

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2012 No. 3**

(Issued by the authority of the Minister for Employment and Workplace Relations)

*Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*

*Fair Work (Transitional Provisions and Consequential Amendments) Amendment  
Regulation 2012 (No. 1)*

Section 4 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (T&C Act) provides that the Governor-General may make regulations prescribing matters either required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Item 43 of Schedule 3 to the T&C Act permits regulations to be made prescribing certain work value, pay equity or equal remuneration orders of state industrial tribunals, and prescribing the employers to which transitional pay equity orders will apply.

Subitem 8(1) of Schedule 2 to the T&C Act enables regulations to modify the transitional Schedules to that Act.

This regulation amends the *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009* (the Principal Regulations) and the T&C Act to require a number of employers in the Queensland social and community services (SACS) sector to pay affected employees in Queensland the base rate of pay they would have been entitled to in respect of a period under the *Queensland Community Services and Crisis Assistance Award – State 2008* (the state award) as in effect at 1 September 2011.

The state award is affected by a pay equity order of the Queensland Industrial Relations Commission (QIRC), entitled *Queensland Services, Industrial Union of Employees AND Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers and Others* (A/2008/5) (the QIRC order), made on 12 June 2009 to give effect to an earlier pay equity decision of 6 May 2009. It applied to SACS sector employers and their employees in the Queensland industrial relations system (i.e. those not covered by the federal workplace relations system).

With effect from 1 January 2010 the Queensland Parliament referred to the Commonwealth power to extend the *Fair Work Act 2009* (the Fair Work Act) to all private sector employers and their employees otherwise outside its scope. As a result the Queensland SACS employers and their employees to whom the QIRC order applied became covered by the Fair Work Act from 1 January 2010. The effect of the QIRC order was preserved for these employers and employees by item 30A of Schedule 3A to the T&C Act.

Following the QIRC order, the Queensland Government committed an additional \$414 million over four years to a range of employers across the Queensland SACS sector. A number of Queensland SACS employers who received supplementary funding from the Queensland Government were respondents to federal transitional awards made in reliance on the conciliation and arbitration power of the Constitution (the *Social and Community Services*

(*Queensland*) Award 2001[Transitional] and the *Crisis Assistance Supported Housing (Queensland) Award 1999* [Transitional]). These employers would have been subject to the state award (as affected by the QIRC order) from 27 March 2011 (when transitional awards expired) had Queensland not referred workplace relations matters to the Commonwealth.

In October 2009 the Australian Government signed a Heads of Agreement with the Australian Services Union (ASU). Paragraph 13 of the Heads of Agreement committed the Commonwealth to extend obligations under the QIRC order to these employers. This was also requested by the Queensland Government. Item 43 of Schedule 3 to the T&C Act provided a framework to do this.

On 4 August 2011, regulations were made prescribing a list of Queensland SACS sector employers, and prescribing the QIRC order as the source pay equity order, for the purposes of paragraphs 43(2)(b) and 43(4)(d) of Schedule 3 to the T&C Act. Those regulations were repealed on 30 September 2011, before they were due to commence on 1 October 2011 after the Australian Government became aware of concerns about the accuracy of the list and impact of the regulations on Queensland SACS sector employers. This regulation replaces the repealed regulations.

This regulation, in conjunction with item 43 of Schedule 3 to the T&C Act, requires a prescribed class of employers, from 1 March 2012, to pay affected employees no less than the relevant base rate of pay they would have been entitled to in respect of a period under the state award (as affected by the QIRC order) as in effect at 1 September 2011. Prescribed employers are also required to back pay affected employees employed between 27 March 2011 and 29 February 2012 the difference between the amount actually received during that period, and the amount that would have been payable for that period had the relevant base rate of pay under the state award applied (the back pay amount). The back pay amount is payable in minimum annual instalments or by earlier lump sum.

Before this regulation was drafted, the Australian Government conducted a consultation process with those likely to be affected by the regulation. Key affected parties including the ASU, Queensland Council of Social Services and the Queensland Community Services Employers Associate were consulted again on draft regulations and given the opportunity to provide comments. Referring States and Territories were also consulted about this regulation in accordance with the *Inter-Governmental Agreement for a National Workplace Relations System for the Private Sector*.

Details of this regulation are included in the [Attachments](#).

This regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

This regulation commences on 1 March 2012.

**Details of the Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulation 2012 (No. 1)**

**Section 1 – Name of regulation**

This section sets out the name of the regulation as the *Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulation 2012 (No. 1)*.

**Section 2 – Commencement**

This section provides that the regulation commences on 1 March 2012.

**Section 3 – Amendment of Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009**

This section provides that Schedule 1 to the regulation amends the *Fair Work (Transitional Provisions and Consequential Amendments) Regulations 2009* (the Principal Regulations).

**Schedule 1 – Amendments**

**Item [1] – After regulation 3.03**

This item inserts new regulations 3.03A to 3.03G into the Principal Regulations after regulation 3.03.

***New regulation 3.03A – Modification of Act – deemed date of transitional pay equity order***

Subitem 43(1) of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (the T&C Act) currently deems Fair Work Australia (FWA) to have made a transitional pay equity order on 1 January 2010.

Regulation 3.03A modifies subitem 43(1) of Schedule 3 to the T&C Act, for the purposes of subitem 8(1) of Schedule 2 to the T&C Act, to provide that FWA is instead deemed to have made a transitional pay equity order on 27 March 2011.

A transitional pay equity order only applies to an employer that is included within the class of employers prescribed by the Principal Regulations, to whom a transitional award applied before 1 January 2010 and to whom a modern award applies on or after 1 January 2010 (subitem 43(2) of Schedule 3 to the T&C Act).

For the avoidance of doubt, the transitional pay equity order deemed to have been made under subitem 43(1) of Schedule 3 to the T&C Act exists independently of, and contains different terms than, the transitional pay equity order that arises from the operation of item 30A of Schedule 3A to the T&C Act.

***New regulation 3.03B – Transitional pay equity order taken to have been made by FWA – Division 2B State reference transitional awards (prescribed employers)***

Under subitems 43(3) and 43(4) of Schedule 3 to the T&C Act, an employer can be prescribed for the purpose of paragraph 43(2)(b) of Schedule 3 to the T&C Act if the source pay equity order:

- is an order, decision or determination of a State industrial body made before 15 September 2009 that provided for pay increases for classes of employees on the ground of work value, pay equity or equal remuneration;
- would have applied to that employer but for the application of a federal transitional award; and
- is prescribed by the Principal Regulations.

Federal transitional awards were made under the *Workplace Relations Act 1996* (WR Act) in reliance on the Commonwealth's power to make laws for the prevention and settlement of interstate industrial disputes by conciliation and arbitration under s 51 (xxxv) of the Constitution. These instruments were given effect until 27 March 2011 by Schedule 6 to the WR Act (following amendments to the WR Act in 2006). Schedule 20 to the T&C Act continued the operation of these instruments following the repeal of the WR Act in 2009.

In the absence of the Queensland Parliament's referral of workplace relations matters to the Commonwealth, employers and their employees to whom federal transitional awards applied would have become covered by the relevant state award from 27 March 2011.

In the case of social and community services (SACS) sector employers and their employees, the relevant state award would have been the *Queensland Community Services and Crisis Assistance Award – State 2008* (the state award), which is affected by a pay equity order of the Queensland Industrial Relations Commission (QIRC), entitled *Queensland Services, Industrial Union of Employees AND Queensland Chamber of Commerce and Industry Limited, Industrial Organisation of Employers and Others* (A/2008/5) (the QIRC order), made on 12 June 2009.

Regulation 3.03B prescribes the class of employers to which the transitional pay equity order applies for the purposes of paragraph 43(2)(b) of Schedule 3 to the T&C Act. The class of employers is described as the employers:

- to which the *Social, Community Home Care and Disability Services Industry Award 2010* (the modern award) applied on or after 1 January 2010;
- to which either of the following federal transitional awards applied immediately before 1 January 2010:
  - the *Social and Community Services (Queensland) Award 2001* [Transitional]; or
  - the *Crisis Assistance Supported Housing (Queensland) Award 1999* [Transitional];
- that received supplementary funding from the Queensland Government in relation to the QIRC order; and
- that were not constitutional corporations immediately before 1 January 2010.

Subregulation 3.03B(2) makes it clear that the class of prescribed employers does not include an employer (in relation to an affected employee) if one of the following instruments applied to the employer and the affected employee immediately before 1 January 2010:

- an enterprise agreement;
- a workplace agreement;
- a workplace determination;
- a preserved State agreement;
- an Australian Workplace Agreement (AWA); or
- a pre-reform AWA.

This is because subitem 28(1) of Schedule 3 to the T&C Act provides that while one of these instruments applies to an employer and an employee, the modern award does not. The transitional pay equity order will not apply to an employer unless the modern award applies to the employer on or after 1 January 2010 (paragraph 43(2)(a) of Schedule 3 to the T&C Act).

A number of instruments may apply, or have applied, to an employer in respect of different employees or groups of employees. If one of the instruments listed in subregulation 3.03B(2) applied to an employer immediately before 1 January 2010, the employer is not prescribed in relation to the affected employee or employees to whom the instrument also applied. However, the employer could still be prescribed in relation to other affected employees to whom the modern award does apply on or after 1 January 2010.

Following the QIRC order, the Queensland Government committed an additional \$414 million over four years to a range of employers across the Queensland SACS sector. A number of Queensland SACS employers who received supplementary funding from the Queensland Government were respondents to federal transitional awards.

The Queensland Government provided the Commonwealth with a list of 316 Queensland SACS sector employers that received funding in relation to the QIRC order and were also listed as a respondent to either of the relevant federal transitional awards (see [Attachment B](#)). This list is indicative only of the employers that received supplementary funding and may not be comprehensive. Queensland SACS sector employers should make their own enquiries of the Queensland Government as to whether they received supplementary funding in respect of the QIRC order.

To avoid doubt, the inclusion of this list in the Explanatory Statement is not intended to limit the class of employers that is prescribed by regulation 3.03B. If an employer meets the criteria set by regulation 3.03B then they are prescribed for the purposes of paragraph 43(2)(b) irrespective of whether they also appear on the list.

Despite being named in the list at Attachment B, if an employer was a constitutional corporation immediately before 1 January 2010, it is not a prescribed employer for the purposes of paragraph 43(2)(b) of the T&C Act.

### ***New regulation 3.03C – Prescribed source pay equity order***

Regulation 3.03C prescribes the order of the QIRC entitled *Queensland Services, Industrial Union of Employees AND Queensland Chamber of Commerce and Industry Limited*,

*Industrial Organisation of Employers and Others* (A/2008/5) (the QIRC order), made on 12 June 2009, as a source pay equity order for the purpose of subitem 43(4)(d) of Schedule 3 to the T&C Act.

The note to regulation 3.03C alerts the reader that the prescribed source pay equity order of 12 June 2009 gave effect to the pay equity decision of the same name made by the QIRC on 6 May 2009.

The QIRC order substantially increased the rates of pay payable to SACS sector employees under the state award and provided for an additional equal remuneration component to be applied annually until 2015.

***New regulation 3.03D – Modification of Schedule 3 to Act – base rate of pay***

Subitem 43(5) of Schedule 3 to the T&C Act currently provides that if the transitional pay equity order applies to an employer, the employer is required to pay affected employees a base rate of pay in respect of a period that is not less than the base rate of pay the employee would have been entitled to receive if the source pay equity order had applied to the employer in respect of the period.

For the purpose of item 43 of Schedule 3 to the T&C Act, an affected employee is an employee of a prescribed employer who performs work of a kind, and at a classification level, for which the source pay equity order determines a base rate of pay (subitem 43(6) of Schedule 3 to the T&C Act).

Regulation 3.03D modifies subitem 43(5) of Schedule 3 to the T&C Act, for the purposes of subitem 8(1) of Schedule 2 to the T&C Act, to require a prescribed employer to pay each affected employee a base rate of pay in respect of a period that is no less than the base rate of pay the employee would have been entitled to be paid in respect of that period under the state award, as in effect at 1 September 2011, assuming that the base rates of pay in the state award had continued to be determined in whole or in part by the source pay equity order.

This effectively freezes the state award as it existed at 1 September 2011. The base rates of pay set by the award in respect of particular periods at that date include the 2009, 2010 and 2011 state wage increases (to the extent relevant) on top of the rates set by the QIRC order in 2009. These base rates, with the addition of the 1% equal remuneration components provided for by the QIRC order in respect of future periods, are the base rates of pay that are payable under the transitional pay equity order.

New paragraph 43(5)(b) of Schedule 3 to the T&C Act directs the reader to Schedule 1A to the Principal Regulations which will assist employers and employees to determine the correct base rate of pay payable to an affected employee for a particular period by setting out the base rates of pay applicable to each classification from time to time, in respect of periods covered by the regulations.

Item 43 of Schedule 3 to the T&C Act only deals with base rates of pay. For this reason, the base rates of pay set out in Schedule 1A do not include the 7.5% loading that is payable to Community service workers, level 6, 7 and 8, and Crisis accommodation worker category A, level 4. However, loadings and penalty rates continue to be determined in accordance with

the modern award. If the modern award provides for a loading to be applied to the base rate of pay for an employee then the employer is required to do so.

Neither the T&C Act nor the Principal Regulations make provision for annual wage adjustments of the QIRC or FWA to affect the base rates of pay payable under item 43 of Schedule 3 to the T&C Act, as set out in Schedule 1A.

The July 2015 rate will continue to apply into the future in respect of affected employees until the relevant base rate of pay in the modern award, an enterprise agreement or other order of FWA equals or exceeds it.

***New regulation 3.03E – Modification of Schedule 3 to Act – when transitional pay equity order takes effect***

Subitem 43(7) of Schedule 3 to the T&C Act currently provides that the transitional pay equity order takes effect in relation to a prescribed employer immediately after the modern award begins to apply to the employer.

Regulation 3.03E modifies subitem 43(7) of Schedule 3 to the T&C Act, for the purposes of subitem 8(1) of Schedule 2 to the T&C Act, to provide that the transitional pay equity order takes effect in relation to a prescribed employer on 27 March 2011. This is the date from which a prescribed employer must pay affected employees in accordance with item 43 of Schedule 3 to the T&C Act.

***New regulation 3.03F – Payment of back pay***

Regulation 3.03E modifies subitem 43(7), for the purposes of subitem 8(1) of Schedule 2 to the T&C Act, to provide that the transitional pay equity order takes effect in relation to a prescribed employer on 27 March 2011. As this regulation does not commence until 1 March 2012, employers are required to back pay both current and former affected employees for work performed between 27 March 2011 and 29 February 2012.

Regulation 3.03F provides that the back pay amount is the difference between the amount actually paid to an affected employee during this period, and the amount that the affected employee would have been entitled to receive in respect of that period had the relevant base rate of pay under the state award, as in effect at 1 September 2011, applied. This will involve recalculation of any loadings or penalties payable under the modern award that are derived from the base rate of pay. The relevant base rates of pay are set out in Schedule 1A to the Principal Regulations.

Regulation 3.03F also provides that the back pay amount is payable to affected employees in three instalments. By 1 July 2012, employers must have paid their affected employees at least 35 per cent of the total back pay due to the employee. By 1 July 2013, employers must have paid their affected employees at least 70 per cent of the total back pay due to the employee. The employer must ensure that the total amount of back pay is paid to affected employees by 1 July 2014. The same back pay arrangements apply to current and former affected employees.

The back pay provisions are drafted in this way recognising that some employers may wish to pay more than the minimum back pay amount payable each year (for example, by paying the

total amount at once or by paying in two instalments of 50 per cent). Employers can choose to resolve their obligations in relation to back pay in a different manner to that set out in the regulations as long as the minimum amounts are paid by the 1 July anniversary each year.

#### ***New regulation 3.03G – Modification of Schedule 3 to Act – relevant instrument***

Subitems 43(8) and (9) of Schedule 3 to the T&C Act currently provide that a term of a modern award is of no effect to the extent that an affected employee is entitled to be paid a base rate of pay under the transitional pay equity order that is higher than the base rate of pay that would be payable under the modern award.

Regulation 3.03G modifies subitems 43(8) and (9) of Schedule 3 to the T&C Act, for the purposes of subitem 8(1) of Schedule 2 to the T&C Act, to extend this rule to encompass a term of a modern award, enterprise agreement or order of FWA.

This means that prescribed employers must continue to pay affected employees in accordance with the base rates of pay set out in Schedule 1A to the Principal Regulations until the base rate of pay that would otherwise apply to the employee under the modern award, an enterprise agreement or an order of FWA equals or exceeds the relevant Schedule 1A rate.

#### **Item [2] – After Part 4**

This item inserts new Part 4AA including new regulation 4AA.01 into the Principal Regulations.

#### ***New regulation 4AA.01 – Modification of item 7A of Schedule 16 to Act – prescribed employers***

Regulation 4AA.01 modifies the T&C Act, for the purposes of subitem 8(1) of Schedule 2 to the T&C Act, by inserting subitem 7A(1A) after subitem 7A(1) of Schedule 16 to the T&C Act.

Subitem 7A(1) of Schedule 16 to the T&C Act provides that a person must not contravene a term of a transitional pay equity order that applies to the person.

The existing note to subitem 7A(1) refers to item 16 of Schedule 16 to the T&C Act and Part 4-1 of the *Fair Work Act 2009*. Item 48A of the table in item 16 of Schedule 16 to the T&C Act lists subitem 7A(1) as a civil remedy provision.

Regulation 4AA.01 inserts subitem 7A(1A), which provides that the civil remedy provisions of item 48A of the table in item 16 of Schedule 16 to the T&C Act only apply to a prescribed employer on and after 1 March 2012, the date on which the regulation commences.

Although a prescribed employer is required to back pay relevant affected employees in relation to the period from 27 March 2011 to 29 February 2012, all payment obligations arise after the date on which an employer is prescribed (see the table of payments in regulation 3.03F of the Principal Regulations). The obligation to meet back pay obligations relating to an earlier date (that is, 27 March 2011) does not give rise to any contravention prior to 1 March 2012.



### **Item [3] – Before Schedule 1**

This item inserts new Schedule 1A into the Principal Regulations.

#### ***Schedule 1A – Transitional pay equity order taken to have been made by FWA – Division 2B State reference transitional awards (rates of pay)***

Schedule 1A to the Principal Regulations sets out the base rates of pay payable by prescribed employers to affected employees under the transitional pay equity order in accordance with subitem 43(5) of Schedule 3 to the T&C Act.

These are the base rates of pay that are payable in respect of a period under the state award, as in effect at 1 September 2011, assuming that the state award had continued to be determined in whole or in part by the source pay equity order. The rates include the 2009, 2010 and 2011 state wage increases (to the extent relevant) on top of the rates set by the QIRC order in 2009, and the 1% equal remuneration components provided for by the QIRC order in respect of future periods.

The dates from which particular base rates of pay are specified to be payable in Schedule 1A correspond with the dates in the state award and in the source pay equity order. The first column specifies the base rate payable at 27 March 2011, the date from which the transitional pay equity order first applies to prescribed employers for the purposes of item 43 of Schedule 3 to the T&C Act, and the final column specifies the base rate payable from 1 July 2015, the final date in respect of which the QIRC order determined a base rate of pay.

Neither the T&C Act nor the Principal Regulations make provision for annual wage adjustments of the QIRC or FWA to affect the base rates of pay payable under item 43 of Schedule 3 to the T&C Act. As such, the base rates of pay set out in Schedule 1A will not be adjusted for annual wage decisions.

The July 2015 rate will continue to apply into the future in respect of affected employees until the relevant base rate of pay in the modern award, an enterprise agreement or other order of FWA equals or exceeds it.

Item 43 of Schedule 3 to the T&C Act only deals with base rates of pay. Loadings and penalty rates that may apply to an affected employee continue to be determined in accordance with the modern award.

Note 1 explains how the weekly wage rates were calculated. They are calculated by dividing the annual wage rates by 52.1667. These wage rates are payable for a 38 hour week.

Note 2 explains that the base rates of pay set out in the Schedule for Community service worker, levels 6, 7 and 8, and Crisis accommodation worker category A, level 4, do not include a 7.5% loading.

## ATTACHMENT B

Note: This list is indicative only and may not be comprehensive. Employers on this list that were constitutional corporations immediately before 1 January 2010 are not prescribed employers.

Item	Name of employer
1	139 Club Inc Welfare Centre
2	4 Walls Ltd
3	Aboriginal & Torres Strait Islander Women's Legal and Advocacy Service NQ Inc
4	Aboriginal and Islander Community Resource Agency Aboriginal Corporation
5	Aboriginal and Islanders Development and Recreational Women's Association Mount Isa and District Inc
6	Abused Child Trust Inc
7	Acacia Ridge Community Support Inc
8	Access Arts Inc
9	Access Community Housing Company Limited
10	Access Recreation Inc
11	ACRO Australian Community Safety and Research Organisation Inc
12	Alcohol and Drug Foundation Queensland
13	Alzheimer's Association of Queensland
14	Anglicare – Central Queensland Limited
15	Anglicare – North Queensland Limited
16	ARAFMI Queensland Inc
17	Australian Red Cross Queensland
18	Autism Queensland Inc
19	Avenues Lifestyle Support Assoc Inc
20	Bahloo Women's Youth Shelter Association Inc
21	Bamagau Kazil Torres Strait Islander Corporation
22	Barambah Accommodation Support Service Inc
23	Bay Islands Community Services Inc
24	Bay Support Services Group Inc
25	Bayside Adolescent Boarding Inc
26	Bayside Respite Care Association Inc
27	Beaudesert Shire Health and Welfare Association Inc
28	Beenleigh District Community Development Association Inc
29	Better Hearing Australia Inc

<b>Item</b>	<b>Name of employer</b>
30	Booval Community Services Inc
31	Born Free Club Ltd
32	Bowen Community Council Inc
33	BoysTown
34	Brain Injury Assoc Qld Inc
35	Breakaway Inc
36	Bribie Island and District Neighbourhood Centre Association Inc
37	BRIC Housing
38	Brisbane Youth Service Inc
39	Bundaberg Area Youth Service Inc
40	Burdekin Community Association Inc
41	Burnett Respite Services Inc
42	Caboolture Community Care Inc
43	Caboolture Family Haven Inc
44	Cairns Community Legal Centre
45	Cairns Regional Domestic Violence Service Inc
46	Capricornia Respite Care Assn Inc
47	Caravan and Manufactured Home Residents Association of Queensland Incorporated
48	Care Goondiwindi Association Inc
49	Carina Youth Agency Inc
50	Caxton Legal Centre Inc
51	Central Queensland Community Legal Centre Inc
52	Chameleon Regional Community Housing, Accommodation and Welfare Association Inc
53	Charleville and District Community Support Association Inc
54	Charters Towers Neighbourhood Centre Inc
55	Children By Choice Association Inc
56	Chisholm Inc
57	Churches of Christ in Queensland
58	Coalition on Criminal Assault in the Home (North Queensland) Inc
59	Coastal Accommodation Support Services Incorporated
60	CODA South Carers Of Disabled Adults Assoc Inc
61	Collinsville Community Association Inc
62	Community Access & Transition Serv Inc

<b>Item</b>	<b>Name of employer</b>
63	Community Access Respite Service Inc
64	Community Action in Carole Park Inc
65	Community Connection Inc
66	Community Development Services Inc
67	Community Emergency Support Centre Inc
68	Community Housing and Information Centre Incorporated
69	Community Lifestyle Support Inc
70	Community Rent Scheme Association Townsville Incorporated
71	Community Solutions Inc
72	Compass Whitsundays Inc
73	Cooloola Youth Service Inc
74	Cooroy Family Support Centre Inc
75	Cystic Fibrosis Queensland Ltd
76	Darumbal Community Youth Service Inc
77	Deaf Services Queensland
78	Deception Bay Neighbourhood Centre Inc
79	Diabetes Australia – Queensland
80	Domestic Violence Prevention Centre Gold Coast Inc
81	Domestic Violence Resource Centre Inc
82	Domestic Violence Resource Service (Mackay and Region) Inc
83	Douglas Shire Community Services Assoc Inc
84	Dundalli Aboriginal and Torres Strait Islanders Corporation for Youth
85	Dvconnect Ltd
86	Dysart Community Support Group Inc
87	Eacham Community Help Organisation Inc
88	Eagleby Community Association Inc
89	EDON Place Women's Domestic Violence Service Inc
90	Emergency and Long Term Accommodation Moranbah Inc
91	Enhanced Care Assoc Inc
92	Epilepsy Queensland Inc
93	Erin House Inc
94	Family Emergency Accommodation Townsville Inc
95	Family Planning Queensland

<b>Item</b>	<b>Name of employer</b>
96	First Contact Aboriginal Corporation for Youth
97	Foundation for Independence Recreation & Social Training Inc
98	Fraser Coast Family Networks Inc
99	Fraser Coast Housing Services Inc
100	FSG Australia
101	Gallang Place Aboriginal and Torres Strait Islanders Corporation
102	Gateway Community Group Inc
103	George Street Neighbourhood Centre Association Inc
104	Girls Time Out Young Women's Support Service Inc
105	Girudala Community Co-Operative Society Limited
106	Gladstone & District Respite Care Association Incorporated
107	Gladstone Community Linking Agency Inc
108	Gold Coast Drug Council Inc
109	Gold Coast Project for Homeless Youth Inc
110	Gold Coast Recreation & Sport Inc
111	Gold Coast Youth Service Inc
112	Goobidi-Bamanga Community Advancement Cooperative Society Ltd
113	Goodna Youth Services Inc
114	Greek Orthodox Community of St George Brisbane
115	Guide Dogs For The Blind Association of Queensland
116	Gympie and District Community Centreplace Inc
117	Handihome Sunnybank Inc
118	Hannah's House
119	Headway Gold Coast Inc
120	Help Handicapped Enter Life Project (HHELP) Darling Downs Inc
121	Hinchinbrook Community Support Centre Inc
122	Home Support Association Inc
123	Homelife Assoc Inc
124	Homes West Association Inc
125	Horizon Foundation Inc
126	ICYS Ipswich Community Youth Service Inc
127	Inala Community House

<b>Item</b>	<b>Name of employer</b>
128	Inala Family Accommodation and Support Service Inc
129	Inala Youth Care Community Inc
130	Inclusion Works Association Inc
131	Independent Advocacy In The Tropics Inc
132	Ingham Parents Support Group Inc
133	Injilinjji Aboriginal and Torres Strait Islander Corporation for Children and Youth Services
134	Inner Northern Community Housing Brisbane Association Incorporated
135	Innisfail District Flexi Respite Assoc Inc
136	Innisfail Youth and Family Care Inc
137	Integrated Family And Youth Service Incorporated
138	Intellectually Handicapped Persons Association Qld
139	Ipswich & West Moreton Clubhouse Association Incorporated
140	Ipswich Independent Youth Service Inc
141	Ipswich Women's Shelter Inc
142	Jabiru Community Youth and Children's Services Association Inc
143	Jupiter Mossman Community Cooperative Society Ltd
144	Juwarki Kapu-Lug Aboriginal and Torres Strait Islanders Corporation
145	Kalyan Youth Service Inc
146	Keppel Community Care Association Inc
147	Kingston East Neighbourhood Group Inc
148	Kith And Kin Association Limited
149	Koongoora Inc
150	Kummara Association Inc
151	Kyabra Community Association Inc
152	Laidley Crisis Care and Accommodation
153	Leisure Connections Assn Inc
154	Lifestyle Options Inc
155	Link In Association Sunshine Coast Inc
156	Link-Up (Qld) Aboriginal Corporation
157	Lions Emergency Accommodation Centre Inc
158	Logan Women's Health & Wellbeing Centre Inc
159	Lutheran Church of Australia Queensland District – Lutheran Community Care

<b>Item</b>	<b>Name of employer</b>
160	Lyons House Inc
161	Mackay Aboriginal and Torres Strait Islander Corporation for Alternative Care and Foster Care Service
162	Mackay Advocacy Inc
163	Mackay And District Respite Care Association Inc
164	Mackay Family Care & Community Support Inc
165	Mackay Women's Centre Inc
166	Mackay Youth Support Service Inc
167	Mainstream Community Assoc Inc
168	Mamre Association Inc
169	Mangrove Housing Association Incorporated
170	Marlin Coast Neighbourhood Centre Inc
171	Maroochy Neighbourhood Centre Inc
172	Marsden Families Program
173	Maybanke Association Inc
174	Micah Projects Inc
175	Migrant Women's Emergency Support Service Inc
176	Mobile Attendant Care Service Inc
177	MontroseAccess
178	Mount Isa Community Development Association Incorporated
179	Mount Isa Youth Shelter Inc
180	Mt Gravatt District Community Support Inc
181	Multicap
182	Multilink Community Services Inc
183	Multiple Sclerosis Society of Queensland
184	Mundubbera Community Development Association Inc
185	Murilla Community Centre Inc
186	Nambour Community Centre Inc
187	National Heart Foundation of Australia (Q'ld Division)
188	Neighbourhood Centre Caboolture Inc
189	Nerang Neighbourhood Centre Inc
190	New Farm Neighbourhood Centre Inc
191	North Queensland Aboriginal & Torres Strait Islanders Aged & Disabled Care
192	North Queensland Combined Women's Services Inc

<b>Item</b>	<b>Name of employer</b>
193	North Queensland Prisoners Aid Society
194	North Queensland Women's Legal Service
195	North Townsville Community Hub Inc
196	North West Youth Accommodation Service Inc
197	North-East Community Support Group Inc
198	Nundah Community Support Group Inc
199	Older Women's Network (Queensland) Inc
200	Open Minds Australia
201	Othila's – Young Women's Housing and Support Service Inc
202	Ozcare
203	Peace Lutheran Church Gatton
204	Peirson Services
205	Phoenix House Association Inc
206	Playgroup Association of Queensland Inc
207	Port Douglas Community Services Network Inc
208	Port Kennedy Association Incorporated
209	Pregnancy Help Queensland Inc
210	Prison Fellowship of Australia Queensland Council
211	Prison Transport Group Inc
212	Prisoners Legal Service
213	Protect All Children Today (PACT) Inc
214	Qld Rec & Sport Assn For People With Intellectual Disability
215	Quality Lifestyle Alliance Inc
216	Quality Lifestyle Support Pty Ltd
217	Queensland Advocacy Incorporated
218	Queensland Aged & Disability Advocacy
219	Queensland Association for Healthy Communities Inc
220	Queensland Injectors Health Network Limited
221	Queensland Lifestyle Services
222	Queensland Program of Assistance for Survivors of Torture & Trauma Assn Inc
223	Queensland Youth Services Inc
224	Ravenshoe Community Centre Inc
225	Redland Community Centre Inc
226	Redland Respite Care Committee Inc
227	Refugee & Immigration Legal Service



<b>Item</b>	<b>Name of employer</b>
228	Regional Housing Limited
229	Rockhampton Women's Shelter Inc
230	Roma Community Legal Service
231	Roseberry Community Services Inc
232	Royal Queensland Bush Children's Health Scheme
233	Rural Lifestyle Options Association Inc
234	Ruth's Women's Shelter Cairns Inc
235	Sandgate And Bracken Ridge Action Group Incorporated
236	Save the Children Australia – Queensland Division
237	Sera's Women's Shelter Inc
238	Share Bayside Incorporated
239	Sharehouse Youth Accommodation Program Inc
240	Sherwood Neighbourhood Centre Inc
241	Silky Oaks Children's Haven
242	Sisters Inside Inc
243	Southside Community Care Inc
244	Speaking Up For You Group Inc
245	Spinal Injuries Association Inc
246	St Vincent de Paul Society Queensland
247	Stepping Stone Clubhouse Inc
248	Sunshine Coast Children's Therapy Centre Inc
249	Sunshine Coast Independent Living Service
250	Sunshine Coast Link Family Scheme Inc
251	Sunshine Coast Regional Housing Council Inc
252	Sunshine Cooloola Services Against Sexual Violence Inc
253	Sunshine Welfare & Remedial Association Inc
254	Supported Options In Lifestyle And Access Services Inc
255	Supporting People in Respite And Lifestyles Inc
256	Surfers Paradise Anglican Crisis Care Inc
257	Tableland Community Housing Association Incorporated
258	Tableland Community Link Association Incorporated
259	Tableland Respite Care Association Inc
260	Tableland Women's Centre Inc
261	Tablelands Rape & Incest Crisis Centre Inc

<b>Item</b>	<b>Name of employer</b>
262	Tara and District Family Support Committee Inc
263	Teen Challenge International Queensland Inc
264	The Advocacy And Support Centre Inc
265	The Baptist Union of Queensland Community Services Group – Queensland Baptist Care
266	The Brook Recovery Empowerment & Development Centre Inc
267	The Corporation of the Roman Catholic Diocese of Toowoomba Centacare
268	The Corporation of the Synod of the Diocese of Brisbane – Spiritus\Kinnections\Anglicare
269	The Corporation Of The Trustees Of The Order Of The Sisters Of Mercy In Queensland
270	The Haven Association Inc
271	The Lodge Youth Support Service Inc
272	The Richmond Fellowship Of Queensland
273	The Salvation Army (Qld) Property Trust
274	The Schizophrenia Fellowship Of Queensland Inc
275	The Spot Community Services Ltd
276	The Uniting Church in Australia (Q) – Blair Athol Accommodation and Support Programme
277	The Women’s Community Aid Association (Qld) Ltd
278	The Women’s Legal Service Inc
279	Toowoomba and District Youth Service Inc
280	Toowoomba Community Housing Service Incorporated
281	Townsville Aboriginal and Islanders Health Services Ltd
282	Townsville Community Legal Service
283	Townsville Independence Program For Adult Community Living
284	Tully Support Centre Inc
285	United Synergies Limited
286	WWILD – Sexual Violence Prevention Association Inc
287	Warringu Aboriginal and Torres Strait Islander Corporation
288	Weipa Community Care Association Inc
289	Welfare Rights Centre
290	Wesley Mission Brisbane

<b>Item</b>	<b>Name of employer</b>
291	West End Family Care Services Inc
292	Whitsunday Community Services Inc
293	Whitsunday Crisis and Counselling Service Inc
294	Wide Bay Sexual Assault Association Inc
295	Wide Bay Women's Health Centre Incorporated
296	Windana Support Centre Inc
297	Womens Centre Cairns Inc
298	Women's Health Awareness Group of Gladstone Inc
299	Women's Health Information and Referral Service Central Queensland Inc
300	Women's Health Queensland Wide Inc
301	Working Against Violence Support Service Inc
302	Xavier Children's Support Network
303	Yarrabah Aboriginal Corporation for Women
304	Yoorana Women's Domestic Violence and Resource Service Inc
305	Young Parents Program Inc
306	Young Women's Place Inc
307	Youth & Family Service (Logan City) Inc
308	Youth Emergency Services Inc
309	Youth Empowered Towards Independence Inc
310	Youth Housing Project Association Inc
311	Youth Service Providers Inc
312	Youthcare Hervey Bay Inc
313	Youthcare Pine Rivers Inc
314	Yuenmanda (Elder Clan Women) Aboriginal Corporation
315	Yumba-Meta Housing Association Ltd
316	Zig Zag Young Women's Resource Centre Inc

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Fair Work (Transitional Provisions and Consequential Amendments) Amendment Regulations 2012 (No. 1)**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Legislative Instrument**

This regulation gives effect to a commitment made in a Heads of Agreement the Australian Government signed with the Australian Services Union in October 2009. Paragraph 13 of the Heads of Agreement committed the Commonwealth to extend obligations under a pay equity order of the Queensland Industrial Relations Commission (the QIRC order) to employers that received supplementary funding from the Queensland Government in respect of the QIRC order and that would have become subject to the QIRC order from 27 March 2011 when federal transitional awards expired had the Queensland Parliament not referred workplace relations matters to the Commonwealth from 1 January 2010. This was also requested by the Queensland Government. Item 43 of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (T&C Act) provided a framework to do this.

This regulation, in conjunction with item 43 of Schedule 3 to the T&C Act, requires a prescribed class of employers, from 1 March 2012, to pay affected employees no less than the relevant base rate of pay they would have been entitled to for a period under the *Queensland Community Services and Crisis Assistance Award – State 2008* (the state award) (as affected by the QIRC order) as in effect at 1 September 2011. Prescribed employers are also required to back pay affected employees employed between 27 March 2011 and 29 February 2012 the difference between the amount actually received during this period, and the amount that would have been payable for that period had the base rate of pay under the state award applied (the back pay amount). The back pay amount is payable in minimum annual instalments or by earlier lump sum.

#### **Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Bill Shorten MP**

**Minister for Employment and Workplace Relations**