deal with or continue to deal with:
  (a) a matter commenced by a preserved FWC application in relation to conduct occurring before that time (whether the application was made before or after the transition time); or
  (b) an appeal under section 604 of the Act in respect of such a matter; or
  (c) a review under section 605 of the Act of a decision in respect of such a matter; or
  (d) a matter that is relevant to a preserved affected person in the person's capacity (at the time of the conduct that is relevant to the matter), or in respect of another person's capacity (at the time of the conduct that is relevant to the matter), as a national system employer or national system employee, in respect of which:

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(i) a question of law has been referred to the Federal Court under subsection 608(1) of the Act (whether the referral occurs before or after the transition time); or

(ii) a court has exercised jurisdiction under section 562 of the Act, section 39B of the *Judiciary Act 1903* or paragraph 75(v) of the Constitution (whether the jurisdiction is first exercised before or after the transition time).

Note: Paragraph (d) of this subregulation covers matters commenced by any kind of application or referral including, but not limited to, preserved FWC applications.

Discontinuing matters

(5) After the transition time, the FWC must not deal with or continue to deal with a matter that is commenced by a non-preserved FWC application (whether the application was made before or after the transition time), other than a matter mentioned in paragraph (4)(d).

6.07G Transitional—court proceedings

Proceedings instituted after the transition time

(1) After the transition time, a preserved affected person may institute proceedings in a court in relation to conduct occurring before that time:

(a) if the person were a national system employer at the time of the conduct—as if the person were still a national system employer; or

(b) if the person were a national system employee at the time of the conduct—as if the person were still a national system employee; or

(c) if the person is an employer organisation, and the employer in respect of which the proceedings are instituted was a national system employer at the time of the conduct—as if that employer were still:

(i) a national system employer; and

(ii) a member, in the employer's capacity as a national system employer, of the organisation; or

(d) if the person is an employee organisation, a registered employee association or an industrial association, and the employee in respect of which the proceedings are instituted was a national system employee at the time of the conduct—as if:

(i) that employee were still a national system employee; and

(ii) the industrial interests of that employee, in the employee's capacity as a national system employee, were still represented by the employee organisation, registered employee association or industrial association (as applicable).

Note: Conduct includes an omission: see the definition of ***conduct*** in section 12 of the Act.

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Continuing matters

(2) After the transition time, a court may deal with or continue to deal with a matter (whether the matter was instituted by proceedings before or after the transition time) if:

(a) the matter is relevant to a preserved affected person:

(i) in or in relation to the person's capacity (at the time of the conduct relevant to the matter) as a national system employer or national system employee; or

(ii) in respect of another person's capacity (at the time of the conduct relevant to the matter) as a national system employer or national system employee; and

(b) the court had jurisdiction, before the transition time, to deal with the matter.

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Part 6-5—Miscellaneous

Division 2—Miscellaneous

Subdivision 1—Employment matters

6.08 Public sector employer to act through employing authority—meaning of *public sector employment*

Employment or service that is public sector employment

(1) For paragraph 795(4)(h) of the Act, each of the following laws is prescribed:
- (aa) the *Australian Civilian Corps Act 2011*;
- (a) the *Australian Federal Police Act 1979*;
- (b) the *Governor-General Act 1974*;
- (c) the *Naval Defence Act 1910*;
- (d) the *Members of Parliament (Staff) Act 1984*.

Employment or service that is not public sector employment

(2) For paragraph 795(5)(a) of the Act, a member of the Defence Force is prescribed.

(3) For paragraph 795(5)(a) of the Act, a member of the Police Force of the Northern Territory is prescribed.

(4) For paragraph 795(5)(a) of the Act, a person who:
- (a) holds an office established under a law of the Commonwealth or of a Territory; but
- (b) is not a person who, otherwise than in his or her capacity as the holder of that office, is employed or serves in a capacity described in paragraphs 795(4)(a) to (h) of the Act;

is prescribed.

Example: An APS employee who also holds a part-time statutory office, or who is granted leave without pay from his or her APS employment in order to take up a full-time statutory office.

(5) For paragraph 795(5)(b) of the Act, the *Correctional Services Act 2014* (NT) is prescribed.

6.09 Public sector employer to act through employing authority—meaning of *employing authority*

For subsection 795(6) of the Act, the employing authority of a person mentioned in an item of Schedule 6.3 is:
- (a) the person or body mentioned in the item as the employing authority; or
- (b) each person or body mentioned in the item as the employing authority.

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6.10 No action for defamation in certain cases

(1) No action or proceeding, civil or criminal, for defamation lies against the Commonwealth or an electoral official conducting, on behalf of the Australian Electoral Commission, a protected action ballot under the Act in relation to the printing or issuing of a document or other material by the electoral official.

(2) If the document or other material mentioned in subregulation (1) is printed by another person, no action or proceeding, civil or criminal, for defamation lies against that person in relation to the printing.

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Regulation 7.01

Chapter 7—Transitional provisions

Part 7-1—Amendments made by the Fair Work Amendment (Notice of Employee Representational Rights) Regulations 2017

7.01 Application of amendments—notice of employee representational rights

The amendments made by Schedule 1 to the *Fair Work Amendment (Notice of Employee Representational Rights) Regulations 2017* apply in relation to a notice of employee representational rights given under subsection 173(1) of the *Fair Work Act 2009* after the commencement of that Schedule.

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Part 7-2—Amendments made by the Fair Work Amendment (Corrupting Benefits) Regulations 2017

7.02 Application of amendments—disclosure of benefits by organisations and employers

Regulation 2.06AA and Schedule 2.1A, as inserted by Schedule 1 to the *Fair Work Amendment (Corrupting Benefits) Regulations 2017*, apply in relation to:

(a) documents given under subsection 179(1) of the Act on or after the day that Schedule commences; and

(b) documents, access to a copy of which is first given, or copies of which are given, under subsection 180(4B) of the Act on or after the day that Schedule commences.

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Regulation 7.03

Part 7-3—Amendments made by the Fair Work Amendment (Casual Loading Offset) Regulations 2018

7.03 Application of amendments—claims to offset certain amounts

Regulation 2.03A, as added by Schedule 1 to the *Fair Work Amendment (Casual Loading Offset) Regulations 2018*, applies in relation to employment periods that occur (whether wholly or partly) before, on or after the commencement of that Schedule.

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Part 7-4—Amendments made by the Fair Work Amendment (Paid Family and Domestic Violence Leave) Regulations 2023

7.04 Definitions for this Part

In this Part:

amending instrument means the *Fair Work Amendment (Paid Family and Domestic Violence Leave) Regulations 2023*.

commencement day means the day on which the amending instrument commences.

grace period means the period of 4 months beginning on the commencement day.

7.05 Application of amendments

The amendments made by Schedule 1 to the amending instrument apply in relation to pay slips given to employees on or after the commencement day.

7.06 Requirements during grace period

For the purposes of paragraph 536(2)(d) of the Act, and despite regulation 3.48, an amount paid to an employee for taking a period of paid family and domestic violence leave may, during the grace period, be reported on a pay slip as an amount paid to the employee for taking a period of leave (other than a period of paid family and domestic violence leave).

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Part 7-5—Amendments made by the Fair Work and Other Legislation Amendment (Secure Jobs, Better Pay) Regulations 2023

7.07 Definitions for this Part

In this Part:

amending instrument means the *Fair Work and Other Legislation Amendment (Secure Jobs, Better Pay) Regulations 2023*.

7.08 Application of amendments—requirements for President to provide information to Minister

(1) For the quarter in which Division 2 of Part 4 of Schedule 1 to the amending instrument (the ***amending Division***) commences, table items 3.2, 3.7, 4.1, 4.2, 4.3, 6.6 and 15.1 of Part 1 of Schedule 5.2 apply both:

(a) as in force immediately before the commencement of the amending Division; and

(b) as amended by the amending Division.

(2) Despite the repeal of table items 6.1 to 6.4 of Part 1 of Schedule 5.2 by the amending Division, those items, as in force immediately before the commencement of the amending Division, apply in relation to the quarter in which the amending Division commences.

7.09 Application of amendments—notice of employee representational rights

The amendments of Schedule 2.1 made by Division 2 of Part 4 of Schedule 1 to the amending instrument apply in relation to a notice of employee representational rights given under subsection 173(1) of the Act after the commencement of that Division.

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Schedule 2.1—Notice of employee representational rights

(regulation 2.05)

Fair Work Act 2009, subsection 174(1A)

[Name of employer] gives notice that it is bargaining in relation to a single-enterprise agreement *([name of the proposed single-enterprise agreement])* which is proposed to cover employees that *[proposed coverage]*.

What is a single-enterprise agreement?

A single-enterprise agreement is an agreement between an employer and its employees that will be covered by the agreement that sets the wages and conditions of those employees for a period of up to 4 years. To come into operation, the agreement must be supported by a majority of the employees who cast a vote to approve the agreement and it must be approved by an independent authority, the Fair Work Commission.

If you are an employee who would be covered by the proposed agreement:

You have the right to appoint a bargaining representative to represent you in bargaining for the agreement or in a matter before the Fair Work Commission that relates to bargaining for the agreement.

You can do this by notifying the person in writing that you appoint that person as your bargaining representative. You can also appoint yourself as a bargaining representative. In either case you must give a copy of the appointment to your employer.

If you are a member of a union that is entitled to represent your industrial interests in relation to the work to be performed under the agreement, your union will be your bargaining representative for the agreement unless you appoint another person as your representative.

[If the employee is covered by an individual agreement—include:]

If you are an employee covered by an individual agreement:

If you are currently covered by an individual agreement (Australian Workplace Agreement (AWA), pre-reform AWA, individual transitional employment agreement (ITEA), preserved individual State agreement or individual Division 2B State employment agreement), you may appoint a bargaining representative for the enterprise agreement.

Individual agreements automatically sunset at the end of 6 December 2023, unless an application to extend the agreement is made to the Fair Work Commission.

Individual agreements can also be terminated or a conditional termination can be made (which provides that if an enterprise agreement is approved, it will apply to you and your individual agreement will terminate).

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Questions?

If you have any questions about this notice or about enterprise bargaining, please speak to your employer or bargaining representative, or contact the Fair Work Ombudsman or the Fair Work Commission.

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Schedule 2.1A—Document for disclosure of benefits

Note: See regulation 2.06AA.

Fair Work Act 2009, sections 179 and 179A

DISCLOSURE BY BARGAINING REPRESENTATIVE OF FINANCIAL BENEFITS AS A CONSEQUENCE OF PROPOSED ENTERPRISE AGREEMENT

This document is prepared by *[Name of organisation or employer]* in relation to a proposed enterprise agreement (*[Name of proposed enterprise agreement]*).

Certain financial benefits that will be, or can reasonably be expected to be, received or obtained as a direct or indirect consequence of the operation of one or more terms (***beneficial terms***) of a proposed enterprise agreement must be disclosed to employees before they vote on the agreement. The nature and (as far as reasonably practicable) the amount of each such benefit, and the name of each person who will or can reasonably be expected to receive, or provide, each such benefit must be disclosed in the following table, using a separate section for each beneficial term.

Examples of benefits that must be disclosed include director's fees, management fees, brokerage fees, commissions, dividends and trust and share distributions. See sections 179 and 179A of the *Fair Work Act 2009*.

Beneficial term: ***[insert, e.g. clause number]***			
Nature of financial benefit	**Amount of financial benefit**	**Name of beneficiary**	**Name of provider**
[Describe nature of section 179 disclosable benefit or section 179A disclosable benefit]	*[Describe (as far as reasonably practicable) amount of benefit. This could be the total amount or, for a recurring benefit, the amount and frequency. If not reasonably practicable to describe amount of benefit, set out the basis on which the amount is or will be determined.]*	*[Name of each beneficiary]*	*[Name of each person who will or can reasonably be expected to provide the benefit (if known). This does not need to be a party to the proposed enterprise agreement.]*

Beneficial term: ***[insert, e.g. clause number]***			
Nature of financial benefit	**Amount of financial benefit**	**Name of beneficiary**	**Name of provider**

Name of authorised person: *[Full name of person authorised to give document on behalf of organisation or prepare document on behalf of employer]*

Signature of authorised person:

Date: *[Date on which document is signed by authorised person]*

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Schedule 2.2—Model flexibility term

(regulation 2.08)

Model flexibility term

(1) An employer and employee covered by this enterprise agreement may agree to make an individual flexibility arrangement to vary the effect of terms of the agreement if:
  (a) the agreement deals with 1 or more of the following matters:
    (i) arrangements about when work is performed;
    (ii) overtime rates;
    (iii) penalty rates;
    (iv) allowances;
    (v) leave loading; and
  (b) the arrangement meets the genuine needs of the employer and employee in relation to 1 or more of the matters mentioned in paragraph (a); and
  (c) the arrangement is genuinely agreed to by the employer and employee.

(2) The employer must ensure that the terms of the individual flexibility arrangement:
  (a) are about permitted matters under section 172 of the *Fair Work Act 2009*; and
  (b) are not unlawful terms under section 194 of the *Fair Work Act 2009*; and
  (c) result in the employee being better off overall than the employee would be if no arrangement was made.

(3) The employer must ensure that the individual flexibility arrangement:
  (a) is in writing; and
  (b) includes the name of the employer and employee; and
  (c) is signed by the employer and employee and if the employee is under 18 years of age, signed by a parent or guardian of the employee; and
  (d) includes details of:
    (i) the terms of the enterprise agreement that will be varied by the arrangement; and
    (ii) how the arrangement will vary the effect of the terms; and
    (iii) how the employee will be better off overall in relation to the terms and conditions of his or her employment as a result of the arrangement; and
  (e) states the day on which the arrangement commences.

(4) The employer must give the employee a copy of the individual flexibility arrangement within 14 days after it is agreed to.

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(5) The employer or employee may terminate the individual flexibility arrangement:

(a) by giving no more than 28 days written notice to the other party to the arrangement; or

(b) if the employer and employee agree in writing—at any time.

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Schedule 2.3—Model consultation term

(regulation 2.09)

Model consultation term

(1) This term applies if the employer:

(a) has made a definite decision to introduce a major change to production, program, organisation, structure or technology in relation to its enterprise that is likely to have a significant effect on the employees; or

(b) proposes to introduce a change to the regular roster or ordinary hours of work of employees.

Major change

(2) For a major change referred to in paragraph (1)(a):

(a) the employer must notify the relevant employees of the decision to introduce the major change; and

(b) subclauses (3) to (9) apply.

(3) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(4) If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(5) As soon as practicable after making its decision, the employer must:

(a) discuss with the relevant employees:

(i) the introduction of the change; and

(ii) the effect the change is likely to have on the employees; and

(iii) measures the employer is taking to avert or mitigate the adverse effect of the change on the employees; and

(b) for the purposes of the discussion—provide, in writing, to the relevant employees:

(i) all relevant information about the change including the nature of the change proposed; and

(ii) information about the expected effects of the change on the employees; and

(iii) any other matters likely to affect the employees.

(6) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

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(7) The employer must give prompt and genuine consideration to matters raised about the major change by the relevant employees.

(8) If a term in this agreement provides for a major change to production, program, organisation, structure or technology in relation to the enterprise of the employer, the requirements set out in paragraph (2)(a) and subclauses (3) and (5) are taken not to apply.

(9) In this term, a major change is ***likely to have a significant effect on employees*** if it results in:

(a) the termination of the employment of employees; or

(b) major change to the composition, operation or size of the employer's workforce or to the skills required of employees; or

(c) the elimination or diminution of job opportunities (including opportunities for promotion or tenure); or

(d) the alteration of hours of work; or

(e) the need to retrain employees; or

(f) the need to relocate employees to another workplace; or

(g) the restructuring of jobs.

Change to regular roster or ordinary hours of work

(10) For a change referred to in paragraph (1)(b):

(a) the employer must notify the relevant employees of the proposed change; and

(b) subclauses (11) to (15) apply.

(11) The relevant employees may appoint a representative for the purposes of the procedures in this term.

(12) If:

(a) a relevant employee appoints, or relevant employees appoint, a representative for the purposes of consultation; and

(b) the employee or employees advise the employer of the identity of the representative;

the employer must recognise the representative.

(13) As soon as practicable after proposing to introduce the change, the employer must:

(a) discuss with the relevant employees the introduction of the change; and

(b) for the purposes of the discussion—provide to the relevant employees:

(i) all relevant information about the change, including the nature of the change; and

(ii) information about what the employer reasonably believes will be the effects of the change on the employees; and

(iii) information about any other matters that the employer reasonably believes are likely to affect the employees; and

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(c) invite the relevant employees to give their views about the impact of the change (including any impact in relation to their family or caring responsibilities).

(14) However, the employer is not required to disclose confidential or commercially sensitive information to the relevant employees.

(15) The employer must give prompt and genuine consideration to matters raised about the change by the relevant employees.

(16) In this term:

relevant employees means the employees who may be affected by a change referred to in subclause (1).

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Schedule 3.1—Schedule of costs

(subregulations 3.04(1), 3.08(1) and 6.06(1))

Part 1—Instructions

Item	Matter for which charge may be made	Charge
101	Instructing to make or oppose an application under sections 365 and 372 of Part 3-1, section 394 of Part 3-2 and section 773 of Part 6-4 of the Act	Either: (a) $210; or (b) at the discretion of the FWC
102	Instructing to make or oppose any other proceeding relating to an application under sections 365 and 372 of Part 3-1, section 394 of Part 3-2 and section 773 of Part 6-4 of the Act	Either: (a) $210; or (b) at the discretion of the FWC
103	Instructing for a case for opinion of counsel, or for counsel to advise (including attendance on counsel with brief)	Either: (a) $91; or (b) at the discretion of the FWC
104	Instructing for a necessary document in response to directions given by the FWC	Either: (a) $125; or (b) at the discretion of the FWC
105	Instructing for brief to counsel or brief notes for solicitor (if necessary)	An amount that the FWC considers appropriate having regard to all the circumstances of the case
106	Instructing for a necessary document not otherwise provided for in this Part	An amount that the FWC considers appropriate having regard to all the circumstances of the case

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Part 2—Documents

Item	Matter for which charge may be made	Charge
201	A notice of appearance, including copies, filing and service by respondent	$115
202	An application or notice of motion, including copies to file and serve, and attendance to file	The sum of: (a) for the first 3 folios—$93; and (b) for each additional folio—$6
203	A necessary document prepared in response to directions given by the FWC, including copies to file and serve, and attendance to file	$74
204	A brief to counsel (including a brief to hear judgment) and attending counsel with the brief	The sum of: (a) for the first 3 folios—$80; and (b) for each additional folio—$7
205	Copy of a document to accompany a brief	The charge mentioned in item 501
206	A necessary summons, and issuing 1 copy to serve and arranging for service	$63

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Part 3—Drawing

Item	Matter for which charge may be made	Charge
301	Drawing a necessary document not covered by Part 1 or 2 of this Schedule	$8 per folio

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Part 4—Writing or typing legal letters

Item	Matter for which charge may be made	Charge
401	Writing or typing a legal letter	$4 per folio

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Part 5—Copies

Item	Matter for which charge may be made	Charge
501	Copy of a document, including a carbon, photographic or machine-made copy	Either: (a) $2 per page; or (b) if allowance for 10 or more pages is claimed in respect of a document or documents—at the discretion of the FWC

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Part 6—Perusal and scanning

Item	Matter for which charge may be made	Charge
601	Perusing a document, including a special letter (for example, a letter from counsel that includes an opinion)	Either: (a) if paragraph (b) does not apply: (i) for a document that contains up to 3 folios—$16; or (ii) for a document that contains more than 3 folios—$4 per folio; or (b) if allowance for 30 or more folios is claimed for a document—at the discretion of the FWC
602	Scanning a document, if it is not necessary to peruse the document	Either: (a) $6 per page; or (b) if allowance for 10 or more pages is claimed in respect of any document or documents—at the discretion of the FWC

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Part 7—Examination

Item	Matter for which charge may be made	Charge
701	Examining a document, if it is not necessary to peruse or scan the document (for example, an examination of an appeal book):	
	(a) by a solicitor	$74 per half hour
	(b) by a clerk	$16 per half hour

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Part 8—Letters

Item	Matter for which charge may be made	Charge
801	Short letter (for example, a formal acknowledgment, a letter comprising 1 page or a letter concisely dealing with a subject)	$12
802	Ordinary letter, including letter between principal and agent	$24
803	Circular letter (for example, a letter sent to more than 1 party)	$7 for each letter (after the first)
804	Special letter (for example, a letter from counsel that includes an opinion)	Either: (a) $50; or (b) an amount that the FWC considers reasonable having regard to the length of the letter, the questions involved and appropriate items and charges in this Schedule
805	Fax copy including attendance to dispatch	Either: (a) $63; or (b) an amount that the FWC considers reasonable in the circumstances
806	Receiving and filing an incoming letter	$7

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Part 9—Service

Item	Matter for which charge may be made	Charge
901	Personal service of any document of which personal service is required (other than service that may be claimed under another item of this Schedule)	Either: (a) $62; or (b) an amount that the FWC considers reasonable having regard to time occupied, distance travelled and other relevant circumstances
902	Service of a document at the office of the address for service, either by delivery or by post	$16

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Part 10—Preparation of appeal books

Item	Matter for which charge may be made	Charge
1001	Preparation of appeal books, if some of the work is done outside the solicitor's office (for example, attendance on the printer for printing or collating documents, or general oversight of the preparation of the appeal books), and the FWC is satisfied that the work or general oversight has been done efficiently:	
	(a) for work done or overseen by a solicitor	$135 per hour
	(b) for work done or overseen by a clerk	$34 per hour
1002	Preparation of appeal books, if the work is done entirely within the solicitor's office	An amount that the FWC considers appropriate, having regard to the charges for the material used

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Part 11—Attendances

Item	Matter for which charge may be made	Charge
1101	An attendance that is capable of being made by a clerk, such as at the FWC registry	$34
1102	An attendance that requires the attendance of a solicitor or managing clerk (or other equally suitably qualified person) and involves the exercise of skill or legal knowledge (including an attendance to inspect or negotiate):	
	(a) by a solicitor	$60 per quarter hour
	(b) by a managing clerk or other equally suitably qualified person	$13 per quarter hour
1103	An attendance for which no other provision is made in this Schedule	$56
1104	An attendance by telephone that does not involve the exercise of skill or legal knowledge	$11
1105	An attendance on counsel in person with brief or papers (if not otherwise provided for in this Schedule)	$35
1106	An attendance on counsel in person to set a time, date and place for a conference or consultation	$35
1107	An attendance on counsel by telephone to set a time, date and place for a conference or consultation	$11
1108	A necessary conference or consultation with counsel	Either: (a) for a conference of up to half an hour—$93; or (b) for a conference of more than half an hour—$135 for each hour or part of an hour
1109	An attendance at the FWC, an FWC conference or chambers for hearing with counsel (where the FWC considers such attendance is necessary):	
	(a) for attendance by a solicitor	$221 for each hour or part of an hour of the attendance: (a) during the hearing; and (b) when likely to be heard, but not heard; up to a maximum of $1 005 per day
	(b) for attendance by a managing clerk or other equally suitably qualified person in place of a solicitor	$93 for each hour, up to a maximum of $409 per day
	(c) for attendance by any other clerk or person in place of a solicitor	$49 for each hour, up to a maximum of $218 per day

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Item	Matter for which charge may be made	Charge
1110	An attendance to hear judgment	$62
1111	An attendance on taxation of costs:	
	(a) if a solicitor attends	$135 for each hour or part of an hour
	(b) if a clerk attends	$34 for each hour or part of an hour
1112	An attendance by a solicitor at the FWC or chambers for the hearing of an application or appeal, or In conference with counsel, at a distance of more than 50 kilometres from his or her place of business, if it is neither appropriate nor proper for an agent to attend	The FWC may allow an amount that the FWC considers reasonable, not exceeding $ 309, for each day of absence from the place of business (except a Saturday, Sunday or public holiday

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Part 12—General care and conduct

Item	Matter for which charge may be made	Charge
1201	If the case or circumstances warrant it, an allowance may be claimed under this item in addition to any other item that appears in this Schedule, for general care and conduct in relation to the following: (a) the complexity of the matter and the difficulty and novelty of questions raised; (b) the importance of the matter to the party and the amount involved; (c) the skill, labour, specialised knowledge and responsibility involved in the matter on the part of the solicitor; (d) the number and importance of the documents prepared or perused, without regard to length; (e) the time taken by the solicitor; (f) research and consideration of questions of law and fact	The FWC may allow an amount the FWC considers reasonable in the circumstances of the case

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Part 13—Fees for Counsel for solicitor appearing as Counsel

Item	Matter for which charge may be made	Charge
1301	For counsel's fees incurred by a solicitor Note: The fees incurred may be claimed as a disbursement.	An amount that the FWC considers to be fair and reasonable according to the circumstances of the case and the seniority of counsel
1302	For solicitor's fees if a solicitor appears as counsel (or briefs another solicitor as counsel) when it would be appropriate to brief counsel	An amount that the FWC considers to be fair and reasonable according to the circumstances of the case and the seniority of the solicitor

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Part 14—Witnesses' expenses

Item	Matter for which charge may be made	Charge
1401	For the attendance of a witness who is called because of his or her professional, scientific or other special skill or knowledge	$161 to $801 per day
1402	For the attendance of a witness, other than a witness covered in item 1401:	
	(a) who is not remunerated in his or her occupation by wages, salary or fees	$93 to $149 per day
	(b) who is remunerated in his or her occupation by wages, salary or fees	The amount lost by attendance at the FWC
1403	For travel expenses for a witness who lives more than 50 kilometres from the FWC (in addition to a charge under item 1401 or 1402)	An amount that the FWC considers reasonable for the actual cost of travel, plus a reasonable amount for meals and accommodation

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Part 15—Disbursements

Item	Matter for which charge may be made	Charge
1501	Registry fee or other fee or payment	The amount of the fee or payment to the extent to which it has been properly and reasonably incurred and paid
1502	Travelling expenses, if a solicitor attends at the FWC or chambers, or on conference with counsel, in the circumstances mentioned in item 1109	An amount that the FWC considers reasonable for travelling expenses, to the extent to which they have been reasonably incurred and paid
1503	Postage and transmission expenses in relation to a matter mentioned in Part 8	The amount of the expenses to the extent that it has been properly and reasonably incurred and paid

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Schedule 3.2—Ballot papers

(regulation 3.16)

Form 1—Ballot paper under Part 3 of Chapter 3

(regulation 3.16)

Fair Work Act 2009, Chapter 3, Part 3.3, Division 8

BALLOT OF MEMBERS OF
(*Name of organisation*)

BALLOT PAPER IN RESPECT OF PROTECTED ACTION BALLOT

(Initials, or facsimile of initials, of the person conducting the ballot)

CLOSING DATE OF BALLOT: (*Date*)

The proposed protected industrial action to which this ballot applies is *[description]*.

DIRECTIONS TO VOTERS

1. Record your vote on the ballot paper as follows:
   - if you approve the proposed protected industrial action, mark the **YES** box opposite the question;
   - if you do not approve the proposed protected industrial action, mark the **NO** box opposite the question.
2. Do not place on this paper any mark or writing that may identify you.

QUESTION(S) FOR VOTERS

(Text of question or questions
as ordered by Fair Work Commission)

YES ☐

NO ☐

INFORMATION FOR VOTERS

1. The applicant(s) for the protected action ballot order is or are *[name(s)]*. [1]
1. The agent of the applicant(s) for the protected action ballot order is *[name]*. [1]

[1] *omit if inapplicable*

2. The employees who are to be balloted are *[description]*.

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3. The protected action ballot agent authorised to conduct the ballot is *[name]*.

YOUR VOTE IS SECRET, AND YOU ARE FREE
TO CHOOSE WHETHER OR NOT TO SUPPORT
THE PROPOSED INDUSTRIAL ACTION.

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Schedule 3.3—Forms relating to entry to premises

Note: See regulations 3.27, 3.28 and 3.29.

Form 2—Entry notice

(regulation 3.27)

Fair Work Regulations 2009, regulation 3.27

ENTRY NOTICE

I, [*full name*], of [*name of organisation*], and having been issued an entry permit under section 512 of the *Fair Work Act 2009*, give notice that I propose to enter [*name and address of premises*] on [*date of proposed entry*].

Delete each block of text below which is not appropriate

The suspected contravention, or contraventions, to which this notice relates are:

- [*particulars of the suspected contravention or contraventions*].

As the entry is authorised by section 481 of the *Fair Work Act 2009* (which deals with entry to investigate suspected contraventions), I declare that:

- [*name of organisation*], under [*provision in organisation's rules*], is entitled to represent the industrial interests of a member who performs work at the premises mentioned above; and
- the suspected contravention or contraventions relate to or affect that member.

The suspected contravention, or contraventions, to which this notice relates are:

- [*particulars of the suspected contravention or contraventions*].

As the entry is authorised by paragraph 483A(1)(a) of the *Fair Work Act 2009* (which deals with entry to investigate suspected contraventions relating to TCF outworkers), I declare that:

- [*name of organisation*], under [*provision in organisation's rules*], is entitled to represent the industrial interests of a TCF outworker who performs work at the premises mentioned above; and
- the suspected contravention or contraventions relate to or affect that TCF outworker.

As the entry is authorised by paragraph 483A(1)(b) of the *Fair Work Act 2009* (which deals with entry to investigate suspected contraventions of a designated outworker term), I declare that [*name of organisation*], under [*provision in organisation's rules*], is entitled to represent the industrial interests of TCF outworkers.

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The suspected contravention, or contraventions, to which this notice relates are:

- [*particulars of the suspected contravention or contraventions*].

As the entry is authorised by section 483D of the *Fair Work Act 2009* (which deals with entry to other premises to investigate suspected contraventions relating to TCF outworkers), I declare that:

- [*name of organisation*], under [*provision in organisation's rules*], is entitled to represent the industrial interests of a TCF outworker who performs work at the premises mentioned above; and
- the suspected contravention or contraventions relate to or affect that TCF outworker.

As the entry is authorised by section 484 of the *Fair Work Act 2009* (which deals with entry to hold discussions), I declare that [*name of organisation*], under [*provision in organisation's rules*], is entitled to represent the industrial interests of an employee or TCF outworker who performs work on the premises mentioned above.

Given at *[time]*

Dated 20

Signature of permit holder

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Do not delete this box

Obligations of permit holders, occupiers of premises and affected employers

A permit holder has various obligations under the *Fair Work Act 2009*. In general terms, these include (but are not limited to) the following:

- to produce the permit holder's entry permit for inspection on request and before requiring access to records and documents (see section 489);
- to comply with any reasonable request from the occupier of premises to comply with occupational health and safety requirements that apply to the premises (see section 491);
- not to intentionally hinder or obstruct any person, or act in an improper manner (see section 500);
- not to intentionally or recklessly misrepresent things the permit holder is authorised to do (see section 503).

An occupier of premises, an affected employer or other person has various obligations under the *Fair Work Act 2009*. In general terms, these include (but are not limited to) the following:

- not to refuse or unduly delay entry to a permit holder (see section 501);
- not to intentionally hinder or obstruct a permit holder (see section 502);
- not to intentionally or recklessly misrepresent things the occupier, employer or person is authorised to do (see section 503).

For further information about all the rights and obligations that apply in relation to entry rights, see Part 3-4 of the *Fair Work Act 2009* or contact the Fair Work Ombudsman (tel: 13 13 94).

Failure by a person to comply with an obligation under Part 3-4 of the *Fair Work Act 2009* may result in a court ordering the person to pay a pecuniary penalty (see section 546).

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Form 3—Exemption certificates

(regulation 3.28)

Fair Work Regulations 2009, regulation 3.28

EXEMPTION CERTIFICATE

This certificate is issued to [*name of organisation*].

Section 481 of the *Fair Work Act 2009* authorises entry to premises for the purpose of investigating contraventions, or suspected contraventions, of the *Fair Work Act 2009*, or a term of a fair work instrument. The organisation issued with this certificate is exempted from the obligation to comply with the notice requirements for entry to premises under section 487 of that Act.

For this certificate:

(a) The premises to which it relates are:

[*name and address of premises*]

(b) The day or days on which the entry may occur are:

[*day or days*]

(c) The suspected contravention or contraventions to which the entry relates are:

[*particulars of suspected contravention or contraventions*]

Dated 20

Delegate of the Fair Work Commission

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Do not delete this box

Obligations of permit holders, occupiers of premises and affected employers

A permit holder has various obligations under the *Fair Work Act 2009*. In general terms, these include (but are not limited to) the following:

- to produce the permit holder's entry permit for inspection on request and before requiring access to records and documents (see section 489);
- to comply with any reasonable request from the occupier of premises to comply with occupational health and safety requirements that apply to the premises (see section 491);
- not to intentionally hinder or obstruct any person, or act in an improper manner (see section 500);
- not to intentionally or recklessly misrepresent things the permit holder is authorised to do (see section 503).

An occupier of premises, an affected employer or other person has various obligations under the *Fair Work Act 2009*. In general terms, these include (but are not limited to) the following:

- not to refuse or unduly delay entry to a permit holder (see section 501);
- not to intentionally hinder or obstruct a permit holder (see section 502);
- not to intentionally or recklessly misrepresent things the occupier, employer or person is authorised to do (see section 503).

For further information about all the rights and obligations that apply in relation to entry rights, see Part 3-4 of the *Fair Work Act 2009* or contact the Fair Work Ombudsman (tel: 13 13 94).

Failure by a person to comply with an obligation under Part 3-4 of the *Fair Work Act 2009* may result in a court ordering the person to pay a pecuniary penalty (see section 546).

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Form 4—Affected member certificate

(regulation 3.29)

Fair Work Regulations 2009, regulation 3.29

AFFECTED MEMBER CERTIFICATE

This certificate is issued to [*name of organisation*].

Section 520 of the *Fair Work Act 2009* authorises the Fair Work Commission to issue an affected member certificate if a permit holder seeks to enter premises for the purpose of investigating contraventions, or suspected contraventions, of the *Fair Work Act 2009*, or a term of a fair work instrument.

For section 520 of the *Fair Work Act 2009*, the Fair Work Commission is satisfied that:

- a member of the organisation performs work on the premises below; and
- the organisation is entitled to represent the industrial interests of the member; and
- a suspected contravention of the *Fair Work Act 2009*, or a term of a fair work instrument, relates to, or affects, that member.

For this certificate:

(a) The premises to which it relates are:

[*name and address of premises*]

(b) The suspected contravention or contraventions to which it relates are:

[*particulars of suspected contravention or contraventions*]

Dated 20

Delegate of the Fair Work Commission

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Schedule 3.4—Forms for certain dismissals

(regulation 3.30)

Form 1—Notice to Centrelink of proposed dismissals

(regulation 3.30)

Fair Work Act 2009, section 530

NOTICE TO CENTRELINK OF PROPOSED DISMISSALS

TO: CENTRELINK

I, [*full name of employer or person completing notice on behalf of employer*], the [*position held*] of [*name of employer of person completing notice*], give notice, under subsection 530(1) of the *Fair Work Act 2009*, that [*name of employer*] proposes to dismiss the employment of 15 or more of its employees, for the following reasons:

> [*Set out reasons for proposed dismissals. Reasons may be of an economic, technological, structural or similar nature, or for reasons including such reasons*]

The number and categories of employees likely to be affected by the proposal are:

> [*Set out the categories and number per category*]

It is intended that [*name of employer*] will carry out the proposed dismissals at the following time/s, or over the following period/s of time:

[*Provide specific dates if known, or approximate period of time*]

Dated 20

_____

Signature

_____

Position

[*] *Omit section reference as appropriate*

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Schedule 4.1—Form of claim for unclaimed money

(regulation 4.11)

Fair Work Regulations 2009, regulation 4.11

CLAIM FOR UNCLAIMED MONEY

Claimant's Details

Claimant's name	
Residential address	
	Postcode
Postal address (if different from above):	
	Postcode
Daytime phone no. ( ) Mobile no. (if any):	
Email address (if any):	

Details of the Claim

Please provide the following details regarding your former employment and the amount the employer was required to pay to you.

Name of former employer
Address of former employer
Date of commencing former employment
Date of leaving former employment
Amount claimed

Please attach evidence showing that you were employed by the former employer (for example, a pay slip).

Please provide any further information about the circumstances of your claim that you would like to be considered.

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Payment Details

Please indicate how you would like to be paid the unclaimed money (mark the appropriate box).

☐ direct debit to a particular account; or

☐ a cheque posted to the residential or postal address you provided in this form

If you have selected direct debit, please provide the following:

Account name (eg. Jan and John Citizen)									
Name of financial institution			Branch:						
BSB number						–			
Account number									

Declaration/Authority

I declare that

- the information provided in this claim form is true and correct to the best of my knowledge.
- I understand that making a false declaration is an offence.

I authorise and direct the Fair Work Ombudsman to pay the money claimed, and any additional money the Fair Work Ombudsman may identify as belonging to me, in the way I have directed in this form (by direct deposit or cheque).

Claimant's name:	
Claimant's signature:	Date / /

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Schedule 5.1—Oath and affirmation of office

(subregulation 5.03(1))

Oath I, [*name*], do swear that I will bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the office of [*name of office*] and that I will faithfully and impartially perform the duties of the office. So help me God!

I, [*name*], do solemnly and sincerely promise and declare that I will bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the office of [*name of office*] and that I will faithfully and impartially perform the duties of the office.

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Schedule 5.2—Information and copies of documents to be provided to the Minister and the Fair Work Ombudsman

(regulation 5.04)

Part 1—Information and copies of documents to be provided to the Minister

Item	This information or copy of a document …	is to be provided to the Minister …
1	***Awards***	
1.1	The number of: (a) determinations varying modern awards; and (b) modern awards; and (c) determinations revoking modern awards; made in a quarter under section 157 of the Act	as soon as practicable after the end of the quarter
1.2	The number of applications made in a quarter under section 158 of the Act for: (a) the making of a determination varying or revoking a modern award under section 157 of the Act; or (b) the making of a modern award, under section 157 of the Act	as soon as practicable after the end of the quarter
1.3	The number of determinations made in a quarter under section 161 of the Act varying modern awards	as soon as practicable after the end of the quarter
1A	***Modern awards***	
1A.1	The number of determinations varying modern awards made in a quarter under item 5 of Schedule 5 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1A.2	The number of determinations varying modern awards made in a quarter under item 7 of Schedule 5 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1A.3	The number of applications for take-home pay orders made in a quarter under item 9 of Schedule 5 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1A.4	The number of take-home pay orders made in a quarter under item 9 of Schedule 5 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Minister …
1B	***Modern enterprise awards***	
1B.1	The number of applications for modern enterprise awards made in a quarter under item 4 of Schedule 6 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1B.2	The number of modern enterprise awards made in a quarter under item 4 of Schedule 6 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1B.3	The number of applications for the FWC to terminate enterprise instruments made in a quarter under item 5 of Schedule 6 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1B.4	The number of terminations of enterprise instruments made in a quarter under item 5 of Schedule 6 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1B.5	The number of variations of instruments made in a quarter under item 9 of Schedule 6 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1B.6	The number of terminations of instruments made in a quarter under item 9 of Schedule 6 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1B.7	The number of applications for take-home pay orders made in a quarter under item 12 of Schedule 6 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
1B.8	The number of take-home pay orders made in a quarter under item 12 of Schedule 6 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
2	***Enterprise agreements***	
2.1	The number of applications for the approval of enterprise agreements made in a quarter under section 185 of the Act	as soon as practicable after the end of the quarter
2.2	The number of applications for variations of an enterprise agreement made in a quarter under section 210 of the Act	as soon as practicable after the end of the quarter
2.2A	The number of applications for variations of an enterprise agreement made in a quarter under section 216CA of the Act	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Minister …
2.2B	The number of applications for variations of an enterprise agreement made in a quarter under section 216EA of the Act	as soon as practicable after the end of the quarter
2.3	The number of applications for variations of an enterprise agreement made in a quarter under section 217 of the Act	as soon as practicable after the end of the quarter
2.3A	The number of applications for reconsiderations of an enterprise agreement made in a quarter under section 227A of the Act	as soon as practicable after the end of the quarter
2.4	The number of enterprise agreements approved in a quarter under section 186 of the Act	as soon as practicable after the end of the quarter
2.4A	The number of enterprise agreements approved in a quarter under section 186 of the Act with amendments specified under section 191A of the Act	as soon as practicable after the end of the quarter
2.5	The number of enterprise agreements approved in a quarter under section 189 of the Act	as soon as practicable after the end of the quarter
2.5A	The number of single-enterprise agreements approved in a quarter under section 186 of the Act in respect of which an employer gave a notice under subsection 173(1) of the Act	as soon as practicable after the end of the quarter
2.6	The number of variations of enterprise agreements approved in a quarter under section 211 of the Act	as soon as practicable after the end of the quarter
2.7	The number of variations of enterprise agreements approved in a quarter under section 217 of the Act	as soon as practicable after the end of the quarter
2.8	The number of variations of enterprise agreements made in a quarter under section 218A of the Act	as soon as practicable after the end of the quarter
2.9	The number of enterprise agreements terminated in a quarter under section 226 of the Act	as soon as practicable after the end of the quarter
2.10	The number of guarantees given in a quarter under section 226A of the Act in relation to the termination of an enterprise agreement	as soon as practicable after the end of the quarter
2.11	The number of enterprise agreements amended, or in respect of which undertakings were accepted, in a quarter under section 227B of the Act	as soon as practicable after the end of the quarter
3	***Bargaining orders***	
3.1	The number of applications for bargaining orders made in a quarter under section 229 of the Act	as soon as practicable after the end of the quarter
3.2	The number of applications for intractable bargaining declarations made in a quarter under section 234 of the Act	as soon as practicable after the end of the quarter
3.3	The number of applications for majority support determinations made in a quarter under section 236 of the Act	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Minister …
3.4	The number of applications for scope orders made in a quarter under section 238 of the Act	as soon as practicable after the end of the quarter
3.5	The number of applications for the FWC to deal with disputes made in a quarter under section 240 of the Act	as soon as practicable after the end of the quarter
3.6	The number of bargaining orders made in a quarter under section 230 of the Act	as soon as practicable after the end of the quarter
3.7	The number of intractable bargaining declarations made in a quarter under section 235 of the Act	as soon as practicable after the end of the quarter
3.8	The number of majority support determinations made in a quarter under section 237 of the Act	as soon as practicable after the end of the quarter
3.9	The number of scope orders made in a quarter under section 238 of the Act	as soon as practicable after the end of the quarter
3.10	The number of decisions to deal with a dispute made in a quarter under section 240 of the Act	as soon as practicable after the end of the quarter
4	***Supported bargaining***	
4.1AA	The number of applications for variations of a supported bargaining agreement made in a quarter under section 216AA of the Act	as soon as practicable after the end of the quarter
4.1AB	The number of applications for variations of a supported bargaining agreement made in a quarter under section 216B of the Act	as soon as practicable after the end of the quarter
4.1	The number of applications made for supported bargaining authorisations in a quarter under section 242 of the Act	as soon as practicable after the end of the quarter
4.1A	The number of applications for variations of a supported bargaining authorisation made in a quarter under section 244 of the Act	as soon as practicable after the end of the quarter
4.2	The number of supported bargaining authorisations made in a quarter under section 243 of the Act	as soon as practicable after the end of the quarter
4.3	The number of supported bargaining authorisations varied in a quarter under section 244 of the Act	as soon as practicable after the end of the quarter
5	***Single interest employer bargaining***	
5.1	The number of applications for single interest employer authorisations made in a quarter under section 248 of the Act	as soon as practicable after the end of the quarter
5.1A	The number of applications for variations of single interest employer agreements made in a quarter under section 216DA of the Act	as soon as practicable after the end of the quarter
5.1B	The number of applications for variations of single interest employer agreements made in a quarter under section 216DB of the Act	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Minister …
5.2	The number of applications for variations of single interest employer authorisations to remove the employer's name from the authorisation made in a quarter under section 251 of the Act	as soon as practicable after the end of the quarter
5.2A	The number of applications for variations of single interest employer authorisations to add an employer's name to the authorisation made in a quarter under section 251 of the Act	as soon as practicable after the end of the quarter
5.3	The number of applications for variations of single interest employer authorisations to extend the period for which the authorisation is in operation made in a quarter under section 252 of the Act	as soon as practicable after the end of the quarter
5.4	The number of single interest employer authorisations made in a quarter under section 249 of the Act	as soon as practicable after the end of the quarter
5.5	The number of single interest employer authorisations varied to remove the employer's name from the authorisation in a quarter under section 251 of the Act	as soon as practicable after the end of the quarter
5.5A	The number of single interest employer authorisations varied to add an employer's name to the authorisation in a quarter under section 251 of the Act	as soon as practicable after the end of the quarter
5.6	The number of single interest employer authorisations varied to extend the period for which the authorisation is in operation in a quarter under section 252 of the Act	as soon as practicable after the end of the quarter
6	***Workplace determinations***	
6.5	The number of industrial action related workplace determinations made in a quarter under section 266 of the Act	as soon as practicable after the end of the quarter
6.6	The number of intractable bargaining workplace determinations made in a quarter under section 269 of the Act	as soon as practicable after the end of the quarter
7	***Equal remuneration orders***	
7.1	The number of equal remuneration orders made in a quarter under section 302 of the Act	as soon as practicable after the end of the quarter
8	***Transfer of business***	
8.1	The number of applications for orders relating to instruments covering a new employer and transferring employees made in a quarter under section 318 of the Act	as soon as practicable after the end of the quarter
8.2	The number of applications for orders relating to instruments covering a new employer and non-transferring employees made in a quarter under section 319 of the Act	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Minister …
8.3	The number of applications for variations of a transferable instrument made in a quarter under section 320 of the Act	as soon as practicable after the end of the quarter
8.4	The number of orders made in a quarter under section 318 of the Act relating to instruments covering a new employer and transferring employees	as soon as practicable after the end of the quarter
8.5	The number of orders made in a quarter under section 319 of the Act relating to instruments covering a new employer and non-transferring employees	as soon as practicable after the end of the quarter
8.6	The number of variations of transferable instruments made in a quarter under section 320 of the Act	as soon as practicable after the end of the quarter
9	***General protections—compliance***	
9.1	The number of applications for the FWC to deal with disputes made in a quarter under section 365 of the Act	as soon as practicable after the end of the quarter
9.2	The number of applications for the FWC to deal with disputes made in a quarter under section 372 of the Act	as soon as practicable after the end of the quarter
9.3	The number of certificates issued in a quarter under section 369 of the Act to the effect that the FWC is satisfied that all reasonable attempts to resolve a dispute have been, or are likely to be, unsuccessful	as soon as practicable after the end of the quarter
10	***Unfair dismissal***	
10.1	The number of applications for orders granting a remedy made in a quarter under section 394 of the Act	as soon as practicable after the end of the quarter
10.2	For applications for an order granting a remedy dealt with in a quarter under section 394 of the Act: (a) the number of applications in relation to which the dismissal was found to be unfair, including: (i) the number of orders made in the quarter under section 391 of the Act for a person's reinstatement; and (ii) the number of orders made in the quarter under section 392 of the Act for the payment of compensation to a person; and (b) the number of applications that related to a small business employer; and (c) the number of applications dismissed because dismissal was found to be fair; and (ca) the number of applications dismissed in a quarter under section 399A of the Act; and (d) the number of claims dismissed because the dismissal was consistent with the Small Business Fair Dismissal Code; and (e) the number of claims dismissed because the	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Minister …
	dismissal was a case of genuine redundancy; and (f) the number of cases dismissed for want of jurisdiction; and (g) the number of cases settled without a decision being made; and (h) the time from the date of the application to the date of judgement; and (i) the number of cases settled by the conduct of 1 or more conferences; and (j) the number of cases settled by hearing	
10.3	The number of applications for the FWC to deal with disputes for which the FWC had allowed a further period for the application to be made that were made in a quarter under section 394 of the Act	as soon as practicable after the end of the quarter
10.4	The number of orders for costs against a lawyer or a paid agent made in a quarter under section 401 of the Act	as soon as practicable after the end of the quarter
10.5	The number of costs orders made against a party to a matter in a quarter under section 400A of the Act	as soon as practicable after the end of the quarter
11	***Protected action ballots and industrial action***	
11.1	The number of applications to vary protected ballot orders made in a quarter under section 447 of the Act	as soon as practicable after the end of the quarter
11.2	The number of applications to revoke protected ballot orders made in a quarter under section 448 of the Act	as soon as practicable after the end of the quarter
11.3	The number of applications to extend periods in which industrial action is authorised made in a quarter under section 459 of the Act	as soon as practicable after the end of the quarter
11.4	The number of applications for orders varying the proportion by which an employee's payments are reduced made in a quarter under section 472 of the Act	as soon as practicable after the end of the quarter
11.5	The number of orders made in a quarter under section 447 of the Act to vary a protected ballot order	as soon as practicable after the end of the quarter
11.7	The number of extensions made in a quarter under section 459 of the Act to extend a period in which industrial action is authorised	as soon as practicable after the end of the quarter
11.8	The number of orders made in a quarter under section 472 of the Act varying the proportion by which an employee's payments are reduced	as soon as practicable after the end of the quarter
12	***Right of entry***	
12.1	The number of applications for orders relating to access to non-member records made in a quarter under section 483AA of the Act	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Minister …
12.2	The number of applications for orders relating to a dispute about the operation of Part 3-4 of the Act made in a quarter under section 505 of the Act	as soon as practicable after the end of the quarter
12.3	The number of orders relating to access to non-member records made in a quarter under section 483AA of the Act	as soon as practicable after the end of the quarter
12.4	The number of orders relating to a dispute about the operation of Part 3-4 of the Act made in a quarter under section 505 of the Act	as soon as practicable after the end of the quarter
12.5	The number of actions restricting the rights that are exercisable under Part 3-4 of the Act by an organisation, or officials of an organisation taken in a quarter under section 508 of the Act	as soon as practicable after the end of the quarter
12.6	The number of entry permits revoked in a quarter under section 510 of the Act	as soon as practicable after the end of the quarter
12.7	The number of entry permits suspended in a quarter under section 510 of the Act	as soon as practicable after the end of the quarter
12.8	The number of applications for entry permits made in a quarter under section 512 of the Act	as soon as practicable after the end of the quarter
12.9	The number of applications for exemption certificates made in a quarter under section 519 of the Act	as soon as practicable after the end of the quarter
12.10	The number of applications for affected member certificates made in a quarter under section 520 of the Act	as soon as practicable after the end of the quarter
12.11	The number of entry permits issued in a quarter under section 512 of the Act	as soon as practicable after the end of the quarter
12.12	The number of exemption certificates issued in a quarter under section 519 of the Act	as soon as practicable after the end of the quarter
12.13	The number of affected member certificates issued in a quarter under section 520 of the Act	as soon as practicable after the end of the quarter
13	***Miscellaneous—disputes***	
13.1	The number of applications for the FWC to deal with disputes in relation to a refusal by an employer to a request by an employee for flexible working arrangements made in a quarter under section 739 of the Act	as soon as practicable after the end of the quarter
13.2	The number of applications for the FWC to deal with disputes made in a quarter under section 773 of the Act	as soon as practicable after the end of the quarter
13.3	The number of certificates issued in a quarter under section 777 of the Act to the effect that the FWC is satisfied that all reasonable attempts to resolve a dispute have been, or are likely to be, unsuccessful	as soon as practicable after the end of the quarter

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Schedule 5.2 Information and copies of documents to be provided to the Minister and the Fair Work Ombudsman

Part 1 Information and copies of documents to be provided to the Minister

Item	This information or copy of a document …	is to be provided to the Minister …
13A	***Registered organisations***	
13A.1	The number of applications for registration made in a quarter under section 18A, 18B or 18C of Schedule 1 to the *Fair Work (Registered Organisations) Act 2009* by: (a) an employer association; or (b) an employee association; or (c) an enterprise association	as soon as practicable after the end of the quarter
13A.2	The number of applications for orders made in a quarter under section 133 of Schedule 1 to the *Fair Work (Registered Organisations) Act 2009*	as soon as practicable after the end of the quarter
13A.3	The number of orders made in a quarter under section 133 of Schedule 1 to the *Fair Work (Registered Organisations) Act 2009*	as soon as practicable after the end of the quarter
13A.4	The number of applications for representation orders made in a quarter under section 137A of Schedule 1 to the *Fair Work (Registered Organisations) Act 2009*	as soon as practicable after the end of the quarter
13A.5	The number of representation orders made in a quarter under section 137A of Schedule 1 to the *Fair Work (Registered Organisations) Act 2009*	as soon as practicable after the end of the quarter
13A.6	The number of: (a) applications for recognition made in a quarter under clause 1 of Schedule 2 to the *Fair Work (Registered Organisations) Act 2009*; and (b) applications for orders cancelling recognition made in a quarter under clause 3 of that Schedule	as soon as practicable after the end of the quarter
13A.7	The number of applications for recognition granted in a quarter under clause 1 of Schedule 2 to the *Fair Work (Registered Organisations) Act 2009*	as soon as practicable after the end of the quarter
13A.8	The number of orders cancelling recognition made in a quarter under clause 3 of Schedule 2 to the *Fair Work (Registered Organisations) Act 2009*	as soon as practicable after the end of the quarter
13B	***Transitional instruments***	
13B.1	The number of applications for conditional terminations made in a quarter under item 18 of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter
13B.2	The number of conditional terminations made in a quarter under item 18 of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Minister …
14	***Industrial action***	
14.1	A list of the applications filed in a week under sections 418, 419 and 420 of the Act for orders relating to stopping industrial action, including: (a) a statement that the matter has commenced; and (b) the case numbers of the applications; and	as soon as practicable after the end of the week
14.2	A list of all applications filed in a week under sections 423, 424, 425 and 426 of the Act for orders suspending or terminating protected industrial action	as soon as practicable after the end of the week
14.3	A list of all applications filed in a week under Division 8 of Part 3-3 of the Act relating to protected action ballots	as soon as practicable after the end of the week
14.4	For each application in a list mentioned in item 14.1, 14.2 or 14.3: (a) a statement that the matter has commenced; and (b) the case numbers of the applications; and (c) the type of matter, identified by reference to the relevant section of the Act; and (d) the names of the parties, identifying which of the parties is the applicant and the respondent; and (e) whether the party is an individual or an organisation; and (f) for a party that is an organisation—whether the party is an employee or employer organisation; and (g) a copy of any order made in relation to the matter	as soon as practicable after the end of the week
14A	***Transitional instruments***	
14A.1	A list of determinations made in a week under item 14 of Schedule 9 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, including: (a) the names of the applicants; and (b) the names of the relevant modern awards	as soon as practicable after the end of the week
14A.2	The number of determinations made in a week under item 14 of Schedule 9 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*	as soon as practicable after the end of the week
15	***Enterprise agreements***	
15.1	For an enterprise agreement that has been approved under section 186, 211 or 217 of the Act: (a) a copy of the enterprise agreement and any variation of the enterprise agreement; and (b) the title of the enterprise agreement; and (c) the number assigned to the enterprise agreement by the FWC; and	as soon as practicable, but not later than 21 days after the day on which the relevant decision or order was made

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Item	This information or copy of a document …	is to be provided to the Minister …
	(d) the date on which the enterprise agreement was approved or varied; and (e) the name of each employer; and (f) the Australian Business Number (if any) of each employer; and (g) a brief description of the work undertaken at each workplace to which the enterprise agreement applies; and (h) the name of each employee organisation which the enterprise agreement covers; and (i) each State or Territory in relation to which the enterprise agreement applies; and (j) the name of each award that covers an employee who is, or will be, covered by the enterprise agreement; and (k) if the enterprise agreement replaces another agreement: (i) the title of the replaced agreement; and (ii) the number of the replaced agreement, as assigned by the FWC or the Workplace Authority; and (l) whether the enterprise agreement is: (i) a single-enterprise agreement; or (ii) a multi-enterprise agreement; or (iii) a greenfields agreement that is a single enterprise agreement; or (iv) a greenfields agreement that is a multi-enterprise agreement ; and (m) the number of employees: (i) employed by each employer; and (ii) covered by the enterprise agreement; and (n) whether the agreement was approved under subsection 189(2) of the Act; and (o) whether the enterprise agreement was made as a result of a supported bargaining authorisation; and (p) whether the enterprise agreement was made as a result of a single-interest employer authorisation	
15.2	For an order made under section 223 or 226 of the Act approving the termination of an enterprise agreement or terminating the enterprise agreement: (a) a copy of the approval or termination; and (b) if the agreement previously had a different number assigned by the FWC—each previous number; and (c) the date on which the termination took effect or will take effect	as soon as practicable, but not later than 21 days after the day on which the order was made

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Item	This information or copy of a document …	is to be provided to the Minister …
16	***Transitional instruments***	
16.1	For a pre-reform agreement that has been varied under Part 3 of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, a copy of the varied agreement and the order varying the agreement	as soon as practicable, but not later than 21 days after the day on which the order was made
16.2	For each transitional instrument that has been terminated under item 15 or 16 of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*: (a) a copy of the approval or termination; and (b) the date on which the termination took effect or will take effect	as soon as practicable, but not later than 21 days after the day on which the transitional instrument was terminated

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Part 2—Information and copies of documents to be provided to the Fair Work Ombudsman

Item	This information or copy of a document …	is to be provided to the Fair Work Ombudsman …
1	***General protections—compliance***	
1.1	The number of applications for the FWC to deal with disputes made in a quarter under section 365 of the Act	as soon as practicable after the end of the quarter
1.2	The number of applications for the FWC to deal with disputes made in a quarter under section 372 of the Act	as soon as practicable after the end of the quarter
2	***Unfair dismissal***	
2.1	The number of applications for orders granting a remedy made in a quarter under section 394 of the Act	as soon as practicable after the end of the quarter
2.2	For applications for an order granting a remedy dealt with in a quarter under section 394 of the Act: (a) the number of applications in relation to which the dismissal was found to be unfair, including: (i) the number of orders made in the quarter under section 391 of the Act for a person's reinstatement; and (ii) the number of orders made in the quarter under section 392 of the Act for the payment of compensation to a person; and (b) the number of applications that related to a small business employer; and (c) the number of applications dismissed because dismissal was found to be fair; and (ca) the number of applications dismissed in a quarter under section 399A of the Act; and (d) the number of claims dismissed because the dismissal was consistent with the Small Business Fair Dismissal Code; and (e) the number of claims dismissed because the dismissal was a case of genuine redundancy; and (f) the number of cases dismissed for want of jurisdiction; and (g) the number of cases settled without a decision being made; and (h) the time from the date of the application to the date of judgement; and	as soon as practicable after the end of the quarter

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Item	This information or copy of a document …	is to be provided to the Fair Work Ombudsman …
	(i) the number of cases settled by the conduct of 1 or more conferences; and (j) the number of cases settled by hearing	
3	***Industrial action***	
3.1	The number of applications to vary protected ballot orders made in a quarter under section 447 of the Act	as soon as practicable after the end of the quarter
3.2	The number of applications to revoke protected ballot orders made in a quarter under section 448 of the Act	as soon as practicable after the end of the quarter
3.3	The number of applications to extend periods in which industrial action is authorised made in a quarter under section 459 of the Act	as soon as practicable after the end of the quarter
3.4	The number of applications for orders varying the proportion by which an employee's payments are reduced made in a quarter under section 472 of the Act	as soon as practicable after the end of the quarter
3.5	The number of orders made in a quarter under section 447 of the Act to vary a protected ballot order	as soon as practicable after the end of the quarter
3.6	The number of orders made in a quarter under section 447 of the Act to revoke a protected ballot order	as soon as practicable after the end of the quarter
3.7	The number of extensions made in a quarter under section 459 of the Act to extend a period in which industrial action is authorised	as soon as practicable after the end of the quarter
3.8	The number of orders made in a quarter under section 459 of the Act relating to a dispute about the operation of Part 3-4 of the Act, including the number of orders in relation to which the FWC dealt with the dispute on its own initiative	as soon as practicable after the end of the quarter
3.9	A list of the applications filed in a week under sections 418, 419 and 420 of the Act for orders relating to stopping industrial action, including: (a) a statement that the matter has commenced; and (b) the case numbers of the applications; and	as soon as practicable after the end of the week
3.10	A list of all applications filed in a week under sections 423, 424, 425 and 426 of the Act for orders suspending or terminating protected industrial action	as soon as practicable after the end of the week
3.11	A list of all applications filed in a week under Division 8 of Part 3-3 of the Act relating to protected action ballots	as soon as practicable after the end of the week

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Item	This information or copy of a document …	is to be provided to the Fair Work Ombudsman …
3.12	For each application in a list mentioned in item 3.9, 3.10 or 3.11: (a) a statement that the matter has commenced; and (b) the case numbers of the applications; and (c) the type of matter, identified by reference to the relevant section of the Act; and (d) the names of the parties, identifying which of the parties is the applicant and the respondent; and (e) whether the party is an individual or an organisation; and (f) for a party that is an organisation—whether the party is an employee or employer organisation	as soon as practicable after the end of the week
3.13	A copy of a written report about a protected action ballot made under section 458 of the Act	within 24 hours after the report is written
3.14	A copy of any order made in relation to a matter mentioned in item 3.9, 3.10 or 3.11	either: (a) within 24 hours after the order is made; or (b) if the order has not been written within that period—as soon as practicable

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Schedule 5.3—Forms for FWO Notices

Note: See regulation 5.08.

Form 1—FWO notice to give information

COMMONWEALTH OF AUSTRALIA

Fair Work Act 2009

NOTICE ISSUED TO [*name*]

FWO NOTICE TO GIVE INFORMATION

I, [*name*], a nominated AAT presidential member, acting under subsection 712AB(1) of the *Fair Work Act 2009*, require you to give the information specified in Part 1 of the Schedule to this notice.

The information is relevant to an investigation by an inspector into a suspected contravention of a provision of the *Fair Work Act 2009*, a fair work instrument or a safety net contractual entitlement that relates, directly or indirectly, to:

- the underpayment of wages, or other monetary entitlements, of employees; or
- the unreasonable deduction of amounts from amounts owed to employees; or
- the placing of unreasonable requirements on employees to spend or pay amounts paid, or payable, to employees; or
- the unfair dismissal of an employee; or
- the bullying of a worker at work; or
- the unlawful discrimination of a person in relation to employment; or
- a contravention of a provision of the National Employment Standards; or
- the coercion of an employee by an employer.

Note: The details relating to the investigation are specified in Parts 2 to 5 of the Schedule to this notice.

The information is to be given to [*the Fair Work Ombudsman*] [*OR* [*name*] *who is a member of the staff of the Office of the Fair Work Ombudsman*], by [*time and date*], in the manner and form specified in Part 6 of the Schedule to this notice.

Note: You are not excused from giving information under this notice on the ground that to do so might tend to incriminate you or otherwise expose you to a penalty or other liability. However, there are restrictions on when any information given under this notice may be admissible in evidence against you. See section 713 of the *Fair Work Act 2009*.

WARNING—Under subsection 712B(1) of the *Fair Work Act 2009* you may be liable to a civil remedy if you have been given this notice and fail to give the information by the time, and in the manner and form, specified in this notice (or by such later time as provided for under subsection 712AD(3) or (4) of the *Fair Work Act 2009*), except to the extent that you are not capable of complying with the requirement.

Note: Under subsections 712AD(3) and (4) of the *Fair Work Act 2009* the Fair Work Ombudsman may vary the time for compliance with this notice. The varied time must be at least 14 days after this notice is given.

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PENALTY: 600 penalty units.

Note: Section 712D of the *Fair Work Act 2009* provides that a person who, in good faith, gives information when required to do so under an FWO notice is not liable to:

(a) any proceedings for contravening any other law because of that conduct; or

(b) civil proceedings for loss, damage or injury of any kind suffered by another person because of that conduct.

Dated 20 .

…….
Signature

SCHEDULE

Part 1

[*information to be given*]

Part 2

[*address (if any) to which the suspected contravention relates*]

Part 3

[*name (if known) of the employer or other person suspected of the contravention*]

Part 4

[*suspected contravention of the Fair Work Act 2009, fair work instrument or safety net contractual entitlement, and which matter or matters referred to in subparagraphs 712AA(1)(a)(i) to (viii) of the Fair Work Act 2009 the suspected contravention relates to*]

Part 5

[*period during which the suspected contravention took place*]

Part 6

[*manner and form in which information must be given*]

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Form 2—FWO notice to produce documents

COMMONWEALTH OF AUSTRALIA

Fair Work Act 2009

NOTICE ISSUED TO [*name*]

FWO NOTICE TO PRODUCE DOCUMENTS

I, [*name*], a nominated AAT presidential member, acting under subsection 712AB(1) of the *Fair Work Act 2009*, require you to produce the documents specified in Part 1 of the Schedule to this notice.

The documents are relevant to an investigation by an inspector into a suspected contravention of a provision of the *Fair Work Act 2009*, a fair work instrument or a safety net contractual entitlement that relates, directly or indirectly, to:

- the underpayment of wages, or other monetary entitlements, of employees; or
- the unreasonable deduction of amounts from amounts owed to employees; or
- the placing of unreasonable requirements on employees to spend or pay amounts paid, or payable, to employees; or
- the unfair dismissal of an employee; or
- the bullying of a worker at work; or
- the unlawful discrimination of a person in relation to employment; or
- a contravention of a provision of the National Employment Standards; or
- the coercion of an employee by an employer.

Note: The details relating to the investigation are specified in Parts 2 to 5 of the Schedule to this notice.

The documents are to be produced to [*the Fair Work Ombudsman*] [*OR* [*name*] *who is a member of the staff of the Office of the Fair Work Ombudsman*], by [*time and date*], in the manner specified in Part 6 of the Schedule to this notice.

Note: You are not excused from producing a document under this notice on the ground that to do so might tend to incriminate you or otherwise expose you to a penalty or other liability. However:

(a) there are restrictions on when any document produced under this notice may be admissible in evidence against you (see section 713 of the *Fair Work Act 2009*); and

(b) you are not required to produce a document that would disclose information that is the subject of legal professional privilege (see section 713AA of the *Fair Work Act 2009*).

WARNING—Under subsection 712B(1) of the *Fair Work Act 2009* you may be liable to a civil remedy if you have been given this notice and fail to produce the documents by the time, and in the manner, specified in this notice (or by such later time as provided for under subsection 712AD(3) or (4) of the *Fair Work Act 2009*), except to the extent that you are not capable of complying with the requirement.

Note: Under subsections 712AD(3) and (4) of the *Fair Work Act 2009* the Fair Work Ombudsman may vary the time for compliance with this notice. The varied time must be at least 14 days after this notice is given.

PENALTY: 600 penalty units.

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Note: Section 712D of the *Fair Work Act 2009* provides that a person who, in good faith, produces a document when required to do so under an FWO notice is not liable to:

(a) any proceedings for contravening any other law because of that conduct; or

(b) civil proceedings for loss, damage or injury of any kind suffered by another person because of that conduct.

Dated 20 .

…….……
Signature

SCHEDULE

Part 1

[*documents/kinds of documents to be produced*]

Part 2

[*address (if any) to which the suspected contravention relates*]

Part 3

[*name (if known) of the employer or other person suspected of the contravention*]

Part 4

[*suspected contravention of the Fair Work Act 2009, fair work instrument or safety net contractual entitlement, and which matter or matters referred to in subparagraphs 712AA(1)(a)(i) to (viii) of the Fair Work Act 2009 the suspected contravention relates to*]

Part 5

[*period during which the suspected contravention took place*]

Part 6

[*manner in which documents must be produced*]

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Form 3—FWO notice to attend and answer questions

COMMONWEALTH OF AUSTRALIA

Fair Work Act 2009

NOTICE ISSUED TO [*name*]

FWO NOTICE TO ATTEND AND ANSWER QUESTIONS

I, [*name*], a nominated AAT presidential member, acting under subsection 712AB(1) of the *Fair Work Act 2009*, require you to attend before [*the Fair Work Ombudsman*] [*OR* [*name*] *who is an SES or acting SES member of the staff of the Office of the Fair Work Ombudsman*] at:

[*time*] on [*date*] at [*place*]

to answer questions that are relevant to an investigation by an inspector into a suspected contravention of a provision of the *Fair Work Act 2009*, a fair work instrument or a safety net contractual entitlement that relates, directly or indirectly, to:

- the underpayment of wages, or other monetary entitlements, of employees; or
- the unreasonable deduction of amounts from amounts owed to employees; or
- the placing of unreasonable requirements on employees to spend or pay amounts paid, or payable, to employees; or
- the unfair dismissal of an employee; or
- the bullying of a worker at work; or
- the unlawful discrimination of a person in relation to employment; or
- a contravention of a provision of the National Employment Standards; or
- the coercion of an employee by an employer.

Note 1: The details relating to the investigation are specified in Parts 1 to 4 of the Schedule to this notice.

Note 2: For your right to be represented by a lawyer, see subsection 712AE(1) of the *Fair Work Act 2009.*

Note 3: You are not excused from answering a question under this notice on the ground that to do so might tend to incriminate you or otherwise expose you to a penalty or other liability. However, there are restrictions on when any answers given under this notice may be admissible in evidence against you. See section 713 of the *Fair Work Act 2009*.

WARNING—Under subsection 712B(1) of the *Fair Work Act 2009* you may be liable to a civil remedy if you have been given this notice and fail:

- to attend to answer questions at the time and place specified in this notice or at such later time as provided for under subsection 712AD(3) or (4) of the *Fair Work Act 2009*; or
- to take an oath or make an affirmation, if required to do so under subsection 712AE(2) of the *Fair Work Act 2009*; or
- to answer questions relevant to the investigation while attending as required by this notice;

except to the extent that you are not capable of complying with the requirement.

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Note: Under subsections 712AD(3) and (4) of the *Fair Work Act 2009* the Fair Work Ombudsman may vary the time for compliance with this notice. The varied time must be at least 14 days after this notice is given.

PENALTY: 600 penalty units.

Note 1: Section 712D of the *Fair Work Act 2009* provides that a person who, in good faith, answers a question when required to do so under an FWO notice is not liable to:

(a) any proceedings for contravening any other law because of that conduct; or

(b) civil proceedings for loss, damage or injury of any kind suffered by another person because of that conduct.

Note 2: If you attend as required by this notice, you may be entitled to be paid fees and allowances in accordance with the *Fair Work Regulations 2009* (see section 712C of the *Fair Work Act 2009*).

Dated 20 .

……
Signature

SCHEDULE

Part 1

[*address (if any) to which the suspected contravention relates*]

Part 2

[*name (if known) of the employer or other person suspected of the contravention*]

Part 3

[*suspected contravention of the Fair Work Act 2009, fair work instrument or safety net contractual entitlement, and which matter or matters referred to in subparagraphs 712AA(1)(a)(i) to (viii) of the Fair Work Act 2009 the suspected contravention relates to*]

Part 4

[*period during which the suspected contravention took place*]

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Schedule 6.1—Model term for dealing with disputes for enterprise agreements

(regulation 6.01)

Model term

(1) If a dispute relates to:
  (a) a matter arising under the agreement; or
  (b) the National Employment Standards;
this term sets out procedures to settle the dispute.

(2) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

(3) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.

(4) If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.

(5) The Fair Work Commission may deal with the dispute in 2 stages:
  (a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  (b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
    (i) arbitrate the dispute; and
    (ii) make a determination that is binding on the parties.

Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Div 3 of Part 5.1 of the Act. Therefore, an appeal may be made against the decision.

(6) While the parties are trying to resolve the dispute using the procedures in this term:
  (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
  (b) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
    (i) the work is not safe; or
    (ii) applicable occupational health and safety legislation would not permit the work to be performed; or
    (iii) the work is not appropriate for the employee to perform; or

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(iv) there are other reasonable grounds for the employee to refuse to comply with the direction.

(7) The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.

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Schedule 6.1A—Model term for dealing with disputes about matters arising under copied State instrument

(regulation 6.03B)

Model term

(1) This term sets out procedures to settle a dispute about a matter arising under a copied State instrument.

(2) An employee who is a party to the dispute may appoint a representative for the purposes of the procedures in this term.

(3) In the first instance, the parties to the dispute must try to resolve the dispute at the workplace level, by discussions between the employee or employees and relevant supervisors and/or management.

(4) If discussions at the workplace level do not resolve the dispute, a party to the dispute may refer the matter to the Fair Work Commission.

(5) The Fair Work Commission may deal with the dispute in 2 stages:
  (a) the Fair Work Commission will first attempt to resolve the dispute as it considers appropriate, including by mediation, conciliation, expressing an opinion or making a recommendation; and
  (b) if the Fair Work Commission is unable to resolve the dispute at the first stage, the Fair Work Commission may then:
    (i) arbitrate the dispute; and
    (ii) make a determination that is binding on the parties.

Note: If the Fair Work Commission arbitrates the dispute, it may also use the powers that are available to it under the Act.

A decision that the Fair Work Commission makes when arbitrating a dispute is a decision for the purpose of Division 3 of Part 5-1 of the Act. Therefore, an appeal may be made against the decision.

(6) While the parties are trying to resolve the dispute using the procedures in this term:
  (a) an employee must continue to perform his or her work as he or she would normally unless he or she has a reasonable concern about an imminent risk to his or her health or safety; and
  (b) an employee must comply with a direction given by the employer to perform other available work at the same workplace, or at another workplace, unless:
    (i) the work is not safe; or
    (ii) applicable work health and safety legislation would not permit the work to be performed; or

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(iii) the work is not appropriate for the employee to perform; or

(iv) there are other reasonable grounds for the employee to refuse to comply with the direction.

(7) The parties to the dispute agree to be bound by a decision made by the Fair Work Commission in accordance with this term.

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Schedule 6.2—Forms for certain terminations

(regulation 6.07)

Form 1—Notice to Centrelink of proposed terminations

(regulation 6.07)

Fair Work Regulations 2009, regulation 6.07

NOTICE TO CENTRELINK OF PROPOSED TERMINATIONS

TO: CENTRELINK

I, [*full name of employer or person completing notice on behalf of employer*], the [*position held*] of [*name of employer of person completing notice*], give notice, under subsection 785(2) of the *Fair Work Act 2009*, that [*name of employer*] proposes to terminate the employment of 15 or more of its employees, for the following reasons:

[*Set out reasons for proposed terminations. Reasons may be of an economic, technological, structural or similar nature, or for reasons including such reasons*]

The number and categories of employees likely to be affected by the proposal are:

[*Set out the categories and number per category*]

It is intended that [*name of employer*] will carry out the proposed terminations at the following time/s, or over the following period/s of time:

[*Provide specific dates if known, or approximate period of time*]

Dated 20

_____

Signature

_____

Position

[*] *Omit section reference as appropriate*

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Schedule 6.3—Public sector employment—employing authorities

Note: See regulation 6.09.

Employing authorities

Item	Person	Employing authority or authorities
1	A person who is employed in public sector employment by a particular Commonwealth authority	The Minister administering the enactment by or under which the Commonwealth authority employing the persons specified in column 2 of this item was established The principal executive officer (however called) of the Commonwealth authority employing the persons specified in column 2 of this item An officer authorised by the principal executive officer (however called) of the Commonwealth authority employing the persons specified in column 2 of this item
2	An APS employee, within the meaning of the *Public Service Act 1999*, performing duties or employed in a particular Agency as defined in the *Public Service Act 1999*	The Public Service Minister, within the meaning of the *Public Service Act 1999* The Agency Minister, within the meaning of the *Public Service Act 1999* The Agency Head, within the meaning of the *Public Service Act 1999* An APS employee, within the meaning of the *Public Service Act 1999*, authorised by the Agency Head
3	A Parliamentary Service employee, within the meaning of the *Parliamentary Service Act 1999*, performing duties or employed in a particular Department as defined in the *Parliamentary Service Act 1999*	A Presiding Officer within the meaning of the *Parliamentary Service Act 1999* The Secretary within the meaning of the *Parliamentary Service Act 1999* A Parliamentary Service employee authorised by the Presiding Officer within the meaning of the *Parliamentary Service Act 1999*
4	A person employed under section 42 of the *Naval Defence Act 1910*	The Minister administering the *Naval Defence Act 1910* The persons empowered under the *Naval Defence Act 1910* to employ persons
5	A person employed under the *Members of Parliament (Staff) Act 1984*	The Minister administering the *Members of Parliament (Staff) Act 1984* The employing individual (within the meaning of that Act) for the person
6	A person employed as an employee in a particular Agency of the Northern Territory Public Sector	The Minister of the Northern Territory responsible for the Agency in which the person is employed The Commissioner for Public Employment for the Northern Territory An employee authorised by the Commissioner for Public Employment for the Northern Territory

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Employing authorities

Item	Person	Employing authority or authorities
7	A person: (a) who is employed by the Northern Territory; but (b) is not a person mentioned in item 6	The Commissioner for Public Employment for the Northern Territory An employee authorised by the Commissioner for Public Employment for the Northern Territory
8	A person employed by a particular Northern Territory authority (being a body corporate established for a public purpose by or under a law of the Northern Territory) under terms and conditions determined or approved by the Commissioner for Public Employment for the Northern Territory	The Minister administering the Act of the Northern Territory by or under which the authority employing the person was established The principal executive officer (however called) of the authority employing the persons specified in column 2 of this item The Commissioner for Public Employment for the Northern Territory An employee authorised by the principal executive officer (however called) of the authority employing the persons specified in column 2 of this item
9	A person employed by either of the following Northern Territory authorities: (a) Northern Territory Power and Water Authority; (b) Territory Insurance Office	The principal executive officer (however called) of the authority employing the persons specified in column 2 of this item The Commissioner for Public Employment for the Northern Territory An employee authorised by the principal executive officer (however called) of the authority employing the persons specified in column 2 of this item
10	A person who: (a) is employed by a particular Northern Territory authority (being a body corporate established for a public purpose by or under a law of the Northern Territory); but (b) is not a person mentioned in item 8 or 9	The Minister administering the Act of the Northern Territory by or under which the authority employing the person was established The authority employing the person The Commissioner for Public Employment for the Northern Territory An employee authorised by the authority employing the person
11	A person employed by a particular Northern Territory authority (being a body corporate incorporated under a law of the Northern Territory in which the Northern Territory has a controlling interest)	The Minister responsible for the authority employing the person The principal executive officer (however called) of the authority employing the person The Commissioner for Public Employment for the Northern Territory An employee authorised by the principal executive officer (however called) of the authority employing the person

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Employing authorities

Item	Person	Employing authority or authorities
12	A person appointed under section 25 or 26 of the *Australian Federal Police Act 1979*	The Minister administering the *Australian Federal Police Act 1979* The Commissioner within the meaning of that Act An AFP employee authorised by the Commissioner within the meaning of that Act
13	A person employed under the *Legislative Assembly (Members' Staff) Act 1989* of the Australian Capital Territory	The Chief Minister of the Australian Capital Territory An employee authorised by the Chief Minister of the Australian Capital Territory
14	An officer or employee (within the meaning of the *Public Sector Management Act 1994* of the Australian Capital Territory) of a government agency, or autonomous instrumentality, within the meaning of that Act	The Chief Minister for the Australian Capital Territory The Minister (within the meaning of the *Australian Capital Territory (Self-Government) Act 1988* (the ***Self-Government Act***)) who administers the government agency, or the Act under which the autonomous instrumentality is established The Minister, within the meaning of the Self-Government Act, who is responsible for exercising the power of the Australian Capital Territory Executive in relation to industrial relations
15	A person employed by or in the service of a body corporate (except a Territory instrumentality within the meaning of *Public Sector Management Act 1994* of the Australian Capital Territory) that is incorporated under a law of the Territory and in which the Territory has a controlling interest	The principal executive officer (however described) of the body corporate The Minister, within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*, who is responsible for exercising the power of the Australian Capital Territory Executive in relation to industrial relations
16	An officer or employee (within the meaning of the *Public Sector Management Act 1994* of the Australian Capital Territory) employed at Calvary Hospital under an arrangement with the Territory under section 26 of that Act	The Chief Executive Officer of Calvary Hospital A.C.T. Incorporated The Minister, within the meaning of the *Australian Capital Territory (Self-Government) Act 1988* (the ***Self-Government Act***), who is responsible for exercising the power of the Australian Capital Territory Executive in relation to public health The Minister, within the meaning of the Self-Government Act, who is responsible for exercising the power of the Australian Capital Territory Executive in relation to industrial relations

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Employing authorities

Item	Person	Employing authority or authorities
17	A person who: (a) is employed by or in the service of a body corporate, or an authority, that is established by or under a law of the Australian Capital Territory; but (b) is not mentioned in item 15, 16, 17 or 18	The principal executive officer (however described) of the body corporate or authority The Minister administering the law of the Australian Capital Territory The Minister, within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*, who is responsible for exercising the power of the Australian Capital Territory Executive in relation to industrial relations
18	A person who is employed under section 13 of the *Governor-General Act 1974*	The Official Secretary to the Governor-General
19	A person engaged as an employee under subsection 19(1) of the *Australian Civilian Corps Act 2011*	The Secretary of the Department of Foreign Affairs and Trade An Australian Civilian Corps employee authorised by the Secretary of the Department of Foreign Affairs and Trade

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Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Abbreviation key—Endnote 2
The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4
Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes
The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments
A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and "(md not incorp)" is added to the amendment history.

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Endnote 2—Abbreviation key

ad = added or inserted

am = amended

amdt = amendment

c = clause(s)

C[x] = Compilation No. x

Ch = Chapter(s)

def = definition(s)

Dict = Dictionary

disallowed = disallowed by Parliament

Div = Division(s)

ed = editorial change

exp = expires/expired or ceases/ceased to have effect

F = Federal Register of Legislation

gaz = gazette

LA = *Legislation Act 2003*

LIA = *Legislative Instruments Act 2003*

(md) = misdescribed amendment can be given effect

(md not incorp) = misdescribed amendment cannot be given effect

mod = modified/modification

No. = Number(s)

o = order(s)

Ord = Ordinance

orig = original

par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)

pres = present

prev = previous

(prev…) = previously

Pt = Part(s)

r = regulation(s)/rule(s)

reloc = relocated

renum = renumbered

rep = repealed

rs = repealed and substituted

s = section(s)/subsection(s)

Sch = Schedule(s)

Sdiv = Subdivision(s)

SLI = Select Legislative Instrument

SR = Statutory Rules

Sub-Ch = Sub-Chapter(s)

SubPt = Subpart(s)

underlining = whole or part not commenced or to be commenced

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Endnote 3—Legislation history

Number and year	FRLI registration	Commencement	Application, saving and transitional provisions
2009 No. 112	19 June 2009 (F2009L02356)	Parts 2-2 and 6-3: 1 Jan 2010 Remainder: 1 July 2009	
2009 No. 164	30 June 2009 (F2009L02567)	rr. 1–4 and Schedule 1: 1 July 2009 r. 5 and Schedule 2: 1 Jan 2010	r. 4
2009 No. 207	14 Aug 2009 (F2009L03140)	rr. 1–3 and Schedule 1: 15 Aug 2009 Schedule 2: 1 Oct 2009	—
2009 No. 300	13 Nov 2009 (F2009L04157)	14 Nov 2009	—
2009 No. 364	16 Dec 2009 (F2009L04520)	rr. 1–3 and Schedule 1: 1 July 2009 Remainder: 1 Jan 2010	—
2009 No. 391	16 Dec 2009 (F2009L04604)	1 Jan 2010	—
2010 No. 99	25 May 2010 (F2010L01362)	26 May 2010	—
2011 No. 23	11 Mar 2011 (F2011L00418)	12 Mar 2011	—
2011 No. 91	21 June 2011 (F2011L01088)	22 June 2011	—
2011 No. 152	19 Aug 2011 (F2011L01697)	20 Aug 2011	—
2011 No. 244	12 Dec 2011 (F2011L02641)	13 Dec 2011	—
64, 2012	11 May 2012 (F2012L01024)	12 May 2012 (s 2)	—
197, 2012	20 Aug 2012 (F2012L01708)	21 Aug 2012 (s 2)	—
218, 2012	14 Sept 2012 (F2012L01870)	15 Sept 2012 (s 2)	—
321, 2012	11 Dec 2012 (F2012L02417)	1 Jan 2013 (s 2)	—
322, 2012	11 Dec 2012 (F2012L02409)	12 Dec 2012 (s 2)	—
323, 2012	11 Dec 2012 (F2012L02402)	1 Jan 2013 (s 2)	—
51, 2013	11 Apr 2013 (F2013L00649)	Sch 1 (item 49): 12 Apr 2013 (s 2 item 2)	—
69, 2013	21 May 2013 (F2013L00815)	22 May 2013 (s 2)	—

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Endnote 3—Legislation history

Number and year	FRLI registration	Commencement	Application, saving and transitional provisions
139, 2013	28 June 2013 (F2013L01221)	Sch 1: 1 July 2013 (s 2 item 2) Sch 2: 1 Jan 2014 (s 2 item 3)	—
242, 2013	25 Nov 2013 (F2013L01972)	26 Nov 2013 (s 2)	—
263, 2013	13 Dec 2013 (F2013L02094)	1 Jan 2014 (s 2)	—
95, 2014	30 June 2013 (F2014L00881)	1 July 2014 (s 2)	—

Name	Registration	Commencement	Application, saving and transitional provisions
Fair Work Amendment (Notice of Employee Representational Rights) Regulations 2017	24 Feb 2017 (F2017L00161)	3 Apr 2017 (s 2(1) item 1)	—
Fair Work and Other Legislation Amendment (South Australian Employment Court) Regulations 2017	16 June 2017 (F2017L00684)	Sch 1 (items 1, 2): 1 July 2017 (s 2(1) item 1)	—
Fair Work Amendment (Corrupting Benefits) Regulations 2017	20 Dec 2017 (F2017L01674)	29 Jan 2018 (s 2(1) item 1)	—
Fair Work Amendment (Protecting Vulnerable Workers) Regulations 2017	20 Dec 2017 (F2017L01679)	21 Dec 2017 (s 2(1) item 1)	—
Fair Work Amendment (Christmas Island and Cocos (Keeling) Islands) Regulations 2018	9 Mar 2018 (F2018L00235)	1 May 2018 (s 2(1) item 1)	—
Fair Work Amendment (Casual Loading Offset) Regulations 2018	17 Dec 2018 (F2018L01770)	18 Dec 2018 (s 2(1) item 1)	—
Fair Work Amendment (Modernising Right of Entry) Regulations 2019	25 Mar 2019 (F2019L00377)	Sch 1 (items 1–5): 1 July 2019 (s 2(1) item 2) Sch 1 (item 6): 1 Oct 2019 (s 2(1) item 3)	—
Fair Work Amendment (Right of Entry Identification) Regulations 2019	20 Sept 2019 (F2019L01237)	Sch 1 (items 1–4): 1 Oct 2019 (s 2(1) item 1)	—
Fair Work Amendment (Variation of Enterprise Agreements) Regulations 2020	16 Apr 2020 (F2020L00432)	17 Apr 2020 (s 2(1) item 1)	—
Fair Work Amendment (Variation of Enterprise Agreements No. 2) Regulations 2020	12 June 2020 (F2020L00702)	13 June 2020 (s 2(1) item 1)	—
Fair Work Amendment (Jobkeeper Payments) Regulations 2020	18 Sept 2020 (F2020L01185)	19 Sept 2020 (s 2(1) item 1)	—

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Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Fair Work and Other Legislation Amendment Regulations 2021	14 May 2021 (F2021L00580)	Sch 1 (items 1–3): 15 May 2021 (s 2(1) item 1)	—
Fair Work Amendment (Respect at Work) Regulations 2021	9 July 2021 (F2021L00972)	Sch 1 (items 4–6): 11 Sept 2021 (s 2(1) item 3) Remainder: 10 July 2021 (s 2(1) items 1, 2)	—
Federal Circuit and Family Court of Australia Legislation (Consequential Amendments and Other Measures) Regulations 2021	30 Aug 2021 (F2021L01204)	Sch 2 (items 27–30): 1 Sept 2021 (s 2(1) item 1)	—
Fair Work Legislation Amendment Regulations 2022	13 Dec 2022 (F2022L01640)	Sch 1 (items 1–3, 66–84): 14 Dec 2022 (s 2(1) items 2, 7, 8) Sch 1 (items 4–6): 1 Feb 2023 (s 2(1) item 3) Sch 1 (items 8, 9): 10 Jan 2023 (s 2(1) item 4)	—
Fair Work Amendment (Transitional Arrangements—Western Australian Local Government Employers and Employees) Regulations 2022	19 Dec 2022 (F2022L01696)	1 Jan 2023 (s 2(1) item 1)	—
Fair Work Amendment (Paid Family and Domestic Violence Leave) Regulations 2023	3 Feb 2023 (F2023L00082)	4 Feb 2023 (s 2(1) item 1)	—
Fair Work and Other Legislation Amendment Regulations 2023	20 Mar 2023 (F2023L00293)	Sch 1 (items 1–3, 16): 21 Mar 2023 (s 2(1) items 2, 4)	—
Fair Work and Other Legislation Amendment (Secure Jobs, Better Pay) Regulations 2023	30 May 2023 (F2023L00625)	Sch 1 (items 1–4, 13–40): 6 June 2023 (s 2(1) items 2, 5) Sch 1 (items 9, 10): 1 July 2023 (s 2(1) item 3) Sch 1 (items 11, 12, 45): 31 May 2023 (s 2(1) items 4, 6)	—
Fair Work Amendment (Fixed Term Contracts) Regulations 2023	24 Nov 2023 (F2023L01545)	6 Dec 2023 (s 2(1) item 1)	—
Fair Work Amendment (Employee Authorised Deductions) Regulations 2023	29 Nov 2023 (F2023L01568)	30 Dec 2023 (s 2(1) item 1)	—
Instruments Update (Autumn 2024) Regulations 2024	14 Mar 2024 (F2024L00297)	Sch 1 (item 11) and Sch 2 (item 18): 11 Apr 2024 (s 2(1) item 1)	—
Fair Work Amendment (Unpaid Parental Leave) Regulations 2024	21 June 2024 (F2024L00735)	22 June 2024 (s 2(1) item 1)	—
Fair Work Amendment (Fixed Term Contracts) Regulations 2024	21 June 2024 (F2024L00738)	22 June 2024 (s 2(1) item 1)	—

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Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Fair Work Amendment (Minor and Technical Measures) Regulations 2024	5 July 2024 (F2024L00868)	Sch 2: 26 Aug 2024 (s 2(1) item 3) Remainder: 6 July 2024 (s 2(1) items 1, 2)	—

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Endnote 4—Amendment history

Provision affected	How affected
Chapter 1	
Part 1-1	
Division 1	
r 1.02	rep LA s 48D
Part 1-2	
Division 1	
r 1.03	am No 218, 2012; F2021L00972; F2023L01545
Division 2	
r 1.05	rep 2009 No 391
	ad F2017L00684
r 1.06	am F2017L00684
r 1.07	am F2021L00972
r 1.08	rs 2009 No 207
Part 1-3	
Division 2	
r 1.13	am 2009 No 364
Division 2A	
Division 2A	ad 2009 No 164
r 1.15A	ad 2009 No 164
	am 2009 No 391
Division 3	
Division 3	ad 2009 No 164
r 1.15B	ad 2009 No 164
	am 2009 No 164; 2009 No 364; 2012 No 197; F2018L00235
r 1.15C	ad 2009 No 164
r 1.15D	ad 2009 No 164
	rs 2009 No 364
	am 2012 No 197
r 1.15DA	ad F2018L00235
r 1.15E	ad 2009 No 164
	rs 2009 No 364
	am 2012 No 197
r 1.15F	ad 2009 No 164
r 1.15G	ad 2012 No 197
Division 4	
r. 1.16	am. 2009 No. 300

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Provision affected	How affected
	rs. 2011 No. 23
	am. 2012 No. 321
Chapter 2	
Part 2-2	
Division 5	
Division 5	ad F2024L00735
Subdivision B	
Subdivision B	ad F2024L00735
r 2.00	ad F2024L00735
Division 12	
Division 12 heading	rs F2021L00580
r 2.01	am No 139, 2013
r 2.02A	ad F2021L00580
Division 13	
r 2.03A	ad F2018L01770
Part 2-4	
Division 3	
r 2.05	am F2017L00161
Division 4	
r 2.06AA	ad F2017L01674
r 2.06A	ad No 300, 2009
	am No 321, 2012
r 2.07	am No 321, 2012
Division 7	
Division 7 heading	ad F2023L00625
Subdivision A	
Subdivision A heading	ad F2023L00625
r 2.09A	ad No 300, 2009
r 2.09B	ad F2020L00432
	rep F2020L00702
r 2.10	am No 321, 2012
r 2.10A	ad F2023L00625
Subdivision AA	
Subdivision AA	ad F2023L00625
r 2.10B	ad F2023L00625
Subdivision AB	
Subdivision AB	ad F2023L00625
r 2.10C	ad F2023L00625
Subdivision AC	
Subdivision AC	ad F2023L00625

Endnote 4—Amendment history

Provision affected	How affected
r 2.10D	ad F2023L00625
Subdivision AD	
Subdivision AD	ad F2023L00625
r 2.10E	ad F2023L00625
r 2.10F	ad F2023L00625
Subdivision AE	
Subdivision AE	ad F2023L00625
r 2.10G	ad F2023L00625
Subdivision D	
Subdivision D	ad F2023L00625
r 2.10H	ad F2023L00625
Division 8	
Division 8 heading	am No 321, 2012
r 2.11	am No 321, 2012
Part 2-9	
Division 2	
r 2.12A	ad F2023L01568
r 2.12	am F2023L01568
Division 3	
r 2.13	am F2023L01545
Division 5	
Division 5	ad F2023L01545
r 2.14	ad F2023L01545
r 2.15	ad F2023L01545
	am F2024L00738
Chapter 3	
Part 3-1	
Division 5	
r. 3.01	am. 2009 No. 300
Division 8	
Subdivision A	
r. 3.02	am. 2012 No. 321
Subdivision B	
r. 3.03	am. 2012 No. 321
Subdivision C	
r. 3.04	am. 2012 No. 321
Part 3-2	
Division 2	
r. 3.05	am. 2012 No. 321

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Provision affected	How affected
Division 5	
r 3.07	am No 321, 2012; F2022L01640
r. 3.08	am. 2012 No. 321
Part 3-3	
Division 6	
Division 6	rep No 391, 2009
	ad No 95, 2014
r 3.10	ad No 95, 2014
Division 8	
r 3.11	am No 321, 2012; F2023L00625
r 3.12	am. 2012 No. 321
r 3.13	am No 164, 2009; No 321, 2012
r 3.14	am F2023L00625
r 3.15	am No 321, 2012
r. 3.16	rs. 2012 No. 321
r. 3.16A	ad. 2012 No. 321
r 3.17	am No 321, 2012
Subdivision G	
r 3.18	am No 321, 2012
r 3.19	am No 164, 2009; No 321, 2012
r 3.20	am No 321, 2012
Part 3-4	
Division 2	
Div. 2 of Part 3-4	ad. 2012 No. 323
r. 3.24A	ad. 2012 No. 323
Division 3	
r 3.25	am No 207, 2009; No 218, 2012; No 69, 2013; F2024L00868
Division 6	
r 3.26	rs F2019L00377
r 3.26A	ad F2019L00377
	am F2019L01237
Part 3-5A	
Part 3-5A	ad F2023L00293
Division 3	
r 3.29A	ad F2023L00293
Part 3-6	
Division 3	
Division 3	am F2022L01640; F2023L00082
Subdivision 1	
r 3.31	rs No 164, 2009

Endnote 4—Amendment history

Provision affected	How affected
r 3.41	am No 164, 2009
r 3.42	am No 164, 2009
r 3.43	am No 164, 2009
r 3.44	am No 164, 2009; F2017L01679
Subdivision 2	
r 3.45	am F2022L01640
r 3.46	am F2022L01640; F2023L01568
r 3.47	ad F2022L01640
	am F2023L00082
r 3.48	ad F2023L00082
Chapter 4	
Part 4-1	
Division 2	
Div. 2 of Part 4-1	ad. 2009 No. 164
r. 4.01A	ad. 2009 No. 164
	am. No. 51, 2013; F2017L01679; F2021L01204
Division 3	
r 4.01	am No 244, 2011; No 51, 2013; F2021L00580; F2021L01204; F2024L00868
Division 4	
r 4.03	am No 164, 2009; F2023L00293
r. 4.03A	ad. 2009 No. 164
r 4.05	am F2017L01679
Chapter 5	
Part 5-1	
Part 5-1 heading	am. 2012 No. 321
Division 5	
Division 5 heading	am. 2012 No. 321
r 5.01	am No 164, 2009; No 99, 2010; No 218, 2012; No 321, 2012; F2021L00972; F2022L01640; F2023L00625
r 5.01A	ad No 99, 2010
	am No 321, 2012
	rs F2022L01640
r. 5.01B	ad. 2012 No. 321
r. 5.02	am. 2012 No. 64
r. 5.03	am. 2012 No. 321
Division 7	
r. 5.04	am. 2009 No. 164; 2012 No. 321
r 5.04A	ad No 99, 2010
	am No 321, 2012
	rs F2022L01640

Provision affected	How affected
Part 5-2	
Division 3	
Subdivision D	
Subdivision D heading	ad F2017L01679
Subdivision DA	
Subdivision DA heading	ad F2017L01679
Subdivision DB	
Subdivision DB	ad F2017L01679
r 5.07	ad F2017L01679
r 5.08	ad F2017L01679
r 5.09	ad F2017L01679
r 5.10	ad F2017L01679
r 5.11	ad F2017L01679
r 5.12	ad F2017L01679
r 5.13	ad F2017L01679
Chapter 6	
Part 6-3A	
Part 6-3A	ad. 2012 No. 322
r 6.03A	ad No 322, 2012
	am F2022L01640
r. 6.03B	ad. 2012 No. 322
Part 6-4	
Division 2	
r. 6.04	am. 2009 No. 300
r. 6.05	am. 2012 No. 321
r. 6.06	am. 2012 No. 321
Part 6-4B	
Part 6-4B heading	am F2021L00972; F2023L00293
Division 2	
Division 2 heading	am F2021L00972; F2023L00293
r 6.07A	ad No 263, 2013
Part 6-4C	
Part 6-4C	ad F2020L01185
Division 1	
r 6.07B	ad F2020L01185
Division 5A	
r 6.07C	ad F2020L01185
Part 6-4D	
Part 6-4D	ad F2023L00625
r 6.07CA	ad F2023L00625

Endnote 4—Amendment history

Provision affected	How affected
Part 6-4DA	
Part 6-4D	ad F2022L01696
	renum F2023L00625
Part 6-4DA (prev Part 6-4D)	
Division 1	
r 6.07D	ad F2022L01696
r 6.07E	ad F2022L01696
r 6.07F	ad F2022L01696
r 6.07G	ad F2022L01696
Part 6-5	
Division 2	
Subdivision 1	
r 6.08	am No 164, 2009; No 91, 2011; F2024L00297
Chapter 7	
Chapter 7	ad F2017L00161
Part 7-1	
r 7.01	ad F2017L00161
Part 7-2	
Part 7-2	ad F2017L01674
r 7.02	ad F2017L01674
Part 7-3	
Part 7-3	ad F2018L01770
r 7.03	ad F2018L01770
Part 7-4	
Part 7-4 heading	rs F2020L00702
	rep end of 12 Dec 2020 (r 7.05)
	ad F2023L00082
Part 7-4	ad F2020L00432
	rep end of 12 Dec 2020 (r 7.05)
	ad F2023L00082
r 7.04	ad F2020L00432
	am F2020L00702
	rep end of 12 Dec 2020 (r 7.05)
	ad F2023L00082
r 7.05	ad F2020L00432
	am F2020L00702
	rep end of 12 Dec 2020 (r 7.05)
	ad F2023L00082
r 7.06	ad F2023L00082

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Endnote 4—Amendment history

Provision affected	How affected
Part 7-5	
Part 7-5	ad F2023L00625
r 7.07	ad F2023L00625
r 7.08	ad F2023L00625
r 7.09	ad F2023L00625
Part 7-6	
Part 7-6	ad F2024L00868
r 7.10	ad F2024L00868
r 7.11	ad F2024L00868
Schedule 2.1	
Schedule 2.1	am No 321, 2012; F2017L00161; F2023L00625; F2024L00297
Schedule 2.1A	
Schedule 2.1A	ad F2017L01674
Schedule 2.3	
Schedule 2.3	am No 139, 2013
Schedule 3.1	
Schedule 3.1	am. 2012 No. 321
Schedule 3.2	
Schedule 3.2	am. 2012 No. 321
Schedule 3.3	
Schedule 3.3	am No 321, 2012; F2019L00377; F2022L01640
Schedule 5.2	
Schedule 5.2	am No 164, 2009; No 300, 2009; No 321, 2012; F2023L00625
Schedule 5.3	
Schedule 5.3	ad F2017L01679
Schedule 6.1	
Schedule 6.1	am No 321, 2012; F2022L01640
Schedule 6.1A	
Schedule 6.1A	ad No 322, 2012 am F2022L01640
Schedule 6.3	
Schedule 6.3	am No 164, 2009; No 300, 2009; No 91, 2011; No 152, 2011; No 242, 2013; F2024L00868

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