



Fair Work Legislation Amendment (Closing Loopholes) Regulations 2024

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 15 August 2024

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Murray Watt
Minister for Employment and Workplace Relations

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1 Name

This instrument is the *Fair Work Legislation Amendment (Closing Loopholes) Regulations 2024*.

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	The day after this instrument is registered.	21 August 2024
2. Schedule 1	The later of: (a) the start of the day after this instrument is registered; and (b) immediately after the commencement of Part 16 of Schedule 1 to the <i>Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024</i> .	26 August 2024 (paragraph (b) applies)
3. Schedule 2	The day after this instrument is registered.	21 August 2024

Note: This table relates only to the provisions of this instrument as originally made.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 following:

- (a) the *Fair Work Act 2009*;
- (b) the *Fair Work (Registered Organisations) Act 2009*;
- (c) 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Regulated workers

Part 1—Road transport industry

Fair Work Regulations 2009

1 After Division 2 of Part 1-2

Insert:

Division 3A—Definitions relating to regulated workers and persons in a road transport contractual chain

Subdivision C—Road transport industry

1.08A Meaning of *in a road transport contractual chain*—exclusion of livestock industry

- (1) The following industries are prescribed for the purposes of paragraph 15RA(3)(d) of the Act:
 - (a) the industry that would comprise the road transport and distribution industry (within the meaning of the Road Transport and Distribution Award 2020 as in force on 1 July 2024), to the extent it would relate to transporting or otherwise dealing with livestock covered by subregulation (2), if the references in that award to “livestock” covered all such livestock;
 - (b) the industry that would comprise the private transport industry (within the meaning of the Road Transport (Long Distance Operations) Award 2020 as in force on 1 July 2024) engaged in long distance operations (within the meaning of that award), to the extent it would relate to transporting or otherwise dealing with livestock covered by subregulation (2), if the references in that award to “livestock” covered all such livestock.
- (2) This subregulation covers cattle, sheep, goats, pigs, horses, poultry, emus, ostrich, alpaca, deer, camels and buffalo.

1.08B Meaning of *road transport industry*—exclusion of livestock industry

- (1) For the purposes of paragraph 15S(1)(a) of the Act, the Road Transport and Distribution Award 2020, as in force on 1 July 2024, is taken not to apply in relation to transporting or otherwise dealing with livestock covered by subregulation 1.08A(2).
- (2) For the purposes of paragraph 15S(1)(b) of the Act, the Road Transport (Long Distance Operations) Award 2020, as in force on 1 July 2024, is taken not to apply in relation to transporting or otherwise dealing with livestock covered by subregulation 1.08A(2).

2 After Chapter 3

Insert:

Chapter 3A—Minimum standards for regulated workers

Part 3A-2—Minimum standards for regulated workers

Division 3—Minimum standards orders

Subdivision E—Decisions on minimum standards orders

3A.02 Further terms that must not be included in a road transport minimum standards order

For the purposes of paragraph 536KN(2)(b) of the Act, the following are prescribed to be laws to which subparagraph (1)(a)(ii) of that section applies:

- (a) the *Road Traffic (Vehicles) Act 2012* (WA);
- (b) the *Traffic Act 1987* (NT).

Note: A road transport minimum standards order must not include terms about any matters relating to road transport that are comprehensively dealt with by these laws: see subparagraph 536KN(1)(a)(ii) of the Act.

Chapter 3B—Minimum standards for persons in a road transport contractual chain

Part 3B-2—Minimum standards for persons in a road transport contractual chain

Division 2—Road transport contractual chain orders

Subdivision D—Decisions on road transport contractual chain orders and related matters

3B.02 Terms that must not be included in a road transport contractual chain order

For the purposes of paragraph 536PR(4)(b) of the Act, the following are prescribed to be laws to which subparagraph (2)(a)(ii) of that section applies:

- (a) the *Road Traffic (Vehicles) Act 2012* (WA);
- (b) the *Traffic Act 1987* (NT).

Note: A road transport contractual chain order must not include terms about any matters relating to road transport that are comprehensively dealt with by these laws: see subparagraph 536PR(2)(a)(ii) of the Act.

Part 2—Unfair deactivation and unfair termination

Fair Work Regulations 2009

3 Regulation 1.03

Insert:

folio means 72 words.

Note: Schedule 3.1 sets out certain charges that may be incurred per folio. There are generally 3 folios to a page.

4 Regulation 1.07

Repeal the regulation, substitute:

1.07 Meaning of *serious misconduct*

- (1) For the purposes of the definition of *serious misconduct* in section 12 of the Act, serious misconduct has its ordinary meaning.

Examples of serious misconduct—employees

- (2) For the purposes of subregulation (1), conduct that is serious misconduct includes the following conduct of an employee:
- (a) wilful or deliberate behaviour that is inconsistent with the continuation of the contract of employment;
 - (b) conduct that causes serious and imminent risk to:
 - (i) the health or safety of a person; or
 - (ii) the reputation, viability or profitability of the employer's business;
 - (c) engaging in theft, fraud, assault or sexual harassment in the course of the employee's employment;
 - (d) being intoxicated at work;
 - (e) refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.
- (3) Paragraphs (2)(c) to (e) do not apply if the employee is able to show that, in the circumstances, the conduct engaged in by the employee was not conduct that made employment in the period of notice unreasonable.

Examples of serious misconduct—employee-like workers

- (4) For the purposes of subregulation (1), conduct that is serious misconduct includes the following conduct of an employee-like worker performing digital platform work through or by means of a digital labour platform, or under a services contract arranged or facilitated through or by means of a digital labour platform:
- (a) wilful or deliberate behaviour that is inconsistent with:
 - (i) the employee-like worker continuing to perform that work; or
 - (ii) the employee-like worker's continued access to that digital labour platform;
 - (b) conduct that causes serious and imminent risk to:
 - (i) the health or safety of a person; or

- (ii) the reputation, viability or profitability of the digital labour platform operator;
- (c) engaging in theft, fraud, assault or sexual harassment in the course of performing that work or in relation to accessing that digital labour platform;
- (d) being intoxicated in the course of performing that work;
- (e) refusing to carry out a lawful and reasonable instruction that is consistent with:
 - (i) the employee-like worker continuing to perform that work; or
 - (ii) the employee-like worker's continued access to that digital labour platform.

Examples of serious misconduct—regulated road transport contractors

- (5) For the purposes of subregulation (1), conduct that is serious misconduct includes the following conduct of a regulated road transport contractor performing work under a services contract:
 - (a) wilful or deliberate behaviour that is inconsistent with the continuation of the services contract;
 - (b) conduct that causes serious and imminent risk to:
 - (i) the health or safety of a person; or
 - (ii) the reputation, viability or profitability of a road transport business that is a party to the services contract;
 - (c) engaging in theft, fraud, assault or sexual harassment in the course of performing that work;
 - (d) being intoxicated in the course of performing that work;
 - (e) refusing to carry out a lawful and reasonable instruction that is consistent with the services contract.

When a person is taken to be intoxicated

- (6) For the purposes of paragraphs (2)(d), (4)(d) and (5)(d), a person (the **worker**) is taken to be intoxicated if the worker's faculties are, by reason of the worker being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the directions of, a person lawfully authorised to administer the drug), so impaired that the worker is unfit to be entrusted with the worker's duties or with any duty that the worker may be called upon to perform.

5 Subregulation 3.04(4)

Repeal the subregulation (including the note).

6 Subregulation 3.08(6)

Repeal the subregulation (including the note).

7 After Part 3A-2

Insert:

Part 3A-3—Unfair deactivation or unfair termination of regulated workers

Division 5—Procedural matters

3A.04 Schedule of costs

- (1) For the purposes of subsection 536ME(1) of the Act, the schedule of costs set out in Schedule 3.1 is prescribed.

Note 1: Broadly, section 536ME of the Act provides that a schedule of costs may be prescribed in relation to matters arising under Part 3A-3 of the Act (which deals with unfair deactivation and unfair termination). Applications for remedies in relation to such matters are made under section 536LU of the Act.

Note 2: An application for an order for costs must be made in accordance with the procedural rules.

- (2) A bill of costs must identify, by an item number, each cost and disbursement claimed.

8 Subregulation 6.06(4)

Repeal the subregulation (including the note).

9 Schedule 3.1 (note to Schedule heading)

After “3.08(1)”, insert “, 3A.04(1)”.

10 Part 1 of Schedule 3.1 (table items 101 and 102, column headed “Matter for which charge may be made”)

After “section 394 of Part 3-2”, insert “, section 536LU of Part 3A-3”.

Part 3—Application fees

Division 1—Main amendments

Fair Work Regulations 2009

11 Before regulation 3A.04

Insert:

3A.03 Application fees

- (1) For the purposes of subsection 536LV(1) of the Act, this regulation sets out matters relating to a fee for making an application to the FWC under section 536LU of the Act.

Fee at commencement of this regulation

- (2) If the application is made in the financial year starting on 1 July 2024, the fee is \$87.20.

Method for indexing the fee

- (3) If the application is made in a financial year starting on 1 July 2025, or 1 July in a later year (the **application year**), the amount of the fee is to be worked out as follows:
- (a) identify the amount of the fee for an application made in the previous financial year;
 - (b) multiply it by the indexation factor for the application year (see subregulation (4));
 - (c) round the result to the nearest multiple of 10 cents, rounding up if the result ends in 5 cents.
- (4) The indexation factor for the application year is worked out using the following formula, and then rounded under subregulation (5):

$$\frac{\text{Sum of index numbers for quarters in most recent March year}}{\text{Sum of index numbers for quarters in previous March year}}$$

where:

index number, for a quarter, means the All Groups Consumer Price Index Number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

most recent March year means the period of 12 months ending on 31 March in the financial year that occurred immediately before the application year.

previous March year means the period of 12 months immediately preceding the most recent March year.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

- (5) The result under subregulation (4) must be rounded up or down to 3 decimal places, rounding up if the result ends in 0.0005.

- (6) A calculation under subregulation (4):
- (a) is to be made using the index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
 - (b) is to be made disregarding index numbers that are published in substitution for previously published index numbers (unless the substituted numbers are published to take account of changes in the index reference period).

No fee—hardship

- (7) If the FWC is satisfied that the person making an application will suffer serious hardship if the person is required to pay the fee, no fee is payable for making the application.

Refund of fee—discontinuing application

- (8) The FWC must repay to the person an amount equal to the fee if:
- (a) the fee has been paid; and
 - (b) the application is subsequently discontinued as mentioned in section 588 of the Act; and
 - (c) either:
 - (i) at the time the application is discontinued, the application has not yet been listed for conducting a conciliation, conference or hearing; or
 - (ii) if the application has, at or before that time, been listed for conducting a conciliation, conference or hearing on a specified date or dates—the discontinuance occurs at least 2 days before that date or the earlier of those dates.

12 After Part 3A-3

Insert:

Part 3A-5—Unfair contract terms of services contracts

Division 4—Procedural matters

3A.05 Application fees

- (1) For the purposes of subsection 536NE(1) of the Act, this regulation sets out matters relating to a fee for making an application to the FWC under section 536ND of the Act.

Fee at commencement of this regulation

- (2) If the application is made in the financial year starting on 1 July 2024, the fee is \$87.20.

Method for indexing the fee

- (3) If the application is made in a financial year starting on 1 July 2025, or 1 July in a later year (the **application year**), the amount of the fee is to be worked out as follows:
- (a) identify the amount of the fee for an application made in the previous financial year;

- (b) multiply it by the indexation factor for the application year (see subregulation (4));
 - (c) round the result to the nearest multiple of 10 cents, rounding up if the result ends in 5 cents.
- (4) The indexation factor for the application year is worked out using the following formula, and then rounded under subregulation (5):

$$\frac{\text{Sum of index numbers for quarters in most recent March year}}{\text{Sum of index numbers for quarters in previous March year}}$$

where:

index number, for a quarter, means the All Groups Consumer Price Index Number (being the weighted average of the 8 capital cities) published by the Australian Statistician for that quarter.

most recent March year means the period of 12 months ending on 31 March in the financial year that occurred immediately before the application year.

previous March year means the period of 12 months immediately preceding the most recent March year.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

- (5) The result under subregulation (4) must be rounded up or down to 3 decimal places, rounding up if the result ends in 0.0005.
- (6) A calculation under subregulation (4):
- (a) is to be made using the index numbers published in terms of the most recently published index reference period for the Consumer Price Index; and
 - (b) is to be made disregarding index numbers that are published in substitution for previously published index numbers (unless the substituted numbers are published to take account of changes in the index reference period).

No fee—hardship

- (7) If the FWC is satisfied that the person making an application will suffer serious hardship if the person is required to pay the fee, no fee is payable for making the application.

Refund of fee—discontinuing application

- (8) The FWC must repay to the person an amount equal to the fee if:
- (a) the fee has been paid; and
 - (b) the application is subsequently discontinued as mentioned in section 588 of the Act; and
 - (c) either:
 - (i) at the time the application is discontinued, the application has not yet been listed for conducting a conciliation, conference or hearing; or
 - (ii) if the application has, at or before that time, been listed for conducting a conciliation, conference or hearing on a specified date or dates—the

discontinuance occurs at least 2 days before that date or the earlier of those dates.

Division 2—Consequential amendments

Fair Work Regulations 2009

13 Subregulations 3.02(6), 3.03(6) and 3.07(6)

Omit “reference base” (wherever occurring), substitute “index reference period”.

14 After paragraph 5.01(2)(c)

Insert:

- (ca) being satisfied under subregulation 3A.03(7) that a person making an application to the FWC under section 536LU of the Act will suffer serious hardship if the person is required to pay the fee for the application;
- (cb) being satisfied under subregulation 3A.05(7) that a person making an application to the FWC under section 536ND of the Act will suffer serious hardship if the person is required to pay the fee for the application;

15 Subregulation 6.05(6)

Omit “reference base” (wherever occurring), substitute “index reference period”.

16 Subregulation 6.07A(6)

After “index reference” (wherever occurring), insert “period”.

Part 4—State and Territory laws with continued application

Fair Work Regulations 2009

17 Before Part 3A-2

Insert:

Part 3A-1—Core provisions for this Chapter

Division 3—Exclusion of certain State and Territory laws

3A.01 Exclusion of certain State and Territory laws

For the purposes of paragraph 536JP(3)(c) of the Act, the following are specified:

- (a) all of the *Building and Construction Industry Security of Payment Act 1999* (NSW);
- (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 *Building Industry Fairness (Security of Payment) Act 2017* (Qld);
- (f) Chapter 10A of the *Industrial Relations Act 2016* (Qld), and any other provision of that Act to the extent that it relates to, or has effect for the purposes of, a provision of that Chapter;
- (g) all of the *Queensland Building and Construction Commission Act 1991* (Qld);
- (h) all of the *Building and Construction Industry (Security of Payment) Act 2021* (WA);
- (i) all of the *Construction Contracts (Former Provisions) Act 2004* (WA);
- (j) all of the *Owner-Drivers (Contracts and Disputes) Act 2007* (WA);
- (k) all of the *Building and Construction Industry Security of Payment Act 2009* (SA);
- (l) all of the *Building and Construction Industry Security of Payment Act 2009* (Tas.);
- (m) all of the *Building and Construction Industry (Security of Payment) Act 2009* (ACT);
- (n) all of the *Construction Contracts (Security of Payments) Act 2004* (NT).

Note: The effect of State and Territory laws specified for the purposes of paragraph 536JP(3)(c) of the Act on the rights, entitlements, obligations and liabilities of a regulated worker, a regulated business or a party to a services contract is not limited by subsection 536JP(1) of the Act.

18 Before Part 3B-2

Insert:

Part 3B-1—Core provisions for this Chapter

Division 3—Exclusion of certain State and Territory laws

3B.01 Exclusion of certain State and Territory laws

For the purposes of paragraph 536NW(3)(c) of the Act, the following are specified:

- (a) all of the *Building and Construction Industry Security of Payment Act 1999* (NSW);
- (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 *Building Industry Fairness (Security of Payment) Act 2017* (Qld);
- (f) Chapter 10A of the *Industrial Relations Act 2016* (Qld), and any other provision of that Act to the extent that it relates to, or has effect for the purposes of, a provision of that Chapter;
- (g) all of the *Queensland Building and Construction Commission Act 1991* (Qld);
- (h) all of the *Building and Construction Industry (Security of Payment) Act 2021* (WA);
- (i) all of the *Construction Contracts (Former Provisions) Act 2004* (WA);
- (j) all of the *Owner-Drivers (Contracts and Disputes) Act 2007* (WA);
- (k) all of the *Building and Construction Industry Security of Payment Act 2009* (SA);
- (l) all of the *Building and Construction Industry Security of Payment Act 2009* (Tas.);
- (m) all of the *Building and Construction Industry (Security of Payment) Act 2009* (ACT);
- (n) all of the *Construction Contracts (Security of Payments) Act 2004* (NT).

Note: The effect of State and Territory laws specified for the purposes of paragraph 536NW(3)(c) of the Act on the rights, entitlements, obligations and liabilities of a person in a road transport contractual chain is not limited by subsection 536NW(1) of the Act.

Independent Contractors Regulation 2016

19 After paragraph 6(d)

Insert:

- (da) all of the *Building Industry Fairness (Security of Payment) Act 2017* (Qld);
- (db) Chapter 10A of the *Industrial Relations Act 2016* (Qld), and any other provision of that Act to the extent that it relates to, or has effect for the purposes of, a provision of that Chapter;

20 After paragraph 6(e)

Insert:

(ea) all of the *Building and Construction Industry (Security of Payment) Act 2021* (WA);

21 Paragraph 6(f)

Omit “*Construction Contracts Act 2004* (WA)”, substitute “*Construction Contracts (Former Provisions) Act 2004* (WA)”.

Part 5—Review of services contracts

Fair Work Regulations 2009

22 Before Part 6-2

Insert:

Part 6-1—Multiple actions

Division 3—Preventing multiple actions

Subdivision DA—Actions relating to unfair deactivation or unfair termination

6.01A Limitation on applications for remedy for unfair deactivation—other proceedings in progress

For the purposes of the definition of *other deactivation proceedings* in subsection 734BA(3) of the Act, proceedings are specified if the proceedings are:

- (a) commenced by or on behalf of the person who has been deactivated; and
- (b) in relation to the deactivation; and
- (c) commenced under any of the following:
 - (i) Chapter 6 of the *Industrial Relations Act 1996* (NSW), or any other provision of that Act to the extent that it relates to, or has effect for the purposes of, a provision of that Chapter;
 - (ii) the *Owner Drivers and Forestry Contractors Act 2005* (Vic.);
 - (iii) Chapter 10A of the *Industrial Relations Act 2016* (Qld), or any other provision of that Act to the extent that it relates to, or has effect for the purposes of, a provision of that Chapter;
 - (iv) the *Owner-Drivers (Contracts and Disputes) Act 2007* (WA).

6.01B Limitation on applications for remedy for unfair termination—other proceedings in progress

For the purposes of the definition of *other termination proceedings* in subsection 734BB(3) of the Act, proceedings are specified if the proceedings are:

- (a) commenced by or on behalf of the person who has been terminated in relation to work performed under the services contract; and
- (b) in relation to the termination; and
- (c) commenced under any of the following:
 - (i) Chapter 6 of the *Industrial Relations Act 1996* (NSW), or any other provision of that Act to the extent that it relates to, or has effect for the purposes of, a provision of that Chapter;
 - (ii) the *Owner Drivers and Forestry Contractors Act 2005* (Vic.);
 - (iii) Chapter 10A of the *Industrial Relations Act 2016* (Qld), or any other provision of that Act to the extent that it relates to, or has effect for the purposes of, a provision of that Chapter;
 - (iv) the *Owner-Drivers (Contracts and Disputes) Act 2007* (WA).

Subdivision E—Services contract actions

6.01C Limitation on applications for review of services contracts—other proceedings in progress

For the purposes of paragraph (b) of the definition of *other review proceedings* in subsection 734C(3) of the Act, sections 20, 21 and 250 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.

Independent Contractors Regulation 2016

23 Section 8

Omit “and 21”, substitute “, 21 and 250”.

Schedule 2—Registered organisations

Fair Work (Registered Organisations) Regulations 2009

1 Subregulation 80(1)

Insert:

amalgamation day has the same meaning as in Part 2 of Chapter 3 of the Act.

2 Subregulation 80(1) (definition of *assisting official*)

Repeal the definition.

3 Regulation 83

Repeal the regulation, substitute:

83 Outline of proposed withdrawal—matters to be addressed (s 95(1)(c))

For the purposes of paragraph 95(1)(c) of the Act, the written outline must address the following matters:

- (a) the name of the amalgamated organisation appearing on the certificate of registration of the amalgamated organisation;
- (b) if the constituent part of the amalgamated organisation is a part of the membership of the amalgamated organisation that would have been eligible for membership of an organisation that was formerly registered under the Act—the name appearing on the certificate of registration for that organisation immediately before amalgamation day;
- (c) if the constituent part of the amalgamated organisation is a part of the membership of the amalgamated organisation that would have been eligible for membership of a State or Territory branch of an organisation that was formerly registered under the Act:
 - (i) a statement of that fact; and
 - (ii) the name appearing on the certificate of registration of the organisation immediately before amalgamation day;
- (d) if the constituent part of the amalgamated organisation is a separately identifiable constituent part of the amalgamated organisation:
 - (i) a statement of that fact; and
 - (ii) the name of the branch, division or part of the amalgamated organisation that is the separately identifiable constituent part; and
 - (iii) the name of the organisation, de-registered under Part 2 of Chapter 3 of the Act in connection with the formation of the amalgamated organisation, that remains, or the State or Territory branch of which remains, separately identifiable under the rules of the amalgamated organisation as a branch, division or part;
- (e) particulars of the eligibility rules of the amalgamated organisation immediately before amalgamation day;
- (f) particulars of the rules, immediately before amalgamation day, of:
 - (i) the organisation, de-registered under Part 2 of Chapter 3 of the Act in connection with the formation of the amalgamated organisation, or the State or Territory branch of the organisation, in relation to which the

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- persons constituting the constituent part would have been eligible for membership if the de-registration had not occurred; or
 - (ii) the organisation, de-registered under Part 2 of Chapter 3 of the Act in connection with the formation of the amalgamated organisation, or the State or Territory branch of the organisation, that remains separately identifiable under the rules of the amalgamated organisation as a branch, division or part;
 - (g) the name proposed for the amalgamated organisation on withdrawal day;
 - (h) the name proposed for the constituent part on withdrawal day;
 - (i) if it is proposed that the eligibility rules of the amalgamated organisation be changed on withdrawal day—particulars of those changes;
 - (j) if it is proposed that the rules of the constituent part will differ, on withdrawal day, from the rules described in paragraph (f)—particulars of those changes;
 - (k) particulars of the assets and liabilities of the amalgamated organisation;
 - (l) particulars of the assets and liabilities of the constituent part before it, or the organisation of which it was a State or Territory branch, was de-registered under Part 2 of Chapter 3 of the Act in connection with the formation of the amalgamated organisation.

4 Paragraphs 84(1)(a) and (2)(a)

After “secret”, insert “postal”.

5 Regulation 85 (heading)

Omit “and (1C)”.

6 Subregulation 85(1)

Omit “(1)”.

7 Subregulations 85(2) and (3)

Repeal the subregulations (including the note).

8 Regulation 86 (heading)

Omit “and (1C)”.

9 Subregulation 86(1)

Omit “or designated official”.

10 Subregulation 86(2)

Before “official” (wherever occurring), insert “electoral”.

11 Regulation 87 (heading)

Omit “—electoral official”.

12 Regulation 87A

Repeal the regulation.

13 Regulation 88 (heading)

Omit “and (1C)”.

14 Paragraph 88(3)(a)

Omit “or designated official”.

15 Regulation 89 (heading)

Omit “and (1C)”.

16 Subregulation 89(1)

Omit “or designated official”.

17 Subregulation 89(1)

Omit “where the official carries out his or her duties”, substitute “where the electoral official carries out the electoral official’s duties”.

18 Subregulation 89(2)

Before “official” (wherever occurring), insert “electoral”.

19 Subregulation 89(2B)

Omit “, designated official or assisting official”.

20 Subregulation 89(6)

Omit “, or the designated official conducting the ballot,”.

21 Subregulation 89(6)

Omit “or designated official”.

22 Regulation 90 (heading)

Repeal the heading, substitute:

90 Electoral official to supply copies of question (s 102(1))

23 Regulation 90

Omit “or designated official” (wherever occurring).

24 Regulation 90

Before “official” (last occurring), insert “electoral”.

25 Regulation 90A (heading)

Omit “and (1C)”.

26 Regulation 91 (heading)

Repeal the heading, substitute:

91 Dispatch of ballot papers and other material (s 102(1))

27 Subregulation 91(1A)

Repeal the subregulation.

28 Subregulation 91(1)

Omit “or designated official conducting the ballot”, substitute “conducting a ballot”.

29 Subparagraph 91(1)(a)(i)

Before “official”, insert “electoral”.

30 Paragraph 91(1)(b)

Before “official”, insert “electoral”.

31 Paragraph 91(1)(d)

Omit “or the designated official”.

32 Subregulation 91(1) (note)

Omit “for a postal ballot”.

33 Subregulation 91(2)

Omit “or designated official”.

34 Paragraph 91(2)(b)

Before “official”, insert “electoral”.

35 Regulation 93 (heading)

Repeal the heading, substitute:

93 Duplicate ballot paper (s 102(1))**36 Subregulation 93(1A)**

Repeal the subregulation.

37 Subregulation 93(1)

Omit “, or the designated official conducting the ballot,”.

38 Subregulation 93(1)

Before “official” (last occurring), insert “electoral”.

39 Paragraph 93(2)(a)

Repeal the paragraph, substitute:

- (a) be sent to an electoral official so that it is received by the electoral official on or before the closing day of the ballot; and

40 Subregulation 93(3)

Before “official”, insert “electoral”.

41 Regulation 94 (heading)

Repeal the heading, substitute:

94 Manner of voting (s 102(1))**42 Subregulation 94(1A)**

Repeal the subregulation.

43 Subregulation 94(1)

Omit “the ballot” (first occurring), substitute “a ballot”.

44 Paragraph 94(2)(d)

Omit “, or to the designated official conducting the ballot, to reach the AEC or designated official”, substitute “to reach the AEC”.

45 Regulations 94A to 94F

Repeal the regulations.

46 Regulation 95 (heading)

Omit “and (1C)”.

47 Regulation 95

Omit “An electoral official or designated official conducting a ballot, or an assisting official,”, substitute “An electoral official conducting a ballot”.

48 Regulation 96 (heading)

Omit “and (1C)”.

49 Subregulation 96(1)

Omit “or designated official”.

50 Subregulation 96(1A)

Repeal the subregulation.

51 Subregulation 96(2)

Before “official”, insert “electoral”.

52 Subparagraph 96(3)(a)(i)

Omit “, or the designated official”.

53 Paragraph 96(3)(d)

Omit “for a postal ballot—”.

54 Paragraph 96(3)(d)

Omit “(b); or”, substitute “(b).”.

55 Paragraph 96(3)(e)

Repeal the paragraph.

56 Subregulations 96(4), (5) and (6)

Before “official” (wherever occurring), insert “electoral”.

57 Regulation 97 (heading)

Omit “and (1C)”.

58 Paragraph 97(5)(a)

Omit “or 94B”.

59 Paragraph 97(5)(aa)

Omit “or 94F”.

60 Paragraphs 97(5)(ab) and (ac)

Repeal the paragraphs.

61 Subregulation 97(6)

Omit “or designated official”.

62 Subregulation 97(6)

Before “official” (last occurring), insert “electoral”.

63 Subregulation 97(7)

Omit “, or the sum of the designated official and the number of assisting officials,”.

64 Subregulation 97(8)

Omit “he or she may inform the electoral official or designated official”, substitute “the scrutineer may inform the electoral official”.

65 Subregulation 97(9)

Before “official”, insert “electoral”.

66 Subregulation 97(11)

Omit “, or the designated official conducting the ballot,”.

67 Subregulation 97(11)

Omit “or designated official”.

68 Regulation 98 (heading)

Omit “or designated official”.

69 Subregulation 98(1)

Omit “For subsection”, substitute “For the purposes of subsection”.

70 Paragraph 98(1)(b)

Omit “for a postal ballot—”.

71 Paragraph 98(1)(b)

Omit “or designated official”.

72 Paragraphs 98(1)(ba) and (bb)

Repeal the paragraphs.

73 Paragraphs 98(1)(e), (f) and (g)

Omit “or designated official” (wherever occurring).

74 Subregulation 98(2)

Omit “If the ballot was conducted by the AEC, the AEC”, substitute “The AEC”.

75 Subregulation 98(2A)

Repeal the subregulation.

76 Subregulation 98(3)

Omit “or (2A)(a)”.

77 Regulation 100

Omit “, or the designated official conducting the ballot,”.

78 Subregulation 101(1)

Omit “or designated official”.

79 Subregulation 101(2)

Before “official”, insert “electoral”.

80 Subparagraphs 102(1)(b)(iii) and (iv)

Repeal the subparagraphs, substitute:
(iii) the Electoral Commissioner; and

81 Paragraph 107(5)(c)

Omit “and the statements of names, and rules and alterations of rules, mentioned in section 95A of the Act”.

82 After regulation 110

Insert:

110A Constituent part

- (1) This regulation is prescribed for the purposes of section 124 of the Act.
- (2) Notice to the applicant for the purposes of subsection 111(10) of the Act must be given by notifying the representative constituent member nominated under paragraph 82(c) of these Regulations.

83 Regulation 113 (heading)

Omit “or designated official”.

84 Subregulation 113(1)

Omit “or a designated official”.

85 Subregulation 113(2)

Omit “or designated official” (wherever occurring).

86 Subparagraph 114(a)(i)

Omit “, 91 or 94B”, substitute “or 91”.

87 Paragraph 114(aa)

Repeal the paragraph.

88 Paragraph 114(b)

Omit “or (aa)”.

89 Paragraph 168(2)(ca)

Repeal the paragraph.

90 Paragraph 168(2)(d)

Omit “or designated official”.

91 Subregulation 171(1)

Omit “Subject to subregulation (1A), the following”, substitute “The following”.

92 Subregulation 171(1A)

Repeal the subregulation.

93 Regulation 176AA (table item 4)

Repeal the item.

94 Schedule 3 (Form 2)

Omit:

3. If the application is made more than 5 years after the date of the amalgamation—any information the applicant(s) consider relevant to whether it is appropriate for the FWC to accept the application under section 94A of the Act.
4. A statement that neither of the events in subsection 94(2) of the Act has occurred.
5. Each question proposed to be put to the ballot.
6. Any other information that the applicant wishes the FWC to have regard to.

Note 1: Section 95 of the Act requires this application to be accompanied by a fair and accurate written outline of the proposal to withdraw from the amalgamation.

Note 2: Section 95A of the Act requires this application to be accompanied by a statement of the name, and a copy of the rules, proposed for the new organisation and a statement of the name, and a copy of the alterations of the rules, proposed for the amalgamated organisation.

substitute:

3. A statement that neither of the events in subsection 94(2) of the Act has occurred.
4. Each question proposed to be put to the ballot.
5. Any other information that the applicant wishes the FWC to have regard to.

Note: Section 95 of the Act requires this application to be accompanied by a fair and accurate written outline of the proposal to withdraw from the amalgamation.

95 Schedule 3 (Form 4)

Omit:

3. If the constituent part, or an organisation of which the constituent part was a State or Territory branch, was de-registered in connection with the formation of the amalgamated organisation:
 - a. the assets and liabilities of the constituent part or organisation before the de-registration; and
 - b. any change in the net value of those assets or liabilities that has occurred since the amalgamation.
4. Details of any rules, arrangements, practices or understandings of the amalgamated organisation under which:

- a. assets of the amalgamated organisation have been held for the benefit of the constituent part; or
 - b. liabilities of the amalgamated organisation have been the responsibility of the constituent part.
- substitute:
3. Details of the assets and liabilities of the constituent part before it, or the organisation of which it was a State or Territory branch, was de-registered in connection with the formation of the amalgamated organisation.
 4. Details of any change in the net value of those assets and liabilities since the amalgamation.

96 At the end of the instrument

Add:

Schedule 4—Application, saving and transitional provisions

Part 1—Amendments resulting from Part 13 of Schedule 1 to the Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024

1 Continued operation of these Regulations

Despite the amendments of these Regulations made by Schedule 2 to the *Fair Work Legislation Amendment (Closing Loopholes) Regulations 2024*, these Regulations, as in force immediately before the commencement of that Schedule, continue to apply for the purposes of the *Fair Work (Registered Organisations) Act 2009* as it is continued in operation by item 212 of Schedule 1 to the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024*.