



# Fair Work Amendment Regulations 2009 (No. 1)<sup>1</sup>

**Select Legislative Instrument 2009 No. 164**

---

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Fair Work Act 2009*.

Dated 29 June 2009

QUENTIN BRYCE  
Governor-General

By Her Excellency's Command

MARK ARBIB  
Minister for Employment Participation

---

## Contents

1	Name of Regulations	3
2	Commencement	3
3	Amendment of <i>Fair Work Regulations 2009</i>	3
4	Repeal of <i>Fair Work (Oath and Affirmation) Regulations 2009</i>	3
5	Amendment of <i>Fair Work Regulations 2009</i>	3
<b>Schedule 1</b>	<b>Amendments commencing on 1 July 2009</b>	<b>4</b>
<b>Schedule 2</b>	<b>Amendments commencing on 1 January 2010</b>	<b>24</b>

**1 Name of Regulations**

These Regulations are the *Fair Work Amendment Regulations 2009 (No. 1)*.

**2 Commencement**

These Regulations commence as follows:

- (a) on 1 July 2009 — regulations 1 to 4 and Schedule 1;
- (b) on 1 January 2010 — regulation 5 and Schedule 2.

**3 Amendment of *Fair Work Regulations 2009***

Schedule 1 amends the *Fair Work Regulations 2009*.

**4 Repeal of *Fair Work (Oath and Affirmation) Regulations 2009***

- (1) The *Fair Work (Oath and Affirmation) Regulations 2009* are repealed.
- (2) The repeal of those Regulations does not affect an oath sworn, or an affirmation made, in accordance with those Regulations before 1 July 2009.

**5 Amendment of *Fair Work Regulations 2009***

Schedule 2 amends the *Fair Work Regulations 2009*.

## Schedule 1      Amendments commencing on 1 July 2009

(regulation 3)

### [1]      Part 1-3, after Division 2

*insert*

## Division 2A      Application of Act in a referring State

### 1.15A      State public sector employer

For paragraph (d) 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.

---

## **Division 3                      Geographical application of the Act**

### **1.15B      Definitions for Division 3**

In this Division:

*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.

*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.

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

For section 32 of the Act, the Act does not apply in relation to:

- (a) all the waters of the sea on the landward side of the outer limits of the territorial sea of Australia, including such waters within the limits of a State or Territory; and
- (b) the Territory of Christmas Island; and
- (c) the Territory of Cocos (Keeling) Islands;

to the extent to which its application would be inconsistent with a right of innocent passage or transit passage being exercised by a foreign ship.

### **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 |
| 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.

## **[2] Subregulation 3.13 (7), at the foot**

*insert*

*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.

## **[3] Subregulation 3.13 (8), at the foot**

*insert*

*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.

**[4] Subregulation 3.19 (10), at the foot***insert*

*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.

**[5] Regulation 3.31, including the note***substitute***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.

*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.

**[6] Subregulation 3.41 (2), at the foot***insert*

*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.

---

**[7] Subregulation 3.41 (4), at the foot**

*insert*

*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.

**[8] Subregulation 3.41 (5), at the foot**

*insert*

*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.

**[9] Subregulation 3.41 (6), at the foot**

*insert*

*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.

**[10] Subregulation 3.42 (1), at the foot**

*insert*

*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.

**[11] Subregulation 3.42 (2), at the foot**

*insert*

*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.

**[12] Subregulation 3.42 (3), at the foot**

*insert*

*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.

**[13] Subregulation 3.42 (4), note***substitute*

*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.

**[14] Subregulation 3.43 (1), at the foot***insert*

*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.

**[15] Subregulation 3.44 (1), at the foot***insert*

*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.

**[16] Subregulation 3.44 (2), at the foot***insert*

*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.

**[17] Subregulation 3.44 (3), at the foot***insert*

*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.

---

**[18] Subregulation 3.44 (4), at the foot**

*insert*

*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.

**[19] Subregulation 3.44 (5)**

*omit*

other person

*insert*

another person

**[20] Subregulation 3.44 (5), at the foot**

*insert*

*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.

**[21] Subregulation 3.44 (6), at the foot**

*insert*

*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.

**[22] Part 4-1, before Division 3***insert***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 Magistrates Court  An eligible State or Territory Court	20 penalty units

Item	Civil remedy provision	Persons	Courts	Maximum penalty
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 Magistrates Court An eligible State or Territory Court	20 penalty units
3	subregulation 3.19 (10)	The protected action ballot agent An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
4	subregulation 3.31 (2)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
5	subregulation 3.41 (2)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
6	subregulation 3.41 (4)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
7	subregulation 3.41 (5)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units

Item	Civil remedy provision	Persons	Courts	Maximum penalty
8	subregulation 3.41 (6)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
9	subregulation 3.42 (1)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
10	subregulation 3.42 (2)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
11	subregulation 3.42 (3)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
12	subregulation 3.42 (4)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
13	subregulation 3.43 (1)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units

Item	Civil remedy provision	Persons	Courts	Maximum penalty
14	subregulation 3.44 (1)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
15	subregulation 3.44 (2)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
16	subregulation 3.44 (3)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
17	subregulation 3.44 (4)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
18	subregulation 3.44 (5)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units
19	subregulation 3.44 (6)	An employee An inspector	Federal Court Federal Magistrates Court An eligible State or Territory Court	20 penalty units

---

**[23] Regulation 4.03, definition of *civil remedy provision***

*substitute*

***civil remedy provision*** means a civil remedy provision in:

- (a) item 29 of the table in subsection 539 (2) of the Act; or
- (b) items 4 to 19 of the table in subregulation 4.01A (2).

**[24] Before regulation 4.04**

*insert in Division 4*

**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.

**[25] Regulation 5.01**

*omit*

For subparagraph 625 (2) (i)

*insert*

- (1) For paragraph 625 (2) (i)

**[26] Regulation 5.01**

*insert*

- (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 FWA 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 FWA 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 FWA 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 FWA under subsection 773 (2) of the Act will suffer serious hardship if the person is required to pay the fee for the application.

**[27] Paragraph 5.04 (1) (b)**

*after*

Part 2

*insert*

of

**[28] Paragraph 6.08 (1) (c)**

*omit*

1910.

*insert*

1910;

**[29] After paragraph 6.08 (1) (c)**

*insert*

(d) the *Members of Parliament (Staff) Act 1984*.

**[30] Schedule 5.2, Part 1, after item 1**

*insert*

**1A Modern awards**

- 1A.1 The number of determinations varying as soon as practicable after the end of the quarter
- modern awards made in a quarter under item 5 of Schedule 5 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*

---

1A.2	The number of determinations varying modern awards made in a quarter under item 7 of Schedule 5 to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	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 <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	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 <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	as soon as practicable after the end of the quarter
<b>1B</b>	<b>Modern enterprise awards</b>	
1B.1	The number of applications for modern enterprise awards made in a quarter under item 4 of Schedule 6 to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	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 <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	as soon as practicable after the end of the quarter
1B.3	The number of applications for FWA to terminate enterprise instruments made in a quarter under item 5 of Schedule 6 to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	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 <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>	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 <i>Fair Work</i>	as soon as practicable after the end of the quarter

---

*(Transitional Provisions and  
Consequential Amendments) Act 2009*

- |      |   |   |
|------|---|---|
| 1B.6 | The number of terminations of instruments made in a quarter under item 9 of Schedule 6 to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>            | 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 <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> | 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 <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>                  | as soon as practicable after the end of the quarter |

**[31]      Schedule 5.2, Part 1, item 2.6**

*omit*

The number of enterprise agreements

*insert*

The number of variations of enterprise agreements

**[32]      Schedule 5.2, Part 1, item 2.7**

*omit*

section 211

*insert*

section 217

**[33]      Schedule 5.2, Part 1, item 11.6**

*omit*

**[34] Schedule 5.2, Part 1, after item 13***insert***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 <i>Fair Work (Registered Organisations) Act 2009</i> by: | as soon as practicable after the end of the quarter |
|       | (a) an employer association; or   |   |
|       | (b) an employee association; or   |   |
|       | (c) an enterprise association   |   |
| 13A.2 | The number of applications for orders made in a quarter under section 133 of Schedule 1 to the <i>Fair Work (Registered Organisations) Act 2009</i>                       | 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 <i>Fair Work (Registered Organisations) Act 2009</i>  | 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 <i>Fair Work (Registered Organisations) Act 2009</i>       | 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 <i>Fair Work (Registered Organisations) Act 2009</i>                        | as soon as practicable after the end of the quarter |
| 13A.6 | The number of:  | as soon as practicable after the end of the quarter |
|       | (a) applications for recognition made in a quarter under clause 1 of Schedule 2 to the <i>Fair Work (Registered Organisations) Act 2009</i> ; and                         |   |
|       | (b) applications for orders cancelling recognition made in a quarter under clause 3 of that Schedule  |   |

- 
- |   |   |   |
|---|---|---|
| 13A.7   | The number of applications for recognition granted in a quarter under clause 1 of Schedule 2 to the <i>Fair Work (Registered Organisations) Act 2009</i>                                      | 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 <i>Fair Work (Registered Organisations) Act 2009</i>  | as soon as practicable after the end of the quarter |
| <b>13B    <i>Transitional instruments</i></b> |   |   |
| 13B.1   | The number of applications for conditional terminations made in a quarter under item 18 of Schedule 3 to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> | 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 <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i>                  | as soon as practicable after the end of the quarter |

**[35]      Schedule 5.2, Part 1, item 14.4**

*omit*

For a list

*insert*

For each application in a list

**[36]      Schedule 5.2, Part 1, after item 14**

*insert*

**14A    *Transitional instruments***

- |       |  |  |
|-------|--|--|
| 14A.1 | A list of determinations made in a week under item 14 of Schedule 9 to the <i>Fair Work (Transitional Provisions and Consequential Amendments) Act 2009</i> , including: | as soon as practicable after the end of the week |
|       | (a) the names of the applicants; and   |  |

- (b) the names of the relevant modern awards

- 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

**[37] Schedule 5.2, Part 1, after item 15**

*insert*

**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*: as soon as practicable, but not later than 21 days after the day on which the transitional instrument was terminated
- (a) a copy of the approval or termination; and
- (b) the date on which the termination took effect or will take effect

**[38] Schedule 5.2, Part 2, item 3.12**

*omit*

For a list

*insert*

For each application in a list

---

**[39]      Schedule 6.3, item 5, column 3**

*omit*

The Minister administering the *Members of Parliament (Staff) Act 1984*

*Insert*

The Minister administering the *Members of Parliament (Staff) Act 1984*

Each person empowered under the *Members of Parliament (Staff) Act 1984* to employ persons

## Schedule 2 Amendments commencing on 1 January 2010

(regulation 5)

[1] **Regulation 1.15B, after definition of *innocent passage***

*insert*

***licensed ship*** means a ship:

- (a) to which a licence has been granted under section 288 of the *Navigation Act 1912*, and
- (b) for which the licence is in force, and
- (c) which is operating under the licence.

***majority Australian-crewed ship*** means a ship (other than an Australian ship, a licensed ship or a permit 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.

***permit ship*** means a ship:

- (a) to which a permit has been granted under section 286 of the *Navigation Act 1912* for a single voyage or as a continuing permit; and
- (b) for which the permit is in force; and
- (c) which is operating under the permit.

**[2] After regulation 1.15B**

*insert*

**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.

**[3] After regulation 1.15D**

*insert*

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

For subsection 33 (3) of the Act, the Act is extended to and in relation to:

- (a) a licensed ship in the exclusive economic zone or the waters above the continental shelf; and
- (b) a permit ship in the exclusive economic zone or the waters above the continental shelf; and
- (c) a majority Australian-crewed ship in the exclusive economic zone or the waters above the continental shelf.

*Note* The extension of this Act to licensed ships, permit ships and majority Australian-crewed ships in 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) is subject to:

- (a) Australia's international obligations relating to foreign ships; and
- (b) the concurrent jurisdiction of a foreign State.

---

**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.