



## **Fair Work Amendment (Corrupting Benefits) Regulations 2017**

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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 regulations.

Dated 14 December 2017

Peter Cosgrove  
Governor-General

By His Excellency's Command

Michaelia Cash  
Minister for Employment

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## 1 Name

This instrument is the *Fair Work Amendment (Corrupting Benefits) Regulations 2017*.

## 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	29 January 2018.	29 January 2018

Note: This table relates only to the provisions of this instrument as originally made.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 *Fair Work Act 2009*.

## 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 Work Regulations 2009*

#### **1 Before regulation 2.06A**

Insert:

#### **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 In the appropriate position in Chapter 7**

Insert:

### **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.

### 3 After Schedule 2.1

Insert:

## 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*.

<b>Beneficial term: <i>[insert, e.g. clause number]</i></b>			
<b>Nature of financial benefit</b>	<b>Amount of financial benefit</b>	<b>Name of beneficiary</b>	<b>Name of provider</b>
<i>[Describe nature of section 179 disclosable benefit or section 179A disclosable benefit]</i>	<i>[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.]</i>	<i>[Name of each beneficiary]</i>	<i>[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.]</i>

<b>Beneficial term: <i>[insert, e.g. clause number]</i></b>			
<b>Nature of financial benefit</b>	<b>Amount of financial benefit</b>	<b>Name of beneficiary</b>	<b>Name of provider</b>

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:

**Schedule 1** Amendments

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Date: *[Date on which document is signed by authorised person]*