



Fair Entitlements Guarantee Amendment Regulation 2014 (No. 1)

Select Legislative Instrument No. 147, 2014

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following regulation.

Dated 16 October 2014

Peter Cosgrove
Governor-General

By His Excellency's Command

Eric Abetz
Minister for Employment

OPC60722 - C

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1 Name

This is the *Fair Entitlements Guarantee Amendment Regulation 2014 (No. 1)*.

2 Commencement

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

Commencement information	
Column 1	Column 2
Provisions	Commencement
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.
2. Schedule 1	The later of: (a) the end of the period in which this instrument could be disallowed in either House of the Parliament; and (b) the commencement of item 1 of Schedule 1 to the <i>Fair Entitlements Guarantee Amendment Act 2014</i>. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.

3 Authority

This instrument is made under the *Fair Entitlements Guarantee Act 2012*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Fair Entitlements Guarantee Regulation 2012

1 After Part 2

Insert:

Part 3—Application and transitional provisions

9A Application of amendments made by the *Fair Entitlements Guarantee Amendment Regulation 2014 (No. 1)*

The amendments made by the *Fair Entitlements Guarantee Amendment Regulation 2014 (No. 1)* apply to an insolvency event that happens to a specified person on or after the commencement of this section.

2 Item 6 of Schedule 1 (paragraph 10(1)(e))

Repeal the paragraph.

3 Item 6 of Schedule 1 (note at the end of subsection 10(1))

Omit “Note”, substitute “Note 1”.

4 Item 6 of Schedule 1 (at the end of subsection 10(1))

Add:

Note 2: The amount of an advance may be reduced where a person has not taken reasonable steps to be paid a debt: see section 17A.

5 After item 12 of Schedule 1

Insert:

12A Section 17A

substitute

17A Reduction of advance for certain debts owed to TCF contract outworker

(1) Subsection (2) applies if:

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- (a) a TCF contract outworker is owed one or more debts by a specified person (or would, apart from the discharge of the bankruptcy of the specified person, be owed such debts) that are wholly or partly attributable to work done by the TCF contract outworker for the specified person; and
 - (b) the TCF contract outworker was owed any of the debts before an insolvency event happened to the specified person; and
 - (c) the TCF contract outworker did not take reasonable steps before the insolvency event happened to the specified person to be paid some of those debts (the *unclaimed debts*).
- (2) The Secretary may reduce the amount of an advance worked out under section 16 for the TCF contract outworker by an amount not exceeding the sum of the TCF contract outworker's unclaimed debts.

6 Item 18 of Schedule 1 (paragraph 23(b))

Repeal the paragraph, substitute:

- (b) does not exceed 16 weeks' pay (at the rate relevant to working out the entitlement).

7 Item 19 of Schedule 1 (section 24)

Repeal the section, substitute:

24 Basic amount for wages entitlement

The basic amount for a TCF contract outworker's wages entitlement is the TCF contract outworker's wages entitlement.

Note: Sections 25 and 27 may affect the basic amount.

8 Item 22 of Schedule 1 (paragraph 28(1)(b))

Omit “, subject to the liquidator or trustee withholding or deducting an amount as required by law”.

9 Item 22 of Schedule 1 (paragraph 28(1)(c))

Omit “, subject to the payee withholding or deducting an amount as required by law”.

10 Item 22 of Schedule 1 (at the end of subsection 28(1))

Add:

Note: The Secretary or another person may be required to withhold or deduct an amount because of the Pay as you go (PAYG) withholding rules, or because of any other Commonwealth, State or Territory law that requires a person to withhold or deduct an amount: see section 7A.

11 Item 25 of Schedule 1 (after subsection 32(2))

Insert:

- (2A) If, after reducing the amount of the advance for the TCF contract outworker's TCF contract outworker entitlement described in column 2 of the table to nil under subsection (2), an amount of the debt remains, the remaining amount is taken to have applied proportionally to what would (apart from the reduction of that amount) have been the amounts of the advance that would have been for the TCF contract outworker's other TCF contract outworker entitlements.

12 After item 44 of Schedule 1

Insert:

44A Section 49A

substitute

49A Death does not affect eligibility for, or payability of, an advance

The death of a person who was a TCF contract outworker at a time after the person no longer does work for a specified person, does not prevent:

- (a) the person from being eligible for an advance; or
- (b) an advance that the person is eligible for from being paid to the person's estate (either directly or by being paid to someone else to pass an amount on to the estate).