



Fair Work Amendment (Modernising Right of Entry) Regulations 2019

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 21 March 2019

Peter Cosgrove
Governor-General

By His Excellency's Command

Kelly O'Dwyer
Minister for Jobs and Industrial Relations

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1 Name

This instrument is the *Fair Work Amendment (Modernising Right of Entry) Regulations 2019*.

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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	1 July 2019.	1 July 2019
2. Schedule 1, Part 1	1 July 2019.	1 July 2019
3. Schedule 1, Part 2	1 October 2019.	1 October 2019

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Amendments commencing 1 July 2019

Fair Work Regulations 2009

1 Regulation 3.26

Repeal the regulation, substitute:

3.26 Requirements for entry permits

For the purposes of section 521 of the Act, an entry permit issued on or after 1 July 2019 must include the following:

- (a) the permit holder's full name;
- (b) the name of the organisation that applied for the entry permit;
- (c) an expiry date for the entry permit;
- (d) a recent photograph of the permit holder that:
 - (i) shows the holder's full face; and
 - (ii) meets requirements that are considered appropriate by the FWC;
- (e) the permit holder's signature.

2 Schedule 3.3 (note to heading)

Repeal the note, substitute:

Note: See regulations 3.27, 3.28 and 3.29.

3 Schedule 3.3 (Form 1)

Repeal the form.

4 At the end of Form 2 of Schedule 3.3

Add:

Do not delete this box

Obligations of permit holders, occupiers of premises and affected employers

A permit holder has various obligations under the *Fair Work Act 2009*. In general terms, these include (but are not limited to) the following:

- to produce the permit holder's entry permit for inspection on request and before requiring access to records and documents (see section 489);
- to comply with any reasonable request from the occupier of premises to comply with occupational health and safety requirements that apply to the premises (see section 491);
- not to intentionally hinder or obstruct any person, or act in an improper manner (see section 500);
- not to intentionally or recklessly misrepresent things the permit holder is authorised to do (see section 503).

An occupier of premises, an affected employer or other person has various obligations under the *Fair Work Act 2009*. In general terms, these include (but are not limited to) the following:

- not to refuse or unduly delay entry to a permit holder (see section 501);
- not to intentionally hinder or obstruct a permit holder (see section 502);
- not to intentionally or recklessly misrepresent things the occupier, employer or person is authorised to do (see section 503).

For further information about all the rights and obligations that apply in relation to entry rights, see Part 3-4 of the *Fair Work Act 2009* or contact the Fair Work Ombudsman (tel: 13 13 94) or the Australian Building and Construction Commission (tel: 1800 003 338).

Failure by a person to comply with an obligation under Part 3-4 of the *Fair Work Act 2009* may result in a court ordering the person to pay a pecuniary penalty (see section 546).

5 Schedule 3.3 (Form 3, note)

Repeal the note, substitute:

Do not delete this box

Obligations of permit holders, occupiers of premises and affected employers

A permit holder has various obligations under the *Fair Work Act 2009*. In general terms, these include (but are not limited to) the following:

- to produce the permit holder's entry permit for inspection on request and before requiring access to records and documents (see section 489);
- to comply with any reasonable request from the occupier of premises to comply with occupational health and safety requirements that apply to the premises (see section 491);
- not to intentionally hinder or obstruct any person, or act in an improper manner (see section 500);
- not to intentionally or recklessly misrepresent things the permit holder is authorised to do (see section 503).

An occupier of premises, an affected employer or other person has various obligations under the *Fair Work Act 2009*. In general terms, these include (but are not limited to) the following:

- not to refuse or unduly delay entry to a permit holder (see section 501);
- not to intentionally hinder or obstruct a permit holder (see section 502);
- not to intentionally or recklessly misrepresent things the occupier, employer or person is authorised to do (see section 503).

For further information about all the rights and obligations that apply in relation to entry rights, see Part 3-4 of the *Fair Work Act 2009* or contact the Fair Work Ombudsman (tel: 13 13 94) or the Australian Building and Construction Commission (tel: 1800 003 338).

Failure by a person to comply with an obligation under Part 3-4 of the *Fair Work Act 2009* may result in a court ordering the person to pay a pecuniary penalty (see section 546).

Part 2—Amendments commencing 1 October 2019

Fair Work Regulations 2009

6 After regulation 3.26

Insert:

3.26A Photographic identification to be produced with certain entry permits

For the purposes of paragraph 521(b) of the Act, if a permit holder, in accordance with section 489 or 497 of the Act, produces for inspection an entry permit that was issued before 1 July 2019, the permit holder must also produce for inspection with the entry permit a document that:

- (a) is issued:
 - (i) by the government of the Commonwealth, a State or a Territory; or
 - (ii) by an authority established for a public purpose by or under a law of the Commonwealth, a State or a Territory; and
- (b) is in force, or ceased to be in force not more than 2 years before the document is produced; and
- (c) provides photographic identification of the permit holder.