



Independent Contractors Regulation 2016

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 08 December 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Michaelia Cash
Minister for Employment

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1 Name

This is the *Independent Contractors Regulation 2016*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	2 January 2017.	2 January 2017

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

This instrument is made under the *Independent Contractors Act 2006*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Court;
- (b) services contract.

In this instrument:

Act means the *Independent Contractors Act 2006*.

6 State and Territory laws affecting parties to service contracts

For the purposes of paragraph 7(2)(c) of the Act, the following are specified:

- (a) all of the *Building and Construction Industry Security of Payment Act 1999* (NSW);

Section 7

- (b) Parts 1 to 4 of Chapter 8, and the Dictionary at the end, of the *Health Services Act 1997* (NSW);
- (c) all of the *Building and Construction Industry Security of Payment Act 2002* (Vic.);
- (d) all of the *Building and Construction Industry Payments Act 2004* (Qld);
- (e) all of the *Queensland Building and Construction Commission Act 1991* (Qld);
- (f) all of the *Construction Contracts Act 2004* (WA);
- (g) all of the *Owner-Drivers (Contracts and Disputes) Act 2007* (WA);
- (h) all of the *Building and Construction Industry Security of Payment Act 2009* (SA);
- (i) all of the *Building and Construction Industry Security of Payment Act 2009* (Tas.);
- (j) all of the *Building and Construction Industry (Security of Payment) Act 2009* (ACT);
- (k) all of the *Construction Contracts (Security of Payments) Act* (NT).

Note: The effect of State and Territory laws specified for the purposes of paragraph 7(2)(c) of the Act on the rights, entitlements, obligations and liabilities of a party to a services contract is not limited by subsection 7(1) of the Act.

7 Circumstances in which application must not be made to review services contract as harsh or unfair

For the purposes of section 13 of the Act (which prohibits an application to the Court in prescribed circumstances to review a services contract), this section prescribes the circumstances that both of the following apply:

- (a) 12 months have passed since the services contract ended;
- (b) the Court has not allowed the making of the application after being satisfied that there are exceptional circumstances justifying the making of the application.

8 Provisions for other review proceedings preventing or prevented by application to review services contract as harsh or unfair

For the purposes of paragraph (b) of the definition of *other review proceedings* in subsection 14(3) of the Act, sections 20 and 21 of the Australian Consumer Law are specified.

Note: The reference to the Australian Consumer Law is a reference to the Australian Consumer Law as applied under Division 2 of Part XI of the *Competition and Consumer Act 2010* (as a law of the Commonwealth) and as applied as a law of each State and Territory that is a party to the Intergovernmental Agreement for the Australian Consumer Law: see section 140K of that Act.

Schedule 1—Repeals

Independent Contractors Regulations 2007

1 The whole of the Regulations

Repeal the Regulations.