

Section 748

Subdivision B—Modifications of the extended parental leave provisions

748 Non-national system employees are not award/agreement free employees

A non-national system employee is not an award/agreement free employee for the purpose of the extended parental leave provisions.

749 Modification of meaning of *base rate of pay* for pieceworkers

Section 16 has effect as if the following paragraph were added at the end of subsection 16(2):

- (d) the employee is a non-national system employee, and the regulations prescribe, or provide for the determination of, the employee's base rate of pay for the purposes of the extended parental leave provisions.

750 Modification of meaning of *full rate of pay* for pieceworkers

Section 18 has effect as if the following paragraph were added at the end of subsection 18(2):

- (d) the employee is a non-national system employee, and the regulations prescribe, or provide for the determination of, the employee's full rate of pay for the purposes of the extended parental leave provisions.

751 Modification of meaning of *ordinary hours of work*—if determined by State industrial instrument

Section 20 has effect as if the following subsection were inserted before subsection 20(1):

- (1A) If a State industrial instrument applies to a non-national system employee and specifies, or provides for the determination of, the employee's ordinary hours of work, the employee's *ordinary*

hours of work are as specified in, or determined in accordance with, that instrument.

752 Modification of meaning of *ordinary hours of work*—if not determined by State industrial instrument

Section 20 has effect as if references in subsections 20(1), (2) and (3) to an award/agreement free employee also included references to a non-national system employee to whom either of the following paragraphs applies:

- (a) a State industrial instrument applies to the employee, but it does not specify, or provide for the determination of, the employee's ordinary hours of work;
- (b) no State industrial instrument applies to the employee.

753 Modification of meaning of *ordinary hours of work*—regulations may prescribe usual weekly hours

Section 20 has effect as if the following subsection were added at the end:

- (5) For a non-national system employee:
 - (a) who is not a full-time employee; and
 - (b) who does not have usual weekly hours of work; and
 - (c) to whom either of the following subparagraphs applies:
 - (i) a State industrial instrument applies to the employee, but it does not specify, or provide for the determination of, the employee's ordinary hours of work;
 - (ii) no State industrial instrument applies to the employee; the regulations may prescribe, or provide for the determination of, hours that are taken to be the employee's usual weekly hours of work for the purposes of the extended parental leave provisions.

754 Modification of meaning of *pieceworker*

Section 21 has effect as if the following paragraph were added at the end of subsection 21(1):

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- (d) a non-national system employee who is in a class of employees prescribed by the regulations as pieceworkers for the purpose of the extended parental leave provisions.

755 Modification of provision about interaction with paid leave

Section 79 applies as if subsections 79(2) and (3) were omitted.

756 Modification of provision about relationship between National Employment Standards and agreements

Section 128 has effect as if references to an award/agreement free employee also included references to a non-national system employee.

757 Modification of power to make regulations

Section 129 has effect as if the following subsection were added at the end:

- (2) The regulations may:
 - (a) permit non-national system employers and non-national system employees to agree on matters that would or might otherwise be contrary to an extended parental leave provision; and
 - (b) prohibit such employers and employees from agreeing on matters, or prohibit such employers from making requirements of such employees, that would or might otherwise be permitted by an extended parental leave provision.

Division 3—Extension of entitlement to notice of termination or payment in lieu of notice

Subdivision A—Main provisions

758 Object of this Division

The object of this Division is to give effect, or further effect, to:

- (a) the ILO Convention (No. 158) concerning Termination of Employment at the Initiative of the Employer, done at Geneva on 22 June 1982 ([1994] ATS 4); and
- (b) the Termination of Employment Recommendation, 1982 (Recommendation No. R166) which the General Conference of the ILO adopted on 22 June 1982.

Note 1: In 2009, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

Note 2: In 2009, the text of a Recommendation adopted by the General Conference of the ILO was accessible through the ILO website (www.ilo.org).

759 Extending entitlement to notice of termination or payment in lieu of notice

Extension of Subdivision A of Division 11 of Part 2-2 and related provisions

- (1) The provisions of Subdivision A of Division 11 of Part 2-2, and the related provisions identified in subsection (2), apply in relation to a non-national system employee as if:
 - (a) any reference in the provisions to a national system employee also included a reference to a non-national system employee; and
 - (b) any reference in the provisions to a national system employer also included a reference to a non-national system employer.

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Part 6-3 Extension of National Employment Standards entitlements

Division 3 Extension of entitlement to notice of termination or payment in lieu of notice

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Note 1: Subdivision A of Division 11 of Part 2-2 provides for notice of termination or payment in lieu of notice.

Note 2: This subsection applies to express references to national system employees and national system employers, and to references that are to national system employees and national system employers because of section 60 or another similar section.

- (2) The related provisions are the following, so far as they apply in relation to Subdivision A of Division 11 of Part 2-2 as it applies because of subsection (1):
- (a) the provisions of Division 2, Subdivision C of Division 11, and Division 13, of Part 2-2;
 - (b) any other provisions of this Act prescribed by the regulations;
 - (c) any provisions of this Act that define expressions that are used (directly or indirectly) in provisions of Subdivision A of Division 11 of Part 2-2, or in provisions referred to in paragraph (a) or (b) of this subsection.

Modifications are set out in Subdivision B

- (3) The extended notice of termination provisions have effect subject to the modifications provided for in Subdivision B. The ***extended notice of termination provisions*** are the provisions of Subdivision A of Division 11 of Part 2-2, and the related provisions identified in subsection (2) of this section, as they apply because of this section.

Regulations made for the purpose of provisions

- (4) Subsection (1) also applies to any regulations made for the purpose of a provision to which that subsection applies, other than a provision that is modified by Subdivision B.

760 Contravening the extended notice of termination provisions

A non-national system employer must not contravene the extended notice of termination provisions.

Note: This section is a civil remedy provision (see Part 4-1).

761 References to the National Employment Standards include extended notice of termination provisions

A reference in this Act, or another law of the Commonwealth, to the National Employment Standards includes a reference to the extended notice of termination provisions.

762 State and Territory laws that are not excluded

This Act is not intended to apply to the exclusion of laws of a State or Territory that provide employee entitlements relating to notice of termination of employment (or payment in lieu of notice), to the extent that those laws:

- (a) apply to non-national system employees; and
- (b) provide entitlements for those employees that are more beneficial than the entitlements under the extended notice of termination provisions.

Subdivision B—Modifications of the extended notice of termination provisions

763 Non-national system employees are not award/agreement free employees

A non-national system employee is not an award/agreement free employee for the purpose of the extended notice of termination provisions.

764 Modification of meaning of *full rate of pay* for pieceworkers

Section 18 has effect as if the following paragraph were added at the end of subsection 18(2):

- (d) the employee is a non-national system employee, and the regulations prescribe, or provide for the determination of, the employee's full rate of pay for the purposes of the extended notice of termination provisions.

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Part 6-3 Extension of National Employment Standards entitlements

Division 3 Extension of entitlement to notice of termination or payment in lieu of notice

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765 Modification of meaning of *piecemaker*

Section 21 has effect as if the following paragraph were added at the end of subsection 21(1):

- (d) a non-national system employee who is in a class of employees prescribed by the regulations as pieceworkers for the purpose of the extended notice of termination provisions.

766 Modification of provision about notice of termination by employee

Section 118 has effect as if the following subsection were added at the end:

- (2) A State industrial instrument may include terms specifying the period of notice a non-national system employee must give in order to terminate his or her employment.

767 Modification of provision about relationship between National Employment Standards and agreements

Section 128 has effect as if references to an award/agreement free employee also included references to a non-national system employee.

768 Modification of power to make regulations

Section 129 has effect as if the following subsection were added at the end:

- (2) The regulations may:
 - (a) permit non-national system employers and non-national system employees to agree on matters that would or might otherwise be contrary to an extended notice of termination provision; and
 - (b) prohibit such employers and employees from agreeing on matters, or prohibit such employers from making requirements of such employees, that would or might

otherwise be permitted by an extended notice of termination provision.

Part 6-3A—Transfer of business from a State public sector employer

Division 1—Introduction

768AA Guide to this Part

This Part provides for the transfer of certain terms and conditions of employment when there is a transfer of business from a non-national system employer that is a State public sector employer (called “the old State employer”) to a national system employer (called “the new employer”).

A transfer of business involves the transfer of employment of one or more employees of the old State employer to the new employer. Each of those employees is a “transferring employee”.

If there is a transfer of business, then this Part provides for certain terms and conditions of employment with the old State employer to be transferred to the employment of the transferring employee with the new employer.

This Part achieves the transfer of those terms and conditions by creating a new instrument—a “copied State instrument”—for each transferring employee. The new instrument is a federal instrument and is enforceable under this Act.

768AB Meanings of *employee* and *employer*

In this Part, *employee* and *employer* have their ordinary meanings.

Division 2—Copying terms of State instruments when there is a transfer of business

768AC What this Division is about

This Division sets out when there is a transfer of business from the old State employer to the new employer.

768AD When does a transfer of business occur?

When there is a transfer of business

- (1) There is a **transfer of business** from a non-national system employer that is a State public sector employer of a State (the **old State employer**) to a national system employer (the **new employer**) if the following requirements are satisfied:
 - (a) the employment of a person who is a State public sector employee of the old State employer has terminated;
 - (b) within 3 months after the termination, the person becomes employed by the new employer;
 - (c) the work (the **transferring work**) the person performs for the new employer is the same, or substantially the same, as the work the person performed for the old State employer;
 - (d) there is a connection between the old State employer and the new employer as described in subsection (2), (3) or (4).

Transfer of assets from old State employer to new employer

- (2) There is a connection between the old State employer and the new employer if, in accordance with an arrangement between:
 - (a) the old State employer or an associated entity of the old State employer; and
 - (b) the new employer or an associated entity of the new employer;

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the new employer, or the associated entity of the new employer, owns or has the beneficial use of some or all of the assets (whether tangible or intangible):

- (c) that the old State employer, or the associated entity of the old State employer, owned or had the beneficial use of; and
- (d) that relate to, or are used in connection with, the transferring work.

Old State employer outsources work to new employer

- (3) There is a connection between the old State employer and the new employer if the transferring work is performed by one or more transferring employees, as employees of the new employer, because the old State employer, or an associated entity of the old State employer, has outsourced the transferring work to the new employer or an associated entity of the new employer.

New employer is an associated entity of old employer

- (4) There is a connection between the old State employer and the new employer if the new employer is an associated entity of the old State employer when the transferring employee becomes employed by the new employer.

768AE Meaning of *transferring employee*, *termination time* and *re-employment time*

- (1) The person referred to in paragraph 768AD(1)(a) is a ***transferring employee*** in relation to the transfer of business.
- (2) The ***termination time*** of a transferring employee is the start of the day the employment of the employee is terminated by the old State employer.
- (3) The ***re-employment time*** of a transferring employee is the start of the day the employee becomes employed by the new employer.

Division 3—Copied State instruments

Subdivision A—Guide to this Division

768AF What this Division is about

If there is a transfer of business, then this Division provides for certain terms and conditions of a transferring employee's employment with the old State employer to be transferred to the employment with the new employer.

The transfer of those terms and conditions is achieved by creating a new instrument—called a “copied State instrument”—for the transferring employee. The new instrument is a federal instrument that is enforceable under this Act.

There are 2 types of copied State instruments—a copied State award and a copied State employment agreement.

A copied State award copies the terms of a State award that covered the transferring employee and the old State employer immediately before the termination of the employee's employment with the old State employer.

A copied State employment agreement copies the terms of a State employment agreement that covered the transferring employee and the old State employer immediately before the termination of the employee's employment with the old State employer.

Subdivision B—Copied State instruments

768AG Contravening a copied State instrument

A person must not contravene a term of a copied State instrument for a transferring employee that applies to the person.

Note 1: This section is a civil remedy provision (see Part 4-1).

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Part 6-3A Transfer of business from a State public sector employer

Division 3 Copied State instruments

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Note 2: For when a copied State instrument for a transferring employee applies to a person, see section 768AM.

768AH What is a copied State instrument?

A *copied State instrument* for a transferring employee is the following:

- (a) a copied State award for the employee;
- (b) a copied State employment agreement for the employee.

768AI What is a copied State award?

- (1) If, immediately before the termination time of a transferring employee:

- (a) a State award (the *original State award*) was in operation under the State industrial law of the State; and
- (b) the original State award covered (however described in the original State award or a relevant law of the State) the old State employer and the transferring employee (whether or not the original State award also covered other persons);

then a *copied State award* for the transferring employee is taken to come into operation immediately after the termination time.

Note 1: Even though a copied State award comes into operation in relation to the transferring employee, it will not be enforceable by the employee or another person (for example, the new employer) unless and until it applies to the employee or other person. In particular, it will not apply to the employee or new employer before the employee becomes employed by the new employer. For when the copied State award applies to a person, see section 768AM.

Note 2: A copied State employment agreement for the transferring employee may also come into operation immediately after the termination time, see subsection 768AK(1). If it does, then the State's interaction rules that were in force immediately before the termination time apply for the purposes of working out the interaction between the copied State award and the copied State employment agreement (see item 11 of Schedule 3A to the Transitional Act as that item applies in a modified way because of section 768BY).

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- (2) The copied State award is taken to include the same terms as were in the original State award immediately before the termination time.

Note: The State's instrument content rules that were in force immediately before the termination time apply to the copied State award (see item 10 of Schedule 3A to the Transitional Act as that item applies in a modified way because of section 768BY).

- (3) If the terms of the original State award were affected by an order, a decision or a determination of a State industrial body or a court of the State that was in operation immediately before the termination time, the terms of the copied State award are taken to be similarly affected by the terms of that order, decision or determination.

768AJ What is a State award?

- (1) A *State award* is an instrument in relation to which the following conditions are satisfied:
- (a) the instrument regulates terms and conditions of employment;
 - (b) the instrument was made under a State industrial law by a State industrial body;
 - (c) the instrument is referred to in that law as an award.
- (2) However, the regulations may provide that an instrument of a specified kind:
- (a) is a *State award*; or
 - (b) is not a *State award*.

768AK What is a copied State employment agreement?

- (1) If, immediately before the termination time of a transferring employee:
- (a) a State employment agreement (the *original State agreement*) was in operation under a State industrial law of the State; and
 - (b) the original State agreement covered (however described in the original State agreement or a relevant law of the State)

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the old State employer and the transferring employee (whether or not the original State agreement also covered other persons);

then a *copied State employment agreement* for the transferring employee is taken to come into operation immediately after the termination time.

Note 1: Even though a copied State employment agreement comes into operation for the transferring employee, it will not be enforceable by the employee or another person (for example, the new employer) unless and until it applies to the employee or other person. In particular, it will not apply to the employee or new employer before the employee becomes employed by the new employer. For when the copied State employment agreement applies to a person, see section 768AM.

Note 2: A copied State award for the transferring employee may also come into operation immediately after the termination time, see subsection 768AI(1). If it does, then the State's interaction rules that were in force immediately before the termination time apply for the purposes of working out the interaction between the copied State employment agreement and the copied State award (see item 11 of Schedule 3A to the Transitional Act as that item applies in a modified way because of section 768BY).

- (2) The copied State employment agreement is taken to include the same terms as were in the original State agreement immediately before the termination time.

Note: The State's instrument content rules that were in force immediately before the termination time apply to the copied State employment agreement (see item 10 of Schedule 3A to the Transitional Act as that item applies in a modified way because of section 768BY).

- (3) If the terms of the original State employment agreement were affected by an order, a decision or a determination of a State industrial body or a court of the State that was in operation immediately before the termination time, the terms of the copied State employment agreement are taken to be similarly affected by the terms of that order, decision or determination.

- (4) If the original State agreement is a collective State employment agreement, the copied State employment agreement is a *copied State collective employment agreement*.

- (5) If the original State agreement is an individual State employment agreement, the copied State employment agreement is a ***copied State individual employment agreement***.

768AL What is a State employment agreement?

- (1) A ***State employment agreement*** is:
- (a) an agreement in relation to which the following conditions are satisfied:
 - (i) the agreement is between a non-national system employer and one or more of the employees of the employer, or between a non-national system employer and an association of employees registered under a State industrial law;
 - (ii) the agreement determines terms and conditions of employment of one or more employees of the employer;
 - (iii) the agreement was made under a State industrial law; or
 - (b) a determination in relation to which the following conditions are satisfied:
 - (i) the determination determines terms and conditions of employment;
 - (ii) the determination was made under a State industrial law by a State industrial body;
 - (iii) the determination was made in a situation in which parties who were negotiating for the making of an agreement of a kind described in paragraph (a) had not been able to reach an agreement;
 - (iv) the purpose of the determination was to resolve the matters that were at issue in those negotiations.
- (2) However, the regulations may provide that an instrument of a specified kind:
- (a) is a ***State employment agreement***; or
 - (b) is not a ***State employment agreement***.
- (3) A State employment agreement is a ***State collective employment agreement*** unless:
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- (a) it is an agreement of a kind that, under the relevant State industrial law, could only be entered into by a single employee and a single employer; or
 - (b) the agreement is of a kind prescribed by the regulations.
- (4) A State employment agreement referred to in paragraph (3)(a) or (b) is a ***State individual employment agreement***.

768AM When does a copied State instrument apply to a person?

Transferring employee and organisations

- (1) A copied State instrument for a transferring employee ***applies*** to the transferring employee or an organisation if:
- (a) the instrument covers the employee or organisation; and
 - (b) the instrument is in operation; and
 - (c) no other provision of this Act provides, or has the effect, that the instrument does not apply to the employee or organisation; and
 - (d) immediately before the employee's termination time, the employee or organisation would have been:
 - (i) required by the law of the State to comply with terms of the original State award or original State agreement for the instrument; or
 - (ii) entitled under the law of the State to enforce terms of the original State award or original State agreement for the instrument.

New employer and other employers

- (2) A copied State instrument for a transferring employee ***applies*** to an employer (whether the new employer or another employer) if:
- (a) the instrument covers the employer; and
 - (b) the instrument is in operation; and
 - (c) no other provision of this Act provides, or has the effect, that the instrument does not apply to the employer; and

- (d) immediately before the employee's termination time, the old State employer would have been:
- (i) required by the law of the State to comply with terms of the original State award or original State agreement for the instrument; or
 - (ii) entitled under the law of the State to enforce terms of the original State award or original State agreement for the instrument.

Note: This subsection may operate in relation to an employer that is not the new employer in the situation where there has been a later transfer of business by the new employer (see Part 2-8).

Other circumstances when instrument applies

- (3) A copied State instrument for a transferring employee also **applies** to a person if an FWC order made under a provision of this Act provides, or has the effect, that the instrument applies to the person.

Instrument only applies in relation to transferring work

- (4) A reference in this Act to a copied State instrument for a transferring employee applying to the employee is a reference to the instrument applying to the employee in relation to the transferring work of the employee.

768AN When does a copied State instrument cover a person?

Transferring employee and new employer

- (1) A copied State instrument for a transferring employee **covers** the employee and the new employer in relation to the transferring work from the employee's re-employment time.

Employee organisation

- (2) A copied State instrument for a transferring employee **covers** an employee organisation in relation to the employee if:

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- (a) the instrument covers the employee because of subsection (1); and
- (b) immediately before the employee's termination time, the original State award or original State agreement for the instrument covered (however described in the original State award or original State agreement or in a relevant law of the State) the organisation in relation to the employee.

Employer organisation

- (3) A copied State instrument for a transferring employee **covers** an employer organisation in relation to the new employer if:
 - (a) the instrument covers the new employer because of subsection (1); and
 - (b) immediately before the employee's termination time, the original State award or original State agreement for the instrument covered (however described in the original State award or original State agreement or in a relevant law of the State) the organisation in relation to the old State employer.

Other circumstances when a person is covered

- (4) A copied State instrument for a transferring employee also **covers** a person if any of the following provides, or has the effect, that the instrument covers the person:
 - (a) a provision of this Act or of the Registered Organisations Act;
 - (b) an FWC order made under a provision of this Act;
 - (c) an order of a court.

Example: The FWC may make a consolidation order specifying that the instrument covers a person specified in the order (see subsections 768BE(1) and 768BH(1)).

Circumstances when a person is not covered

- (5) Despite subsections (1), (2), (3) and (4), a copied State instrument for a transferring employee does not **cover** a person if any of the

following provides, or has the effect, that the instrument does not cover the person:

- (a) a provision of this Act;
- (b) an FWC order made under a provision of this Act;
- (c) an order of a court.

Example: If, after the transferring employee's re-employment time, an enterprise agreement starts to cover the employee, subsection 768AU(2) provides that a copied State instrument for the employee ceases to cover the employee.

- (6) Despite subsections (1), (2), (3) and (4), a copied State instrument for a transferring employee that has ceased to operate does not **cover** a person.

Covered only in relation to transferring work

- (7) A reference to a copied State instrument for a transferring employee covering the employee is a reference to the instrument covering the employee in relation to the transferring work of the employee.

768AO When is a copied State instrument in operation?

When instrument comes into operation

- (1) A copied State instrument for a transferring employee comes into operation immediately after the employee's termination time.

When copied State award ceases to operate

- (2) A copied State award for a transferring employee ceases to operate at the following time:
 - (a) unless paragraph (b) applies—the end of the period (the **default period**) that is 5 years or such longer period as is prescribed by the regulations, starting on the day the employee's termination time occurred;
 - (b) if the regulations allow the FWC to make an order to extend the period of operation of a copied State award for a transferring employee and, in accordance with those

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regulations, the FWC makes an order that the award operates for a period that is longer than the default period—the end of that period.

- (3) The regulations may:
- (a) prescribe circumstances in which the FWC may make an order for the purposes of paragraph (2)(b); and
 - (b) prescribe a maximum period that the order may specify; and
 - (c) otherwise make provision in relation to the making of the order.

When copied State agreement ceases to operate

- (4) A copied State employment agreement for a transferring employee ceases to operate when it is terminated, which may happen before or after the nominal expiry date of the agreement.

Note 1: See section 768AY for how the copied State employment agreement can be terminated.

Note 2: If, after the transferring employee's re-employment time with the new employer, an enterprise agreement is made that covers the employee and the new employer, then the copied State employment agreement will cease to cover the employee and the new employer and will never cover them again, see section 768AU.

- (5) The ***nominal expiry date*** of a copied State employment agreement for a transferring employee is:

- (a) the day the original State agreement would nominally have expired under the State industrial law of the State; or
- (b) if that day falls after the end of 4 years beginning on the day the employee's termination time occurs—the last day of that 4-year period.

Once instrument ceases operation, can never operate again

- (6) A copied State instrument for a transferring employee that has ceased to operate can never operate again.

Division 4—Interaction between copied State instruments and the NES, modern awards and enterprise agreements

Subdivision A—Guide to this Division

768AP What this Division is about

This Division provides for how copied State instruments interact with the National Employment Standards, modern awards and enterprise agreements.

Subdivision B—Interaction with the NES

768AQ Interaction between the NES and a copied State instrument

To the extent that a term of a copied State instrument for a transferring employee is detrimental to the employee, in any respect, when compared to an entitlement of the employee under the National Employment Standards, the term of the instrument is of no effect.

768AR Provisions of the NES that allow instruments to contain particular kinds of terms

Application of particular provisions of the NES

- (1) The following provisions have effect, on and after the re-employment time of a transferring employee, as if a reference to a modern award or an enterprise agreement included a reference to a copied State instrument for the transferring employee:
 - (a) section 63 (which allows terms dealing with averaging of hours of work);
 - (b) section 93 (which allows terms dealing with cashing out and taking paid annual leave);

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- (c) section 101 (which allows terms dealing with cashing out paid personal/carer's leave);
- (d) subsection 107(5) (which allows terms dealing with evidence requirements for paid personal/carer's leave etc.);
- (e) subsection 115(3) (which allows terms dealing with substitution of public holidays);
- (f) section 118 (which allows terms dealing with an employee giving notice to terminate his or her employment);
- (g) subsections 121(2) and (3) (which allow terms specifying situations in which the redundancy pay entitlement under section 119 does not apply);
- (h) section 126 (which allows terms providing for school-based apprentices and trainees to be paid loadings in lieu).

Terms about paid annual leave and personal/carer's leave

- (2) If a copied State instrument for a transferring employee:
 - (a) includes terms referred to in subsection 93(1) but the terms do not include the requirements referred to in subsection 93(2); or
 - (b) includes terms referred to in subsection 101(1) but the terms do not include the requirements referred to in subsection 101(2);

then the instrument is taken to include terms that include the requirements.

Shiftworker annual leave entitlement

- (3) If a copied State instrument for a transferring employee applies to the employee, then subsections 87(3) to (5) have effect, on and after the employee's re-employment time, in the same way as they apply to an award/agreement free employee.

Note: If the transferring employee qualifies for the shiftworker annual leave entitlement under those subsections, the employee will be entitled to 5 (rather than 4) weeks of paid annual leave.

Subdivision C—Interaction with modern awards

768AS Modern awards and copied State awards

- (1) While a copied State award for a transferring employee:
- (a) covers the employee, or an employer (whether the new employer or another national system employer) or other person in relation to the employee; and
 - (b) is in operation;
- a modern award does not cover the employee, or the employer or other person in relation to the employee.

Note 1: When the copied State award for a transferring employee ceases to cover the employee, a modern award will start to cover the employee, or an employer or other person in relation to the employee.

Note 2: This subsection may operate in relation to an employer that is not the new employer in the situation where there has been a later transfer of business by the new employer (see Part 2-8).

- (2) Subsection (1) does not apply for the purposes of section 193 (which is about the better off overall test for enterprise agreements).

Note: For the purposes of determining whether an enterprise agreement that covers a transferring employee passes the better off overall test, subsection (2) allows the enterprise agreement to be compared against a modern award that covers the employee.

- (3) This section has effect subject to any FWC order about coverage under subsection 768BA(1).

768AT Modern awards and copied State employment agreements

Copied State collective employment agreements

- (1) If a copied State collective employment agreement for a transferring employee and a modern award both apply:
- (a) to the employee; or

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- (b) to an employer (whether the new employer or another national system employer) or another person in relation to the employee;

then the copied State collective employment agreement for the employee prevails over the modern award, to the extent of any inconsistency.

Note 1: This subsection has effect subject to item 17 of Schedule 9 to the Transitional Act as that item applies in a modified way because of section 768BY. That item, as modified, requires that the base rate of pay under the copied State employment agreement must not be less than the modern award rate.

Note 2: This subsection may operate in relation to an employer that is not the new employer in the situation where there has been a later transfer of business by the new employer (see Part 2-8).

Copied State individual employment agreements

- (2) While a copied State individual employment agreement for a transferring employee applies:

- (a) to the employee; or
- (b) to an employer (whether the new employer or another national system employer) or another person in relation to the employee;

a modern award does not apply to the employee, or to the employer or other person in relation to the employee.

Note 1: However, a modern award can cover the transferring employee while the copied State individual employment agreement applies.

Note 2: This subsection has effect subject to item 17 of Schedule 9 to the Transitional Act as that item applies in a modified way because of section 768BY. That item, as modified, requires that the base rate of pay under the copied State employment agreement must not be less than the modern award rate.

Note 3: This subsection may operate in relation to an employer that is not the new employer in the situation where there has been a later transfer of business by the new employer (see Part 2-8).

FWC coverage orders

- (3) This section has effect subject to any FWC order about coverage under subsection 768BA(1).

Subdivision D—Interaction with enterprise agreements

768AU Enterprise agreements and copied State instruments

- (1) While a copied State instrument for a transferring employee covers the employee and the new employer in relation to the transferring work, an enterprise agreement that covers the new employer at the employee's re-employment time does not cover the employee in relation to that work.

Note 1: The fact that a copied State collective employment agreement for a transferring employee covers the employee does not prevent the employee and the new employer from replacing that agreement at any time with an enterprise agreement, regardless of whether the employee's copied State collective employment agreement has passed its nominal expiry date.

Note 2: Industrial action must not be taken before the nominal expiry date of a copied State collective employment agreement for a transferring employee (see item 4 of Schedule 13 to the Transitional Act as that item applies in a modified way because of section 768BY).

- (2) However, if after the re-employment time, another enterprise agreement starts to cover the employee and the new employer in relation to the transferring work, then the copied State instrument for the employee ceases to cover the employee and the new employer and can never cover them again.
- (3) This section has effect subject to any FWC order about coverage under subsection 768BA(1).

Division 5—Variation and termination of copied State instruments

Subdivision A—Guide to this Division

768AV What this Division is about

This Division sets out when a copied State instrument may be varied or terminated.

Subdivision B—Variation of copied State instruments

768AW Variation in limited circumstances

A copied State instrument for a transferring employee cannot be varied except under:

- (a) section 768AX; or
- (b) item 20 of Schedule 3A to the Transitional Act (which deals with variation of discriminatory instruments) as that item has effect because of section 768BY; or
- (c) item 20 of Schedule 9 to the Transitional Act (which deals with variation of instruments in annual wage reviews) as that item has effect because of section 768BY; or
- (d) Division 4 of Part 3 of Schedule 11 to the Transitional Act (which deals with transfer of business) as that Division has effect because of section 768BY.

768AX Variation of copied State instruments

Application of this section

- (1A) This section applies if there is, or is likely to be, a transfer of business.

Variations that may be made

- (1) The FWC may vary a copied State instrument for a transferring employee:
- (a) to remove terms that the FWC is satisfied are not, or will not be, capable of meaningful operation or to vary those terms so that they are capable of meaningful operation; or
 - (b) to remove an ambiguity or uncertainty in the instrument; or
 - (c) to enable the instrument to operate in a way that is better aligned to the working arrangements of the new employer's enterprise; or
 - (d) to resolve an uncertainty or difficulty relating to the interaction between the instrument and the National Employment Standards, or to make the instrument operate effectively with the National Employment Standards; or
 - (e) if the instrument is a copied State employment agreement—to resolve an uncertainty or difficulty relating to the interaction between the instrument and a modern award; or
 - (f) to remove terms that are inconsistent with Part 3-1 (which deals with general protections), or to vary terms to make them consistent with that Part.

Note: Paragraph (d) does not affect a term of the copied State instrument that is permitted by a provision of the National Employment Standards as the provision has effect under section 768AR.

Who may apply for a variation

- (2) The FWC may make a variation under subsection (1):
- (a) on its own initiative; or
 - (b) on application by a person who is, or is likely to be, covered by the copied State instrument; or
 - (c) on application by an employee organisation that is entitled to represent the industrial interests of an employee who is, or is likely to be, covered by the copied State instrument.

Note: The copied State instrument for the transferring employee may also cover another transferring employee or a non-transferring employee if a consolidation order is made.

Section 768AX

Matters that the FWC must take into account

- (3) In deciding whether to make a variation under subsection (1), the FWC must take into account the following:
- (a) the views of:
 - (i) the employees who would be affected by the copied State instrument as varied; and
 - (ii) the new employer or a person who is likely to be the new employer;
 - (b) whether any employees would be disadvantaged by the copied State instrument as varied in relation to their terms and conditions of employment;
 - (c) if the copied State instrument is a copied State employment agreement—the nominal expiry date of the agreement;
 - (d) whether the copied State instrument, without the variation, would have a negative impact on the productivity of the new employer’s workplace;
 - (e) whether the new employer would incur significant economic disadvantage as a result of the copied State instrument, without the variation;
 - (f) the degree of business synergy between the copied State instrument, without the variation, and any workplace instrument that already covers the new employer;
 - (g) the public interest.

Variation relating to the NES

- (4) If there is a dispute about the making of a variation for the purposes of paragraph (1)(d), the FWC may compare the entitlements that are in dispute:
- (a) on a “line-by-line” basis, comparing individual terms; or
 - (b) on a “like-by-like” basis, comparing entitlements according to particular subject areas; or
 - (c) using any combination of the above approaches the FWC sees fit.

- (5) The regulations may make provisions that apply to determining, for the purposes of paragraph (1)(d), whether terms of a copied State instrument for a transferring employee are, or are not, detrimental in any respect when compared to entitlements under the National Employment Standards.

When variation may be made

- (6) A variation may be made under subsection (1) in relation to a copied State instrument of a transferring employee:
- (a) before the copied State instrument comes into operation, if it is likely that the instrument will come into operation; and
 - (b) before the employee is a transferring employee, if it is likely that the employee will become a transferring employee.

Restriction on when variation may come into operation

- (7) A variation under subsection (1) operates from the day specified in the variation, which may be a day before the variation is made.

Subdivision C—Termination of copied State instruments

768AY Termination in limited circumstances

- (1) A copied State instrument for a transferring employee cannot be terminated except under items 22, 23, 24, 25 and 26 of Schedule 3A to the Transitional Act (which deal with termination of State employment agreements) as those items have effect because of section 768BY.
- (2) A copied State instrument for a transferring employee that has been terminated ceases to operate and can never operate again.

Note: A copied State instrument that does not operate cannot cover a person (see subsection 768AN(6)).

Division 6—FWC orders about coverage of copied State instruments and other instruments

Subdivision A—Guide to this Division

768AZ What this Division is about

This Division allows the FWC to make an order that a copied State instrument for a transferring employee does not, or will not, cover the employee and that an enterprise agreement or named employer award that covers the new employer covers, or will cover, the employee instead.

It also allows the FWC to make an order that a copied State instrument for a transferring employee does not, or will not, cover an employee organisation but instead covers, or will cover, another employee organisation.

768AZA Orders in relation to a transfer of business

- (1) This Division provides for orders to be made if there is, or is likely to be, a transfer of business.
- (2) An order may be made under this Division in relation to a copied State instrument of a transferring employee:
 - (a) before the copied State instrument comes into operation, if it is likely that the instrument will come into operation; and
 - (b) before the employee is a transferring employee, if it is likely that the employee will become a transferring employee.

Subdivision B—Coverage orders

768BA FWC orders about coverage for transferring employees

Orders that the FWC may make

- (1) The FWC may make the following orders:
 - (a) an order that a copied State instrument for a transferring employee that would, or would be likely to, cover the transferring employee and the new employer because of subsection 768AN(1) does not, or will not, cover the transferring employee and the new employer;
 - (b) an order that an enterprise agreement or named employer award that covers the new employer at the transferring employee's re-employment time covers, or will cover, the transferring employee.

Who may apply for an order

- (2) The FWC may make an order under subsection (1):
 - (a) on its own initiative; or
 - (b) on application by any of the following:
 - (i) a transferring employee or an employee who is likely to be a transferring employee;
 - (ii) the new employer or a person who is likely to be the new employer;
 - (iii) an employee organisation that is entitled to represent the industrial interests of an employee referred to in subparagraph (i);
 - (iv) if the application relates to an enterprise agreement—an employee organisation that is, or is likely to be, covered by the agreement.

Matters that the FWC must take into account

- (3) In deciding whether to make an order under subsection (1), the FWC must take into account the following:
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Division 6 FWC orders about coverage of copied State instruments and other instruments

Section 768BB

- (a) the views of:
 - (i) the employees who would be affected by the order; and
 - (ii) the new employer or a person who is likely to be the new employer;
- (b) whether any employees would be disadvantaged by the order in relation to their terms and conditions of employment;
- (c) if the order relates to a copied State employment agreement or an enterprise agreement—the nominal expiry date of the agreement;
- (d) whether the copied State instrument would have a negative impact on the productivity of the new employer’s workplace;
- (e) whether the new employer would incur significant economic disadvantage as a result of the copied State instrument covering the new employer;
- (f) the degree of business synergy between the copied State instrument and any workplace instrument that already covers the new employer;
- (g) the public interest.

Restriction on when order may come into operation

- (4) An order under subsection (1) must not come into operation in relation to a particular transferring employee before the later of the following:
 - (a) the transferring employee’s re-employment time;
 - (b) the day on which the order is made.

768BB FWC orders about coverage for employee organisations

- (1) The FWC may make an order that:
 - (a) a copied State instrument for a transferring employee that would, or would be likely to, cover an employee organisation (the *first employee organisation*) in relation to the transferring employee because of subsection 768AN(2) does not, or will not, cover the organisation; and

- (b) another employee organisation (the ***second employee organisation***) is, or will be, covered by the copied State instrument in relation to the employee.
- (2) When making an order under subsection (1), the FWC must consider whether the second employee organisation is a federal counterpart (within the meaning of section 9A of the Registered Organisations Act) of the first employee organisation.
- (3) The regulations may:
- (a) prescribe circumstances in which the FWC may make an order for the purposes of subsection (1); and
 - (b) otherwise make provision in relation to the making of the order.
- (4) An order under subsection (1) must be made in accordance with any regulations that are made for the purposes of subsection (3).

Division 7—FWC orders about consolidating copied State instruments etc.

Subdivision A—Guide to this Division

768BC What this Division is about

This Division allows the FWC to consolidate the various workplace instruments that may apply in the new employer's workplace. It achieves this by allowing the FWC to make an order that a copied State instrument for a particular transferring employee is also a copied State instrument for one or more other transferring employees or non-transferring employees.

Subdivision B deals with consolidating copied State instruments for transferring employees. Under that Subdivision, the FWC may make an order that the copied State instrument for a transferring employee ("employee A") is also the copied State instrument for one or more other transferring employees. If the FWC makes a consolidation order for those other transferring employees, then this Act is modified so that the copied State instrument for employee A is also the copied State instrument for those other transferring employees (see section 768BF).

Subdivision C deals with non-transferring employees. Under that Subdivision, the FWC may make an order that the copied State instrument for employee A (who is a transferring employee) is also the copied State instrument for one or more non-transferring employees. If the FWC makes a consolidation order for those non-transferring employees, then this Act is modified so that the copied State instrument for employee A is also the copied State instrument for those non-transferring employees (see section 768BI).

768BCA Orders in relation to a transfer of business

- (1) This Division provides for orders to be made if there is, or is likely to be, a transfer of business.
- (2) An order may be made under this Division in relation to a copied State instrument of a transferring employee:
 - (a) before the copied State instrument comes into operation, if it is likely that the instrument will come into operation; and
 - (b) before the employee is a transferring employee, if it is likely that the employee will become a transferring employee.

Subdivision B—Consolidation orders in relation to transferring employees

768BD Consolidation orders in relation to transferring employees

Consolidation order

- (1) The FWC may make an order (a *consolidation order*) that a copied State instrument for a transferring employee (*employee A*) is also a copied State instrument for one or more other transferring employees.

Who may apply for order

- (2) The FWC may make a consolidation order under subsection (1):
 - (a) on its own initiative; or
 - (b) on application by any of the following:
 - (i) a transferring employee, or an employee who is likely to be a transferring employee;
 - (ii) the new employer or a person who is likely to be the new employer;
 - (iii) an employee organisation that is entitled to represent the industrial interests of an employee referred to in subparagraph (i).

Section 768BE

Matters that the FWC must take into account

- (3) In deciding whether to make a consolidation order under subsection (1), the FWC must take into account the following:
- (a) the views of:
 - (i) the employees who would be affected by the order; and
 - (ii) the new employer or a person who is likely to be the new employer;
 - (b) whether any employees would be disadvantaged by the order in relation to their terms and conditions of employment;
 - (c) if the order relates to a copied State employment agreement—the nominal expiry date of the agreement;
 - (d) whether the copied State instrument for employee A would have a negative impact on the productivity of the new employer’s workplace;
 - (e) whether the new employer would incur significant economic disadvantage if the order were not made;
 - (f) the degree of business synergy between the copied State instrument for employee A and any workplace instrument that already covers the new employer;
 - (g) the public interest.

Restriction on when order may come into operation

- (4) A consolidation order under subsection (1) must not come into operation in relation to a particular transferring employee (other than employee A) before the later of the following:
- (a) the transferring employee’s re-employment time;
 - (b) the day on which the order is made.

768BE Consolidation order to deal with application and coverage

- (1) A consolidation order under subsection 768BD(1) must specify when the copied State instrument for employee A applies to, and covers:
- (a) another transferring employee; and

- (b) the new employer in relation to the other transferring employee; and
 - (c) an employee organisation in relation to the other transferring employee;
- which must not be before the other transferring employee's re-employment time.
- (2) Once the consolidation order comes into operation in relation to the other transferring employee, the copied State instrument for the other transferring employee ceases to operate.

768BF Effect of this Act after a consolidation order is made

If the FWC makes a consolidation order under subsection 768BD(1), then this Act has effect in relation to a particular transferring employee (other than employee A), from the time the order comes into operation in relation to that employee, as if a reference in relation to that employee to the copied State instrument for that employee were a reference to the copied State instrument for employee A.

Subdivision C—Consolidation orders in relation to non-transferring employees

768BG Consolidation orders in relation to non-transferring employees

Consolidation order

- (1) The FWC may make an order (a **consolidation order**) that a copied State instrument for a transferring employee (**employee A**) also is, or will be, a copied State instrument for one or more non-transferring employees who perform, or are likely to perform, the transferring work.

Section 768BG

Non-transferring employees

- (2) A **non-transferring employee** of a new employer is a national system employee of the new employer who is not a transferring employee.

Who may apply for order

- (3) The FWC may make a consolidation order under subsection (1):
- (a) on its own initiative; or
 - (b) on application by any of the following:
 - (i) a non-transferring employee who performs, or is likely to perform, the transferring work;
 - (ii) the new employer or a person who is likely to be the new employer;
 - (iii) an employee organisation that is entitled to represent the industrial interests of an employee referred to in subparagraph (i);
 - (iv) if the application relates to an enterprise agreement—an employee organisation that is, or is likely to be, covered by the agreement.

Matters that the FWC must take into account

- (4) In deciding whether to make a consolidation order under subsection (1), the FWC must take into account the following:
- (a) the views of:
 - (i) the employees who would be affected by the order; and
 - (ii) the new employer or a person who is likely to be the new employer;
 - (b) whether any employees would be disadvantaged by the order in relation to their terms and conditions of employment;
 - (c) if the order relates to a copied State employment agreement or an enterprise agreement—the nominal expiry date of the agreement;

- (d) whether the copied State instrument for employee A would have a negative impact on the productivity of the new employer's workplace;
- (e) whether the new employer would incur significant economic disadvantage if the order were not made;
- (f) the degree of business synergy between the copied State instrument for employee A and any workplace instrument that already covers the new employer;
- (g) the public interest.

Restriction on when order may come into operation

- (5) A consolidation order under subsection (1) must not come into operation in relation to a particular non-transferring employee before the later of the following:
 - (a) the time when the non-transferring employee starts to perform the transferring work for the new employer;
 - (b) the day on which the order is made.

768BH Consolidation order to deal with application and coverage

- (1) A consolidation order under subsection 768BG(1) must specify when the copied State instrument for employee A applies to, and covers:
 - (a) a non-transferring employee; and
 - (b) the new employer in relation to the non-transferring employee; and
 - (c) an employee organisation in relation to the non-transferring employee;in relation to the transferring work.
- (2) If an enterprise agreement covers the non-transferring employee and the new employer, the order must also specify that the agreement does not cover:
 - (a) the non-transferring employee; or
 - (b) the new employer in relation to the non-transferring employee; or

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Section 768BI

- (c) an employee organisation in relation to the non-transferring employee;
in relation to that work.

768BI Effect of this Act after a consolidation order is made

If the FWC makes a consolidation order under subsection 768BG(1), then this Act has effect in relation to a particular non-transferring employee, from the time the order comes into operation in relation to that employee, as if:

- (a) the copied State instrument for employee A were also the copied State instrument for that employee; and
- (b) that employee were a transferring employee in relation to that copied State instrument.

Division 8—Special rules for copied State instruments

Subdivision A—Guide to this Division

768BJ What this Division is about

This Division has a collection of special rules for copied State instruments for transferring employees.

Subdivision B deals with the case where a copied State instrument for a transferring employee does not have a term about settling disputes about matters arising under the instrument. In that case, the model term prescribed by the regulations is taken to be a term of the instrument.

Subdivision C is about working out service and entitlements of a transferring employee. This is particularly relevant for working out the employee's entitlements under the National Employment Standards and the copied State instrument for the employee.

Subdivision D deals with the case where a copied State award for a transferring employee ceases to operate and the employee suffers a reduction in take home pay. That Subdivision allows the FWC to make a take-home pay order to compensate the employee.

Subdivision E modifies particular provisions of this Act in relation to copied State instruments.

Subdivision F modifies particular provisions of the Transitional Act in relation to copied State instruments.

Subdivision G modifies particular provisions of the Registered Organisations Act in relation to copied State instruments.

Subdivision B—Terms about disputes

768BK Where no term dealing with disputes

- (1) If a copied State instrument for a transferring employee does not include a term that provides a procedure for settling disputes about matters arising under the instrument, then the instrument is taken to include the model term that is prescribed by the regulations for settling disputes about matters arising under a copied State instrument for a transferring employee.

Note: This section deals with the situation where the original State award or original State agreement for the copied State instrument did not include a term about settling disputes about matters arising under the award or agreement.

- (2) For the purposes of subsection (1), the model term prescribed for a copied State award for a transferring employee may be the same or different from the model term prescribed for a copied State employment agreement for a transferring employee.

Subdivision C—Service and entitlements of a transferring employee

768BL Service for the purposes of this Act

General rule

- (1) Service of a transferring employee with the old State employer that occurred before the employee's termination time also counts as service of the employee with the new employer for the purposes of this Act (including for the purposes of determining the employee's entitlements under the National Employment Standards) after the employee's re-employment time.

Gap between termination time and re-employment time

- (2) If there is a period of time between the employee's termination time with the old State employer and the employee's re-employment time with the new employer, then that period:

- (a) does not break the employee's continuous service with the new employer (taking account of the effect of subsection (1)); but
- (b) does not count towards the length of the employee's continuous service with the new employer.

768BM NES—working out non-accruing entitlements

Application of this section

- (1) This section applies for the purposes of determining the entitlements of a transferring employee under the National Employment Standards, other than entitlements to:
 - (a) paid annual leave; or
 - (b) paid personal/carer's leave.

Note: For entitlements to paid annual leave and paid personal/carer's leave under the National Employment Standards, see section 768BN.

No double entitlement

- (2) If, before or after the employee's termination time, the employee has the benefit of an entitlement, the amount of which is calculated by reference to a period of service, then subsection 768BL(1) does not result in that period of service with the old State employer being counted again when calculating the employee's entitlements of that kind under the National Employment Standards.
- (3) To avoid doubt, subsection (2) does not require the employee to serve any initial qualifying period of service for long service leave again.

Limitation on application of general rule to redundancy pay

- (4) If the terms and conditions of employment that applied to the employee's employment by the old State employer immediately before the employee's termination time did not provide for an entitlement to redundancy pay, then subsection 768BL(1) does not apply in relation to the employee and the new employer for the

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purposes of Subdivision B of Division 11 of Part 2-2 (which deals with redundancy pay).

- (5) If a State industrial body could have made an order giving the employee an entitlement to redundancy pay (however described), had the employee's employment been terminated for redundancy (however described) before the employee's termination time, then:
- (a) the terms and conditions of the employee's employment referred to in subsection (4) are taken to have provided for an entitlement to redundancy pay; and
 - (b) paragraph 121(1)(b) does not apply in relation to the employee during the 12 months starting at the employee's re-employment time.

Note: Because of paragraph (b), the employee may therefore be entitled to redundancy pay under section 119 if the employee's employment is terminated by the new employer during the 12-month period starting at the employee's termination time, even if the new employer is a small business employer.

768BN NES—working out accruing entitlements

Application of this section

- (1) This section applies for the purposes of determining the entitlements of a transferring employee under the National Employment Standards to:
- (a) paid annual leave; or
 - (b) paid personal/carer's leave;
- if the employee had, immediately before the employee's termination time, an accrued entitlement to an amount of:
- (c) paid annual leave (however described); or
 - (d) paid personal or carer's leave (however described).

Note: For other entitlements under the National Employment Standards, see section 768BM.

Leave accrued for purposes of the NES

- (2) The provisions of the National Employment Standards relating to:
-

- (a) taking that kind of leave (including rates of pay while taking leave); or
 - (b) cashing-out that kind of leave;
- apply as a minimum standard to the accrued leave, after the employee's re-employment time, as if it had accrued under the National Employment Standards.

No double entitlement

- (3) However, if before or after the employee's termination time, the old State employer paid the employee an amount in relation to some or all of the accrued leave, then for the purposes of subsection (2), the amount of accrued leave is reduced accordingly.

Working out whether leave accrued

- (4) For the purposes of subsection (1), it does not matter whether the entitlement to leave accrued under:
 - (a) the original State award or original State agreement for the copied State instrument for the employee; or
 - (b) a State industrial law of the State.

768BO Copied State instrument—service

General rule

- (1) Service of a transferring employee with the old State employer that:
 - (a) occurred before the employee's termination time; and
 - (b) counted for the purposes of the application to the employee of the original State award or original State agreement for the copied State instrument for the employee;also counts as service of the employee with the new employer for the purposes of the application to the employee of the copied State instrument after the employee's re-employment time.

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Gap between termination time and re-employment time

- (2) If there is a period of time between the employee's termination time with the old State employer and the employee's re-employment time with the new employer, then that period:
- (a) does not break the employee's continuous service with the new employer (taking account of the effect of subsection (1)); but
 - (b) does not count towards the length of the employee's continuous service with the new employer.

Effect of consolidation order

- (3) If the FWC makes a consolidation order under subsection 768BD(1), then, despite section 768BF, the original State award or original State agreement referred to in paragraph (1)(b) of this section is the original State award or original State agreement for the copied State instrument for the employee before the consolidation order was made.

768BP Copied State instrument—working out non-accruing entitlements

Application of this section

- (1) This section applies for the purposes of determining the entitlements of a transferring employee under a copied State instrument for the employee, other than entitlements to:
- (a) annual leave (however described); or
 - (b) personal leave or carer's leave (however described).

Note: For entitlements to annual leave or personal leave or carer's leave under the copied State instrument, see section 768BQ.

No double entitlement

- (2) If, before or after the employee's termination time, the employee has the benefit of an entitlement, the amount of which is calculated by reference to a period of service, then subsection 768BO(1) does

not result in that period of service with the old State employer being counted again when calculating the employee's entitlements of that kind under the copied State instrument for the employee.

- (3) To avoid doubt, subsection (2) does not require the employee to serve any initial qualifying period of service for long service leave again.

768BQ Copied State instrument—working out accruing entitlements

Application of this section

- (1) This section applies for the purposes of determining the entitlements of a transferring employee under the copied State instrument for the employee to:
- (a) annual leave (however described); or
 - (b) personal leave or carer's leave (however described).

Note: For other entitlements under the copied State instrument, see section 768BP.

Leave accrued for purposes of the instrument

- (2) If the employee had, immediately before the employee's termination time, an accrued entitlement to an amount of:
- (a) annual leave (however described); or
 - (b) personal leave or carer's leave (however described);
- then the accrued leave is taken to have accrued under the copied State instrument for the employee.

No double entitlement

- (3) However, if before or after the employee's termination time, the old State employer paid the employee an amount in relation to some or all of the accrued leave, then for the purposes of subsection (2), the amount of accrued leave is reduced accordingly.

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Working out whether leave accrued

- (4) For the purposes of subsection (2), it does not matter whether the leave accrued under:
- (a) the original State award or original State agreement for the copied State instrument; or
 - (b) a State industrial law of the State.

Subdivision D—Cessation of copied State awards: avoiding reductions in take-home pay

768BR Cessation not intended to result in reduction in take-home pay

- (1) If a copied State award for a transferring employee ceases to operate because of subsection 768AO(2), the cessation is not intended to result in a reduction in the take-home pay of the employee.
- (2) A transferring employee's *take-home pay* is the pay the employee actually receives:
- (a) including wages and incentive-based payments, and additional amounts such as allowances and overtime; but
 - (b) disregarding the effect of any deductions that are made as permitted by section 324.

Note: Deductions permitted by section 324 may (for example) include deductions under salary sacrificing arrangements.

- (3) A transferring employee suffers a *reduction in take-home pay* if, and only if:
- (a) when the copied State award for the employee ceases to operate because of subsection 768AO(2), the employee becomes a person to whom a modern award applies; and
 - (b) the employee is employed in the same position as (or a position that is comparable to) the position he or she was employed in immediately before the cessation of the copied State award; and

- (c) the amount of the employee's take-home pay for working particular hours or for a particular quantity of work after the cessation of the copied State award is less than what would have been the employee's take-home pay for those hours or that quantity of work immediately before the cessation; and
- (d) that reduction in the employee's take-home pay is attributable to the cessation of the copied State award.

768BS Orders remedying reductions in take-home pay

- (1) If the FWC is satisfied that a transferring employee to whom a modern award applies has suffered a reduction in take-home pay, the FWC may make any order (a **take-home pay order**) requiring, or relating to, the payment of an amount or amounts to the employee that the FWC considers appropriate to remedy the situation.
- (2) The FWC may make a take-home pay order:
 - (a) on its own initiative; or
 - (b) on application by either of the following:
 - (i) a transferring employee who has suffered a reduction in take-home pay;
 - (ii) an organisation that is entitled to represent the industrial interests of the employee.
- (3) The FWC must not make a take-home pay order if:
 - (a) the FWC considers that the reduction in take-home pay is minor or insignificant; or
 - (b) the FWC is satisfied that the employee has been adequately compensated in other ways for the reduction.
- (4) The FWC must ensure that a take-home pay order is expressed so that:
 - (a) it does not apply to a transferring employee unless the employee has actually suffered a reduction in take-home pay; and
 - (b) if the take-home pay payable to the employee under the modern award increases after the order is made, there is a

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corresponding reduction in any amount payable to the employee under the order.

- (5) If the FWC is satisfied that an application for a take-home pay order has already been made in relation to a transferring employee, the FWC may dismiss any later application that is made under these provisions in relation to the same employee.

768BT Contravening a take-home pay order

A person must not contravene a term of a take-home pay order that applies to the person.

Note: This section is a civil remedy provision (see Part 4-1).

768BU How long a take-home pay order continues to apply

A take-home pay order made in relation to a transferring employee to whom a particular modern award applies continues to apply in relation to the employee (subject to the terms of the order) for so long as the modern award continues to cover the employee.

Note: It does not matter if the modern award stops applying to the employee because an enterprise agreement starts to apply.

768BV Interaction of take-home pay orders with modern awards and enterprise agreements

A term of a modern award or an enterprise agreement has no effect in relation to a transferring employee to the extent that it is less beneficial to the employee than a term of a take-home pay order that applies to the employee.

768BW Application of this Act to take-home pay orders

This Act applies as if the following provisions included a reference to a take-home pay order:

- (a) subsection 675(2) (which is about FWC orders);
- (b) subsection 706(2) (which is about powers of inspectors).

Subdivision E—Modification of this Act

768BX Modification of this Act for copied State instruments

This Act has effect in relation to a transferring employee on and after the employee's re-employment time as if a reference in a provision referred to in column 1 to a term referred to in column 2 included a reference to the term referred to in column 3.

Modification of this Act for copied State instruments			
Item	Column 1 Provision of this Act	Column 2 Current term	Column 3 New term
1	Division 2 of Part 2-9 (payment of wages)	modern award	copied State award for the transferring employee
2	Division 2 of Part 2-9 (payment of wages)	enterprise agreement	copied State employment agreement for the transferring employee
3	Division 3 of Part 2-9 (guarantee of annual earnings)	modern award	copied State award for the transferring employee
4	Division 3 of Part 2-9 (guarantee of annual earnings)	enterprise agreement	copied State employment agreement for the transferring employee
5	Part 3-2 (unfair dismissal)	modern award	copied State award for the transferring employee
6	Part 3-2 (unfair dismissal)	enterprise agreement	copied State employment agreement for the transferring employee
7	Division 9 of Part 3-3 (payments relating to periods of industrial action)	modern award	copied State award for the transferring employee
8	Division 9 of Part 3-3 (payments relating to periods of industrial action)	enterprise agreement	copied State employment agreement for the transferring employee

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Modification of this Act for copied State instruments

Item	Column 1 Provision of this Act	Column 2 Current term	Column 3 New term
9	subsection 481(1) (right of entry)	fair work instrument	copied State instrument for the transferring employee
10	subsection 524(2) (stand down)	enterprise agreement	copied State instrument for the transferring employee
11	Part 4-1 (compliance)	fair work instrument	copied State instrument for the transferring employee
12	section 657 (General Manager)	fair work instrument	copied State instrument for the transferring employee
13	Part 5-2 (Fair Work Ombudsman)	fair work instrument	copied State instrument for the transferring employee
14	Part 5-2 (Fair Work Ombudsman)	modern award	copied State award for the transferring employee
15	Part 5-2 (Fair Work Ombudsman)	enterprise agreement	copied State employment agreement for the transferring employee
16	Part 6-2 (dealing with disputes)	modern award	copied State award for the transferring employee
17	Part 6-2 (dealing with disputes)	enterprise agreement	copied State employment agreement for the transferring employee
18	Part 6-2 (dealing with disputes)	fair work instrument	copied State instrument for the transferring employee

Subdivision F—Modification of the Transitional Act

768BY Modification of the Transitional Act for copied State instruments

- (1) Each relevant transitional provision (see subsection (2)) has effect in relation to a transferring employee as if a reference to a term referred to in column 1 were a reference to the term referred to in

column 2. The provision has effect from the time specified in column 3 of the table in subsection (2).

Modification of the Transitional Act and regulations for copied State instruments

Item	Column 1 Current term	Column 2 New term
1	Division 2B State instrument	copied State instrument for the transferring employee
2	Division 2B State award	copied State award for the transferring employee
3	Division 2B State award applying (within the meaning of the Transitional Act) to a person	copied State award for the transferring employee applying (within the meaning of this Act) to a person
4	Division 2B State award covering (within the meaning of the Transitional Act) a person	copied State award for the transferring employee covering (within the meaning of this Act) a person
5	Division 2B State employment agreement	copied State employment agreement for the transferring employee
6	collective Division 2B State employment agreement	copied State collective employment agreement for the transferring employee
7	individual Division 2B State employment agreement	copied State individual employment agreement for the transferring employee
8	Division 2B State employment agreement applying (within the meaning of the Transitional Act) to a person	copied State employment agreement for the transferring employee applying (within the meaning of this Act) to a person
9	Division 2B State employment agreement covering (within the meaning of the Transitional Act) a person	copied State employment agreement for the transferring employee covering (within the meaning of this Act) a person
10	nominal expiry date of a Division 2B State employment agreement	nominal expiry date of a copied State employment agreement for the transferring employee

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Item	Column 1 Current term	Column 2 New term
11	Division 2B referral commencement	transferring employee's termination time
12	Division 2B State reference employee	transferring employee
13	Division 2B referring State	the State of the old State employer
14	source State	the State of the old State employer

(2) For the purposes of subsection (1), the *relevant transitional provisions* are:

- (a) the provisions of the Transitional Act that are listed in column 1; and
- (b) the regulations made for the purposes of those provisions.

Modification of the Transitional Act and regulations for copied State instruments

Item	Column 1 Relevant transitional provision	Column 2 Which is about	Column 3 Relevant time
1	item 10 of Schedule 3A	instrument content rules	the transferring employee's termination time
2	item 11 of Schedule 3A	instrument interaction rules	the transferring employee's termination time
3	item 13 (other than note 1 and note 2) of Schedule 3A	references to State industrial bodies	the transferring employee's termination time
4	item 17 of Schedule 3A	no loss of accrued rights etc. when instrument terminates	the transferring employee's re-employment time

Modification of the Transitional Act and regulations for copied State instruments

Item	Column 1 Relevant transitional provision	Column 2 Which is about	Column 3 Relevant time
5	item 20 of Schedule 3A	variation of discriminatory instruments	the transferring employee's termination time
6	item 22 of Schedule 3A	collective agreements—termination by agreement	the transferring employee's re-employment time
7	item 23 of Schedule 3A	collective agreements—termination by the FWC	the transferring employee's re-employment time
8	item 24 of Schedule 3A	individual agreements—termination by agreement	the transferring employee's re-employment time
9	item 25 of Schedule 3A	individual agreements—termination conditional on enterprise agreement	the transferring employee's re-employment time
10	item 26 of Schedule 3A	individual agreements—unilateral termination by the FWC	the transferring employee's re-employment time
11	item 47 of Schedule 3A	employee not award/agreement free	the transferring employee's re-employment time
12	item 48 of Schedule 3A	calculating an employee's ordinary hours of work	the transferring employee's re-employment time
13	items 19, 20 and 21 of Schedule 4	interaction with the NES	the transferring employee's re-employment time
14	Part 5 of Schedule 9	base rates of pay	the transferring employee's re-employment time

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Modification of the Transitional Act and regulations for copied State instruments

Item	Column 1 Relevant transitional provision	Column 2 Which is about	Column 3 Relevant time
15	Division 4 of Part 3 of Schedule 11	transfer of business	the transferring employee's re-employment time
16	item 4 of Schedule 12	general protections	the transferring employee's termination time
17	items 2, 3, 4 and 17 of Schedule 13	industrial action	the transferring employee's re-employment time
18	item 4B of Schedule 16 (as that item relates to subitems 25(6) and (7) of Schedule 3A) and item 16 of Schedule 16 (as that item relates to item 4B of Schedule 16)	compliance relating to conditional terminations of individual employment agreements	the transferring employee's re-employment time
19	items 12 and 13 of Schedule 16 and item 16 of Schedule 16 (as that item relates to those items)	compliance relating to non-disclosure obligations	the transferring employee's re-employment time

Subdivision G—Modification of the Registered Organisations Act

768BZ Modification of the Registered Organisations Act for copied State instruments

- (1) The Registered Organisations Act has effect in relation to a transferring employee on and after the employee's termination time as if:

- (a) a reference in that Act to a modern award included a reference to a copied State award for the employee; and
 - (b) a reference in that Act to an enterprise agreement included a reference to a copied State employment agreement for the employee.
- (2) The regulations may deal with other matters relating to how the Registered Organisations Act applies in relation to a transferring employee.

Division 9—Regulations

768CA Regulations

- (1) The regulations may:
 - (a) make provision in relation to the transition from State awards and State employment agreements to copied State instruments; and
 - (b) make provision in relation to the transition from copied State instruments to modern awards and enterprise agreements; and
 - (c) deal with how this Act applies in relation to copied State instruments for transferring employees; and
 - (d) provide that provisions of this Act or the Transitional Act apply in relation to transferring employees or new employers with specified modifications; and
 - (e) otherwise make provision relating to how provisions of this Act or the Transitional Act apply in relation to transferring employees or new employers; and
 - (f) make provision in relation to non-transferring employees of the new employer; and
 - (g) provide that provisions of this Act or the Transitional Act apply in relation to the non-transferring employees with specified modifications; and
 - (h) make other provision in relation to the matters dealt with in this Part.
- (2) Without limiting subsection (1), the regulations may:
 - (a) modify provisions of this Act or the Transitional Act, or provide for the application (with or without modifications) of provisions of this Act or the Transitional Act to matters to which they would otherwise not apply; and
 - (b) provide differently for the purposes of different provisions, or in relation to different situations.
- (3) However, this section does not allow regulations to:

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- (a) modify a provision so as to impose an obligation which, if contravened, constitutes an offence; or
 - (b) include new provisions that create offences.
- (4) The provisions of this Part (including this section) that provide for regulations to deal with matters do not limit each other.

Part 6-4—Additional provisions relating to termination of employment

Division 1—Introduction

769 Guide to this Part

This Part contains provisions to give effect, or further effect, to certain international agreements relating to discrimination and termination of employment.

Division 2 makes it unlawful for an employer to terminate an employee's employment for certain reasons. Division 2 also deals with compliance. In most cases, a dispute that involves the termination of an employee's employment will be dealt with by a court only if the dispute has not been resolved by the FWC.

Division 3 sets out notification and consultation requirements in relation to certain terminations of employment.

770 Meanings of *employee* and *employer*

In this Part, *employee* and *employer* have their ordinary meanings.

Division 2—Termination of employment

771 Object of this Division

The object of this Division is to give effect, or further effect, to:

- (a) the ILO Convention (No. 111) concerning Discrimination in respect of Employment and Occupation, done at Geneva on 25 June 1958 ([1974] ATS 12); and
- (b) the ILO Convention (No. 156) concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, done at Geneva on 23 June 1981 ([1991] ATS 7); and
- (c) the ILO Convention (No. 158) concerning Termination of Employment at the Initiative of the Employer, done at Geneva on 22 June 1982 ([1994] ATS 4); and
- (d) the Termination of Employment Recommendation, 1982 (Recommendation No. R166) which the General Conference of the ILO adopted on 22 June 1982.

Note 1: In 2009, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

Note 2: In 2009, the text of a Recommendation adopted by the General Conference of the ILO was accessible through the ILO website (www.ilo.org).

772 Employment not to be terminated on certain grounds

- (1) An employer must not terminate an employee's employment for one or more of the following reasons, or for reasons including one or more of the following reasons:
 - (a) temporary absence from work because of illness or injury of a kind prescribed by the regulations;
 - (b) trade union membership or participation in trade union activities outside working hours or, with the employer's consent, during working hours;
 - (c) non-membership of a trade union;

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- (d) seeking office as, or acting or having acted in the capacity of, a representative of employees;
- (e) the filing of a complaint, or the participation in proceedings, against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
- (f) race, colour, sex, sexual orientation, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- (g) absence from work during maternity leave or other parental leave;
- (h) temporary absence from work for the purpose of engaging in a voluntary emergency management activity, where the absence is reasonable having regard to all the circumstances.

Note: This subsection is a civil remedy provision (see Part 4-1).

- (2) However, subsection (1) does not prevent a matter referred to in paragraph (1)(f) from being a reason for terminating a person's employment if:
 - (a) the reason is based on the inherent requirements of the particular position concerned; or
 - (b) if the person is a member of the staff of an institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed—the employment is terminated:
 - (i) in good faith; and
 - (ii) to avoid injury to the religious susceptibilities of adherents of that religion or creed.
- (3) To avoid doubt, if:
 - (a) an employer terminates an employee's employment; and
 - (b) the reason, or a reason, for the termination is that the position held by the employee no longer exists, or will no longer exist; and
 - (c) the reason, or a reason, that the position held by the employee no longer exists, or will no longer exist, is the

employee's absence, or proposed or probable absence, during maternity leave or other parental leave;
the employee's employment is taken, for the purposes of paragraph (1)(g), to have been terminated for the reason, or for reasons including the reason, of absence from work during maternity leave or other parental leave.

- (4) For the purposes of subsection (1), subsection 109(2) (which deals with the meaning of *voluntary emergency management activity*) has effect as if the word employee had its ordinary meaning.

773 Application for the FWC to deal with a dispute

If:

- (a) an employer has terminated an employee's employment; and
- (b) the employee, or an industrial association that is entitled to represent the industrial interests of the employee, alleges that the employee's employment was terminated in contravention of subsection 772(1);

the employee, or the industrial association, may apply to the FWC for the FWC to deal with the dispute.

774 Time for application

- (1) An application under section 773 must be made:
 - (a) within 21 days after the employment was terminated; or
 - (b) within such further period as the FWC allows under subsection (2).
- (2) The FWC may allow a further period if the FWC is satisfied that there are exceptional circumstances, taking into account:
 - (a) the reason for the delay; and
 - (b) any action taken by the employee to dispute the termination; and
 - (c) prejudice to the employer (including prejudice caused by the delay); and
 - (d) the merits of the application; and

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- (e) fairness as between the person and other persons in a like position.

775 Application fees

- (1) The application must be accompanied by any fee prescribed by the regulations.
- (2) The regulations may prescribe:
 - (a) a fee for making an application to the FWC under section 773; and
 - (b) a method for indexing the fee; and
 - (c) the circumstances in which all or part of the fee may be waived or refunded.

776 Dealing with a dispute (other than by arbitration)

- (1) If an application is made under section 773, the FWC must deal with the dispute (other than by arbitration).

Note: The FWC may deal with a dispute by mediation or conciliation, or by making a recommendation or expressing an opinion (see subsection 595(2)).

- (2) Any conference conducted for the purposes of dealing with the dispute (other than by arbitration) must be conducted in private, despite subsection 592(3).

Note: For conferences, see section 592.

- (3) If the FWC is satisfied that all reasonable attempts to resolve the dispute (other than by arbitration) have been, or are likely to be, unsuccessful, then:
 - (a) the FWC must issue a certificate to that effect; and
 - (b) if the FWC considers, taking into account all the materials before it, that arbitration under section 777, or an unlawful termination court application, in relation to the dispute would not have a reasonable prospect of success, the FWC must advise the parties accordingly.

- (4) An ***unlawful termination court application*** is an application to a court under Division 2 of Part 4-1 for orders in relation to a contravention of subsection 772(1).

777 Dealing with a dispute by arbitration

- (1) This section applies if:
- (a) the FWC issues a certificate under paragraph 776(3)(a) in relation to the dispute; and
 - (b) the parties notify the FWC that they agree to the FWC arbitrating the dispute; and
 - (c) the notification:
 - (i) is given to the FWC within 14 days after the day the certificate is issued, or within such period as the FWC allows on an application made during or after those 14 days; and
 - (ii) complies with any requirements prescribed by the procedural rules; and
 - (d) sections 726, 727, 728, 729, 731 and 732 do not apply.

Note: Sections 726, 727, 728, 729, 731 and 732 prevent multiple applications or complaints of a kind referred to in those sections from being made in relation to the same dispute. A notification can only be made under this section where there is no such other application or complaint in relation to the dispute at the time the notification is made. Generally, once a notification is made no such application or complaint can be made in relation to the dispute (see section 730).

- (2) The FWC may deal with the dispute by arbitration, including by making one or more of the following orders:
- (a) an order for reinstatement of the employee;
 - (b) an order for the payment of compensation to the employee;
 - (c) an order for payment of an amount to the employee for remuneration lost;
 - (d) an order to maintain the continuity of the employee's employment;
 - (e) an order to maintain the period of the employee's continuous service with the employer.

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- (3) A person to whom an order under subsection (2) applies must not contravene a term of the order.

Note: This subsection is a civil remedy provision (see Part 4-1).

778 Taking a dispute to court

A person who is entitled to apply under section 773 for the FWC to deal with a dispute must not make an unlawful termination court application in relation to the dispute unless:

- (a) both of the following apply:
- (i) the FWC has issued a certificate under paragraph 776(3)(a) in relation to the dispute;
 - (ii) the unlawful termination court application is made within 14 days after the day the certificate is issued, or within such period as the court allows on an application made during or after those 14 days; or
- (b) the unlawful termination court application includes an application for an interim injunction.

Note 1: Generally, if the parties notify the FWC that they agree to the FWC arbitrating the dispute (see subsection 777(1)), an unlawful termination court application cannot be made in relation to the dispute (see sections 730 and 731).

Note 2: For the purposes of subparagraph (a)(ii), in *Brodie-Hanns v MTV Publishing Ltd* (1995) 67 IR 298, the Industrial Relations Court of Australia set down principles relating to the exercise of its discretion under a similarly worded provision of the *Industrial Relations Act 1988*.

779 Appeal rights

- (1) Despite subsection 604(2), the FWC must not grant permission to appeal from a decision made by the FWC under subsection 777(2) (which is about arbitration of a dispute) unless the FWC considers that it is in the public interest to do so.
- (2) Despite subsection 604(1), an appeal from a decision made by the FWC in relation to a matter arising under subsection 777(2) can

only, to the extent that it is an appeal on a question of fact, be made on the ground that the decision involved a significant error of fact.

779A Costs orders against parties

- (1) The FWC may make an order for costs against a party (the *first party*) to a dispute for costs incurred by the other party to the dispute if:
 - (a) an application for the FWC to deal with the dispute has been made under section 773; and
 - (b) the FWC is satisfied that the first party caused those costs to be incurred because of an unreasonable act or omission of the first party in connection with the conduct or continuation of the dispute.
- (2) The FWC may make an order under subsection (1) only if the other party to the dispute has applied for it in accordance with section 781.
- (3) This section does not limit the FWC's power to order costs under section 611.

780 Costs orders against lawyers and paid agents

- (1) This section applies if:
 - (a) an application for the FWC to deal with a dispute has been made under section 773; and
 - (b) a person who is a party to the dispute has engaged a lawyer or paid agent (the *representative*) to represent the person in the dispute; and
 - (c) under section 596, the person is required to seek the FWC's permission to be represented by the representative.
- (2) The FWC may make an order for costs against the representative for costs incurred by the other party to the dispute if the FWC is satisfied that the representative caused those costs to be incurred because:

Section 781

- (a) the representative encouraged the person to start, continue or respond to the dispute and it should have been reasonably apparent that the person had no reasonable prospect of success in the dispute; or
 - (b) of an unreasonable act or omission of the representative in connection with the conduct or continuation of the dispute.
- (3) The FWC may make an order under this section only if the other party to the dispute has applied for it in accordance with section 781.
- (4) This section does not limit the FWC's power to order costs under section 611.

781 Applications for costs orders

An application for an order for costs in relation to an application under section 773 must be made within 14 days after the FWC finishes dealing with the dispute.

781A Schedule of costs

- (1) A schedule of costs may be prescribed in relation to items of expenditure likely to be incurred in relation to matters that can be covered by an order under section 611, 779A or 780 in relation to an application under section 773, including expenses arising from the representation of a party by a person or organisation other than on a legal professional basis.
- (2) If a schedule of costs is prescribed for the purposes of subsection (1), then, in awarding costs under section 611, 779A or 780 in relation to an application under section 773, the FWC:
- (a) is not limited to the items of expenditure appearing in the schedule; but
 - (b) if an item does appear in the schedule—must not award costs in relation to that item at a rate or of an amount that exceeds the rate or amount appearing in the schedule.

782 Contravening costs orders

A person to whom an order for costs made under section 779A or 780 applies must not contravene a term of the order.

Note: This section is a civil remedy provision (see Part 4-1).

783 Reason for action to be presumed unless proved otherwise

- (1) If:
 - (a) in an application in relation to a contravention of subsection 772(1), it is alleged that a person took, or is taking, action for a particular reason; and
 - (b) taking that action for that reason would constitute a contravention of subsection 772(1);it is presumed that the action was, or is being, taken for that reason, unless the person proves otherwise.
- (2) Subsection (1) does not apply in relation to orders for an interim injunction.

Division 3—Notification and consultation requirements relating to certain terminations of employment

Subdivision A—Object of this Division

784 Object of this Division

The object of this Division is to give effect, or further effect, to:

- (a) the ILO Convention (No. 158) concerning Termination of Employment at the Initiative of the Employer, done at Geneva on 22 June 1982 ([1994] ATS 4); and
- (b) the Termination of Employment Recommendation, 1982 (Recommendation No. R166) which the General Conference of the ILO adopted on 22 June 1982.

Note 1: In 2009, the text of a Convention in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

Note 2: In 2009, the text of a Recommendation adopted by the General Conference of the ILO was accessible through the ILO website (www.ilo.org).

Subdivision B—Requirement to notify Centrelink

785 Employer to notify Centrelink of certain proposed terminations

- (1) If an employer decides to terminate the employment of 15 or more employees for reasons of an economic, technological, structural or similar nature, or for reasons including such reasons, the employer must give a written notice about the proposed terminations to the Chief Executive Officer of the Commonwealth Services Delivery Agency (Centrelink).
- (2) The notice must be in the form (if any) prescribed by the regulations and set out:
 - (a) the reasons for the terminations; and

- (b) the number and categories of employees likely to be affected;
and
 - (c) the time when, or the period over which, the employer
intends to carry out the terminations.
- (3) The notice must be given:
- (a) as soon as practicable after making the decision; and
 - (b) before terminating an employee's employment in accordance
with the decision.
- (4) The employer must not terminate an employee's employment in
accordance with the decision unless the employer has complied
with this section.
- Note: This subsection is a civil remedy provision (see Part 4-1).
- (5) The orders that may be made under subsection 545(1) in relation to
a contravention of subsection (4) of this section:
- (a) include an order requiring the employer not to terminate the
employment of employees in accordance with the decision,
except as permitted by the order; but
 - (b) do not include an order granting an injunction.

Subdivision C—Failure to notify or consult registered employee associations

786 FWC may make orders where failure to notify or consult registered employee associations about terminations

- (1) The FWC may make an order under subsection 787(1) if it is
satisfied that:
- (a) an employer has decided to terminate the employment of 15
or more employees for reasons of an economic,
technological, structural or similar nature, or for reasons
including such reasons; and
 - (b) the employer has not complied with subsection (2) (which
deals with notifying relevant registered employee

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associations) or subsection (3) (which deals with consulting relevant registered employee associations); and

- (c) the employer could reasonably be expected to have known, when he or she made the decision, that one or more of the employees were members of a registered employee association.

Notifying relevant registered employee associations

- (2) An employer complies with this subsection if:
 - (a) the employer notifies each registered employee association of which any of the employees was a member, and that was entitled to represent the industrial interests of that member, of the following:
 - (i) the proposed terminations and the reasons for them;
 - (ii) the number and categories of employees likely to be affected;
 - (iii) the time when, or the period over which, the employer intends to carry out the terminations; and
 - (b) the notice is given:
 - (i) as soon as practicable after making the decision; and
 - (ii) before terminating an employee's employment in accordance with the decision.

Consulting relevant registered employee associations

- (3) An employer complies with this subsection if:
 - (a) the employer gives each registered employee association of which any of the employees was a member, and that was entitled to represent the industrial interests of that member, an opportunity to consult the employer on:
 - (i) measures to avert or minimise the proposed terminations; and
 - (ii) measures (such as finding alternative employment) to mitigate the adverse effects of the proposed terminations; and

- (b) the opportunity is given:
 - (i) as soon as practicable after making the decision; and
 - (ii) before terminating an employee's employment in accordance with the decision.

787 Orders that the FWC may make

- (1) The FWC may make whatever orders it considers appropriate, in the public interest, to put:
 - (a) the employees; and
 - (b) each registered employee association referred to in paragraph 786(2)(a) or (3)(a);in the same position (as nearly as can be done) as if the employer had complied with subsections 786(2) and (3).
- (2) The FWC must not, under subsection (1), make orders for any of the following:
 - (a) reinstatement of an employee;
 - (b) withdrawal of a notice of termination if the notice period has not expired;
 - (c) payment of an amount in lieu of reinstatement;
 - (d) payment of severance pay;
 - (e) disclosure of confidential information or commercially sensitive information relating to the employer, unless the recipient of such information gives an enforceable undertaking not to disclose the information to any other person;
 - (f) disclosure of personal information relating to a particular employee, unless the employee has given written consent to the disclosure of the information and the disclosure is in accordance with that consent.

788 Application to the FWC for order

The FWC may make the order only on application by:

- (a) one of the employees; or

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Part 6-4 Additional provisions relating to termination of employment

Division 3 Notification and consultation requirements relating to certain terminations of employment

Section 789

- (b) a registered employee association referred to in paragraph 786(2)(a) or (3)(a); or
- (c) any other registered employee association that is entitled to represent the industrial interests of one of the employees.

Subdivision D—Limits on scope of this Division

789 Limits on scope of this Division

- (1) This Division does not apply in relation to any of the following employees:
 - (a) an employee employed for a specified period of time, for a specified task, or for the duration of a specified season;
 - (b) an employee whose employment is terminated because of serious misconduct;
 - (c) a casual employee;
 - (d) an employee (other than an apprentice) to whom a training arrangement applies and whose employment is for a specified period of time or is, for any reason, limited to the duration of the training arrangement;
 - (e) a daily hire employee working in the building and construction industry (including working in connection with the erection, repair, renovation, maintenance, ornamentation or demolition of buildings or structures);
 - (f) a daily hire employee working in the meat industry in connection with the slaughter of livestock;
 - (g) a weekly hire employee working in connection with the meat industry and whose termination of employment is determined solely by seasonal factors;
 - (h) an employee prescribed by the regulations as an employee in relation to whom this Division does not apply.
- (2) Paragraph (1)(a) does not prevent this Division from applying in relation to an employee if a substantial reason for employing the employee as described in that paragraph was to avoid the application of this Division.

Part 6-4A—Special provisions about TCF outworkers

Division 1—Introduction

789AA Guide to this Part

This Part contains special provisions about TCF outworkers.

Division 2 provides for TCF contract outworkers to be taken to be employees in certain circumstances for the purposes of most of the provisions of this Act.

Division 3 provides for TCF outworkers (whether employees or contractors) to recover unpaid remuneration from entities that are indirectly responsible for work done by the outworkers.

Division 4 allows the regulations to prescribe a code dealing with standards of conduct and practice relating to TCF outwork.

Division 5 contains miscellaneous provisions.

789AB Meanings of *employee* and *employer*

In this Part, *employee* and *employer* have their ordinary meanings.

789AC Objects of this Part

The objects of this Part are to eliminate exploitation of outworkers in the textile, clothing and footwear industry, and to ensure that those outworkers are employed or engaged under secure, safe and fair systems of work, by:

- (a) providing nationally consistent rights and protections for those outworkers, regardless of whether they are employees or contractors; and

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Part 6-4A Special provisions about TCF outworkers

Division 1 Introduction

Section 789AC

- (b) establishing an effective mechanism by which those outworkers can recover amounts owing to them in relation to their work from other parties in a supply chain; and
- (c) providing for a code dealing with standards of conduct and practice to be complied with by parties in a supply chain.

Division 2—TCF contract outworkers taken to be employees in certain circumstances

789BA Provisions covered by this Division

- (1) This Division covers the provisions of this Act, other than the following provisions (and other than regulations made for the purposes of the following provisions):
 - (a) Division 1, and this Division, of this Part;
 - (b) Divisions 2A and 2B of Part 1-3 (application of this Act in referring States);
 - (c) Part 3-4 (right of entry);
 - (d) Part 3-5 (stand down);
 - (e) Part 6-3 (extension of National Employment Standards entitlements);
 - (ea) Part 6-3A (transfer of business from a State public sector employer);
 - (f) Part 6-4 (additional provisions relating to termination of employment);
 - (g) Part 1 of Schedule 1.
- (2) Provisions of this Act that are not covered by this Division are to be interpreted disregarding the effect of this Division in relation to other provisions of this Act.

Note: For example, references to national system employees and national system employers, in provisions of this Act that are not covered by this Division, are to be interpreted disregarding the effect of this Division in relation to the definitions of those expressions in sections 13 and 14.
- (3) References in provisions that are covered by this Division to matters dealt with in, or occurring under, provisions of this Act that are not covered by this Division (the *excluded provisions*) are to be interpreted having regard to the fact that this Division does not apply for the purposes of the excluded provisions.

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789BB TCF contract outworkers taken to be employees in certain circumstances

- (1) For the purposes of the provisions covered by this Division:
- (a) a TCF contract outworker is taken to be an employee (within the ordinary meaning of that expression), and to be a national system employee, in relation to particular TCF work performed by the outworker, if:
 - (i) the work is performed directly or indirectly for a Commonwealth outworker entity; and
 - (ii) if the entity is a constitutional corporation—the work is performed for the purposes of a business undertaking of the corporation; and
 - (b) the person (whether a Commonwealth outworker entity referred to in subparagraph (a)(i) or another person) that engages the outworker is taken to be the employer (within the ordinary meaning of that expression), and to be a national system employer, of the outworker in relation to the TCF work.

Note 1: See section 17A for when TCF work is performed *directly* or *indirectly* for a person.

Note 2: See also section 789BC, which allows regulations to deal with matters relating to TCF contract outworkers who are taken by this section to be employees.

- (2) A **TCF contract outworker** is a TCF outworker who performs work other than as an employee.
- (3) In interpreting any of the following for the purposes of the provisions covered by this Division:
- (a) provisions of this Act;
 - (b) any instrument that is relevant to the relationship between the TCF contract outworker and the person referred to in paragraph (1)(b);
- an interpretation that is consistent with the objective stated in subsection (4) is to be preferred to an interpretation that is not consistent with that objective.

- (4) The objective is that a TCF contract outworker who is taken to be an employee in relation to TCF work should have the same rights and obligations in relation to the work as an employee would have if he or she were employed by the person referred to in paragraph (1)(b) to do the work.
- (5) This section has effect subject to regulations made for the purposes of section 789BC.

789BC Regulations relating to TCF outworkers who are taken to be employees

- (1) For the purpose of furthering the objective stated in subsection 789BB(4), the regulations may do either or both of the following in relation to TCF outworkers (*deemed employees*) who are taken by section 789BB to be employees of other persons (*deemed employers*) in relation to TCF work:
 - (a) provide that provisions covered by this Division apply in relation to deemed employees and deemed employers with specified modifications;
 - (b) otherwise make provision relating to how provisions covered by this Division apply in relation to deemed employees and deemed employers.
- (2) Regulations made for the purposes of subsection (1) may provide differently:
 - (a) for the purposes of different provisions; or
 - (b) in relation to different situations.
- (3) This section does not allow regulations to:
 - (a) modify a provision that creates an offence, or that imposes an obligation which, if contravened, constitutes an offence; or
 - (b) include new provisions that create offences.

Division 3—Recovery of unpaid amounts

789CA When this Division applies

Outworker not paid for TCF work in certain circumstances

- (1) This Division applies if:
- (a) a TCF outworker performs TCF work for a person (the **responsible person**):
 - (i) as an employee of the responsible person; or
 - (ii) under a contract for the provision of services to the responsible person; and
 - (b) the responsible person does not pay an amount (the **unpaid amount**) that is payable, in relation to the TCF work, by the responsible person:
 - (i) to the outworker; or
 - (ii) to another person, for the benefit of the outworker; on or before the day when the amount is due for payment; and
 - (c) the unpaid amount is payable under:
 - (i) a contract; or
 - (ii) this Act, or an instrument made under or in accordance with this Act; or
 - (iii) another law of the Commonwealth; or
 - (iv) a transitional instrument as continued in existence by Schedule 3 to the Transitional Act; or
 - (v) a State or Territory industrial law, or a State industrial instrument.

Note: For the purpose of this Division, the effect of Division 2 must be taken into account in determining whether a TCF outworker performs work as a national system employee of a national system employer.

- (2) Without limiting paragraph (1)(b), the unpaid amount may (subject to paragraph (1)(c)) be an amount of any of the following kinds that relates to (or is attributable to) the TCF work:

- (a) an amount payable by way of remuneration or commission;
- (b) an amount payable in respect of leave;
- (c) an amount payable by way of contributions to a superannuation fund;
- (d) an amount payable by way of reimbursement for expenses incurred.

Meaning of indirectly responsible entity

- (3) Subject to subsections (4) and (5), a person is an **indirectly responsible entity** in relation to the TCF work if:
- (a) the person is a Commonwealth outworker entity; and
 - (b) the TCF work was performed indirectly:
 - (i) for the entity; and
 - (ii) if the entity is a constitutional corporation—for the purposes of a business undertaking of the corporation.

Note: See section 17A for when TCF work is performed **indirectly** for a person.

Extent of liability of indirectly responsible entity

- (4) If subsection (3) is satisfied in relation to a Commonwealth outworker entity and part only of the TCF work:
- (a) the entity is an **indirectly responsible entity** in relation to that part of the TCF work; and
 - (b) for the purposes of applying this Division in relation to the entity and that part of the TCF work, the **unpaid amount** is so much only of the amount referred to in paragraph (1)(b) as is attributable to that part of the TCF work.

Retailer of goods not an indirectly responsible entity in certain circumstances

- (5) If:
- (a) a Commonwealth outworker entity, as a retailer, sells goods produced by the TCF work; and

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- (b) the entity does not have any right to supervise or otherwise control the performance of the work before the goods are delivered to the entity;
the entity is not an *indirectly responsible entity* in relation to the TCF work.

789CB Liability of indirectly responsible entity for unpaid amount

- (1) Each indirectly responsible entity (or the indirectly responsible entity, if there is only one) is liable to pay the unpaid amount.
- (3) If there are 2 or more indirectly responsible entities, those entities are jointly and severally liable for the payment of the unpaid amount.
- (4) Subject to subsection 789CE(1A), this section does not affect the liability of the responsible person to pay the unpaid amount.

789CC Demand for payment from an apparent indirectly responsible entity

- (1) The TCF outworker, or a person acting on behalf of the outworker, may give an apparent indirectly responsible entity a written demand for payment of the amount that the outworker reasonably believes the entity is liable for under section 789CB.
- (2) An entity is an *apparent indirectly responsible entity* in relation to the TCF work if the TCF outworker reasonably believes that the entity is an indirectly responsible entity in relation to the TCF work.
- (3) The demand must:
 - (a) specify the amount, and identify the responsible person; and
 - (b) include particulars of the TCF work to which the amount relates, and why the amount is payable by the entity to which the demand is given; and
 - (c) state that if the specified amount is not paid by a specified time, proceedings may be commenced against the entity under section 789CD.

- (4) The time specified for the purpose of paragraph (3)(c) must not be less than 14 days after the demand is given to the entity.

789CD Court order for entity to pay amount demanded

- (1) If:
- (a) in accordance with section 789CC, an apparent indirectly responsible entity has been given a demand for payment of a specified amount; and
 - (b) the amount has not been paid in full by the time specified in the demand;
- a person or organisation specified in subsection (2) (the *applicant*) may commence proceedings for an order requiring the entity to pay the specified amount.
- (2) The proceedings may be commenced:
- (a) by the TCF outworker; or
 - (b) on the TCF outworker's behalf, by:
 - (i) an organisation that is entitled to represent the industrial interests of the outworker; or
 - (ii) an inspector.
- (3) The proceedings may be commenced in:
- (a) the Federal Court; or
 - (b) the Federal Circuit Court; or
 - (c) an eligible State or Territory court.
- (4) Subject only to subsections (5) and (6), the court may make an order requiring the entity to pay, to the outworker or to another person on the outworker's behalf, the specified amount (or so much of that amount as the applicant alleges is still owing).
- (5) The court must not make an order under subsection (4) if the entity satisfies the court that the entity is not liable under section 789CB to pay any of the specified amount.
- (6) If the entity satisfies the court that the amount of the entity's liability under section 789CB is less than the specified amount (or

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is less than so much of that amount as the applicant alleges is still owing), the court must not make an order under subsection (4) requiring the entity to pay more than that lesser amount.

- (7) In making the order, the court must, on application, include an amount of interest in the sum ordered, unless good cause is shown to the contrary.
- (8) Without limiting subsection (7), in determining the amount of interest, the court must take into account the period between the day when the unpaid amount was due for payment by the responsible person and the day when the order is made.
- (9) Proceedings cannot be commenced under this section more than 6 years after the time when the unpaid amount became due for payment by the responsible person.

789CE Effect of payment by entity (including entity's right to recover from responsible person)

- (1) This section applies if an entity pays an amount in discharge of a liability of the entity under section 789CB, or pursuant to an order under section 789CD.
- (1A) The payment discharges the liability of the responsible person for the unpaid amount, to the extent of the payment. This does not affect any right that the entity has to recover an equivalent amount from the responsible person (under this section or otherwise) or from another person, or to be otherwise indemnified in relation to the making of the payment.
- (2) The entity may, in accordance with this section, recover from the responsible person an amount (the *recoverable amount*) equal to the sum of:
 - (a) the amount paid by the entity as mentioned in subsection (1); and
 - (b) any interest paid by the entity in relation to that amount pursuant to an order under section 789CD.

- (3) The entity may recover the recoverable amount:
 - (a) by offsetting it against any amount that the entity owes to the responsible person; or
 - (b) by action against the responsible person under subsection (4).
- (4) The entity may commence proceedings against the responsible person for payment to the entity of the recoverable amount. The proceedings may be commenced in:
 - (a) the Federal Court; or
 - (b) the Federal Circuit Court; or
 - (c) an eligible State or Territory court.
- (5) The court may make an order requiring the responsible person to pay the entity the recoverable amount (or so much of it as is still owing) if the court is satisfied that:
 - (a) this section applies as mentioned in subsection (1); and
 - (b) the entity has not otherwise recovered the recoverable amount in full from the responsible person.
- (6) In making the order the court must, on application, include an amount of interest in the sum ordered, unless good cause is shown to the contrary.
- (7) Without limiting subsection (6), in determining the amount of interest, the court must take into account the period between the day when the recoverable amount was paid by the entity and the day when the order is made.
- (8) Proceedings cannot be commenced under this section more than 6 years after the time when the entity paid the recoverable amount.

789CF Division does not limit other liabilities or rights

Nothing in this Division limits any other liability or right in respect of the entitlement of the TCF outworker to the unpaid amount (or to have the unpaid amount paid to another person for the outworker's benefit).

Division 4—Code of practice relating to TCF outwork

789DA Regulations may provide for a code

For the purpose of furthering the objects of this Part, the regulations may prescribe a code (the *TCF outwork code*) dealing with standards of conduct and practice to be complied with in relation to any of the following:

- (a) the employment or engagement of TCF outworkers;
- (b) arranging for TCF work to be performed, if the work:
 - (i) is to be performed by TCF outworkers; or
 - (ii) is of a kind that is often performed by TCF outworkers;
- (c) the sale of goods produced by TCF work.

Note 1: In situations where there is a chain or series of arrangements for the supply or production of goods, the TCF outwork code may (subject to section 789DC) impose obligations on any persons that are parties to arrangements in that chain or series.

Note 2: References in other provisions to “this Act” include the code, because the code is in the regulations and is therefore within the definition of *this Act* in section 12.

789DB Matters that may be dealt with in TCF outwork code

- (1) The matters that may be dealt with in the TCF outwork code include (but are not limited to) the following:
 - (a) record keeping requirements;
 - (b) reporting on compliance with record keeping requirements, or with other requirements of the code;
 - (c) general matters relating to the operation and administration of the code.
- (2) The TCF outwork code must not specify wages or other entitlements for TCF outworkers.

789DC Persons on whom obligations may be imposed by TCF outwork code

- (1) The TCF outwork code may only impose obligations on a person if one or more of subsections (2) to (5) applies to the person.

Note: See also subsection (6), which limits the matters in relation to which obligations may be imposed.

- (2) This subsection applies to a person if the person is a national system employer that employs TCF outworkers.

Note: For the purpose of this Division, the effect of Division 2 must be taken into account in determining whether a person is a national system employer that employs TCF outworkers.

- (3) This subsection applies to a person if:

- (a) the person is a Commonwealth outworker entity; and
- (b) the person arranges for TCF work to be performed (directly or indirectly):
 - (i) for the person; and
 - (ii) if the person is a constitutional corporation—for the purposes of a business undertaking of the corporation; and
- (c) the work:
 - (i) is to be performed by TCF outworkers; or
 - (ii) is of a kind often performed by TCF outworkers.

Note: See section 17A for when a person arranges for TCF work to be performed *directly* or *indirectly* for the person.

- (4) This subsection applies to a person if:

- (a) the person arranges for TCF work to be performed; and
- (b) the work:
 - (i) is to be performed by TCF outworkers; or
 - (ii) is of a kind often performed by TCF outworkers; and
- (c) the work is to be performed indirectly:
 - (i) for another person, being a Commonwealth outworker entity; and

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- (ii) if that Commonwealth outworker entity is a constitutional corporation—for the purposes of a business undertaking of that corporation.
- (5) This subsection applies to a person if the person is a constitutional corporation that sells goods produced by TCF work.
- (6) The capacity for the TCF outwork code to impose obligations on a person is subject to the following limitations:
 - (a) the obligations that may be imposed on a person because subsection (2) applies to the person are limited to obligations relating to the person's employment of TCF outworkers;
 - (b) the obligations that may be imposed on a person because subsection (3) applies to the person are limited to obligations relating to TCF work (or an arrangement for TCF work) because of which that subsection applies to the person;
 - (c) the obligations that may be imposed on a person because subsection (4) applies to the person are limited to obligations relating to TCF work (or an arrangement for TCF work) because of which that subsection applies to the person;
 - (d) the obligations that may be imposed on a person because subsection (5) applies to the person are limited to obligations relating to the person being a seller of goods as referred to in that subsection.

789DD Other general matters relating to content of TCF outwork code

- (1) The TCF outwork code may be expressed to apply in relation to:
 - (a) all persons covered by section 789DC, or specified classes of those persons; and
 - (b) all TCF work, or specified classes of TCF work.

Note: A class of person or TCF work may (for example) be identified by reference to a particular sector of the textile, clothing or footwear industry.

- (2) The TCF outwork code may provide differently for:
 - (a) different classes of persons covered by section 789DC; or

- (b) different classes of TCF work; or
- (c) different situations.

789DE Relationship between the TCF outwork code and other instruments

- (1) A TCF award prevails over the TCF outwork code, to the extent of any inconsistency.
- (2) The TCF outwork code prevails over any of the following, to the extent of any inconsistency:
 - (a) an enterprise agreement;
 - (b) a workplace determination;
 - (c) an agreement-based transitional instrument, as continued in existence by Schedule 3 to the Transitional Act.
- (3) Subject to subsection (5), the TCF outwork code may:
 - (a) make provision in relation to a matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time; or
 - (b) make provision to the effect that compliance with a specified term of an instrument or other writing as in force or existing from time to time is taken to satisfy a particular requirement of the code.
- (4) The kinds of instrument or other writing by reference to which the TCF outwork code may make provision as mentioned in subsection (3) include (but are not limited to) the following:
 - (a) a TCF award;
 - (b) a code (however described), dealing with matters relating to outworkers, that is made under a law of a State or Territory.
- (5) The TCF outwork code cannot make provision as mentioned in subsection (3) by reference to any of the following:
 - (a) an enterprise agreement;
 - (b) a workplace determination;

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- (c) an agreement-based transitional instrument, as continued in existence by Schedule 3 to the Transitional Act.
- (6) Subsections (3) and (4) have effect despite subsection 14(2) of the *Legislation Act 2003*.

Division 5—Miscellaneous

789EA Part not intended to exclude or limit State or Territory laws relating to outworkers

- (1) This Part is not intended to exclude or limit the operation of a law of a State or Territory (or an instrument made under a law of a State or Territory), to the extent that the law (or instrument) relates to outworkers and is capable of operating concurrently with this Part.
- (2) A reference in subsection (1) to this Part includes a reference to any regulations made for the purposes of this Part.

Part 6-4B—Workers bullied at work

Division 1—Introduction

789FA Guide to this Part

This Part allows a worker who has been bullied at work to apply to the FWC for an order to stop the bullying.

789FB Meanings of *employee* and *employer*

In this Part, *employee* and *employer* have their ordinary meanings.

Division 2—Stopping workers being bullied at work

789FC Application for an FWC order to stop bullying

- (1) A worker who reasonably believes that he or she has been bullied at work may apply to the FWC for an order under section 789FF.
- (2) For the purposes of this Part, **worker** has the same meaning as in the *Work Health and Safety Act 2011*, but does not include a member of the Defence Force.

Note: Broadly, for the purposes of the *Work Health and Safety Act 2011*, a worker is an individual who performs work in any capacity, including as an employee, a contractor, a subcontractor, an outworker, an apprentice, a trainee, a student gaining work experience or a volunteer.

- (3) The application must be accompanied by any fee prescribed by the regulations.
- (4) The regulations may prescribe:
 - (a) a fee for making an application to the FWC under this section; and
 - (b) a method for indexing the fee; and
 - (c) the circumstances in which all or part of the fee may be waived or refunded.

789FD When is a worker *bullied at work*?

- (1) A worker is ***bullied at work*** if:
 - (a) while the worker is at work in a constitutionally-covered business:
 - (i) an individual; or
 - (ii) a group of individuals;repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member; and
 - (b) that behaviour creates a risk to health and safety.

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- (2) To avoid doubt, subsection (1) does not apply to reasonable management action carried out in a reasonable manner.
- (3) If a person conducts a business or undertaking (within the meaning of the *Work Health and Safety Act 2011*) and either:
 - (a) the person is:
 - (i) a constitutional corporation; or
 - (ii) the Commonwealth; or
 - (iii) a Commonwealth authority; or
 - (iv) a body corporate incorporated in a Territory; or
 - (b) the business or undertaking is conducted principally in a Territory or Commonwealth place;then the business or undertaking is a ***constitutionally-covered business***.

789FE FWC to deal with applications promptly

- (1) The FWC must start to deal with an application under section 789FC within 14 days after the application is made.

Note: For example, the FWC may start to inform itself of the matter under section 590, it may decide to conduct a conference under section 592, or it may decide to hold a hearing under section 593.
- (2) However, the FWC may dismiss an application under section 789FC if the FWC considers that the application might involve matters that relate to:
 - (a) Australia's defence; or
 - (b) Australia's national security; or
 - (c) an existing or future covert operation (within the meaning of section 12E of the *Work Health and Safety Act 2011*) of the Australian Federal Police; or
 - (d) an existing or future international operation (within the meaning of section 12E of the *Work Health and Safety Act 2011*) of the Australian Federal Police.

Note: For another power of the FWC to dismiss applications under section 789FC, see section 587.

789FF FWC may make orders to stop bullying

- (1) If:
- (a) a worker has made an application under section 789FC; and
 - (b) the FWC is satisfied that:
 - (i) the worker has been bullied at work by an individual or a group of individuals; and
 - (ii) there is a risk that the worker will continue to be bullied at work by the individual or group;
- then the FWC may make any order it considers appropriate (other than an order requiring payment of a pecuniary amount) to prevent the worker from being bullied at work by the individual or group.
- (2) In considering the terms of an order, the FWC must take into account:
- (a) if the FWC is aware of any final or interim outcomes arising out of an investigation into the matter that is being, or has been, undertaken by another person or body—those outcomes; and
 - (b) if the FWC is aware of any procedure available to the worker to resolve grievances or disputes—that procedure; and
 - (c) if the FWC is aware of any final or interim outcomes arising out of any procedure available to the worker to resolve grievances or disputes—those outcomes; and
 - (d) any matters that the FWC considers relevant.

789FG Contravening an order to stop bullying

A person to whom an order under section 789FF applies must not contravene a term of the order.

Note: This section is a civil remedy provision (see Part 4-1).

789FH Actions under work health and safety laws permitted

Section 115 of the *Work Health and Safety Act 2011* and corresponding provisions of corresponding WHS laws (within the

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meaning of that Act) do not apply in relation to an application under section 789FC.

Note: Ordinarily, if a worker makes an application under section 789FC for an FWC order to stop the worker from being bullied at work, then section 115 of the *Work Health and Safety Act 2011* and corresponding provisions of corresponding WHS laws would prohibit a proceeding from being commenced, or an application from being made or continued, under those laws in relation to the bullying. This section removes that prohibition.

789FI This Part is not to prejudice Australia's defence, national security etc.

Nothing in this Part requires or permits a person to take, or to refrain from taking, any action if the taking of the action, or the refraining from taking the action, would be, or could reasonably be expected to be, prejudicial to:

- (a) Australia's defence; or
- (b) Australia's national security; or
- (c) an existing or future covert operation (within the meaning of section 12E of the *Work Health and Safety Act 2011*) of the Australian Federal Police; or
- (d) an existing or future international operation (within the meaning of section 12E of the *Work Health and Safety Act 2011*) of the Australian Federal Police.

789FJ Declarations by the Chief of the Defence Force

- (1) Without limiting section 789FI, the Chief of the Defence Force may, by legislative instrument, declare that all or specified provisions of this Part do not apply in relation to a specified activity.
- (2) A declaration under subsection (1) may only be made with the approval of the Minister and, if made with that approval, has effect according to its terms.

789FK Declarations by the Director-General of Security

- (1) Without limiting section 789FI, the Director-General of Security may, by legislative instrument, declare that all or specified provisions of this Part do not apply in relation to a person carrying out work for the Director-General.
- (2) A declaration under subsection (1) may only be made with the approval of the Minister and, if made with that approval, has effect according to its terms.

789FL Declarations by the Director-General of ASIS

- (1) Without limiting section 789FI, the Director-General of the Australian Secret Intelligence Service may, by legislative instrument, declare that all or specified provisions of this Part do not apply in relation to a person carrying out work for the Director-General.
- (2) A declaration under subsection (1) may only be made with the approval of the Minister and, if made with that approval, has effect according to its terms.

Part 6-5—Miscellaneous

Division 1—Introduction

790 Guide to this Part

This Part deals with miscellaneous matters such as delegations and regulations.

791 Meanings of *employee* and *employer*

In this Part, *employee* means a national system employee, and *employer* means a national system employer.

Note: See also Division 2 of Part 6-4A (TCF contract outworkers taken to be employees in certain circumstances).

Division 2—Miscellaneous

792 Delegation by Minister

- (1) The Minister may, in writing, delegate all or any of his or her functions or powers under this Act (except under section 32A) to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee, or acting SES employee, in the Department.
- (2) In performing functions or exercising powers under a delegation, the delegate must comply with any directions of the Minister.

Note: See also sections 34AA and 34AB of the *Acts Interpretation Act 1901*.

793 Liability of bodies corporate

Conduct of a body corporate

- (1) Any conduct engaged in on behalf of a body corporate:
 - (a) by an officer, employee or agent (an **official**) of the body within the scope of his or her actual or apparent authority; or
 - (b) by any other person at the direction or with the consent or agreement (whether express or implied) of an official of the body, if the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the official;

is taken, for the purposes of this Act and the procedural rules, to have been engaged in also by the body.

State of mind of a body corporate

- (2) If, for the purposes of this Act or the procedural rules, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is enough to show:
 - (a) that the conduct was engaged in by a person referred to in paragraph (1)(a) or (b); and

Section 794

(b) that the person had that state of mind.

Meaning of state of mind

- (3) The *state of mind* of a person includes:
- (a) the knowledge, intention, opinion, belief or purpose of the person; and
 - (b) the person's reasons for the intention, opinion, belief or purpose.

Disapplication of Part 2.5 of the Criminal Code

- (4) Part 2.5 of Chapter 2 of the *Criminal Code* does not apply to an offence against this Act.

Note: Part 2.5 of the *Criminal Code* deals with corporate criminal responsibility.

- (5) In this section, *employee* has its ordinary meaning.

794 Signature on behalf of body corporate

For the purposes of this Act, a document may be signed on behalf of a body corporate by an authorised officer of the body and need not be made under the body's seal.

795 Public sector employer to act through employing authority

Employer to act through employing authority

- (1) For the purposes of this Act and the procedural rules, the employer of an employee (a *public sector employee*) employed in public sector employment must act only through the employee's employing authority acting on behalf of the employer.

Acts done by or to employing authority

- (2) For the purposes of this Act and the procedural rules, anything done by or to a public sector employee's employing authority

acting on behalf of the employee's employer is taken to have been done by or to the employer (as the case may be).

Application of subsections (1) and (2)

- (3) Subsections (1) and (2) apply despite any other law of the Commonwealth, a State or a Territory.

Meaning of public sector employment

- (4) **Public sector employment** means employment of, or service by, a person in any capacity (whether permanently or temporarily, and whether full-time or part-time):
- (a) under the *Public Service Act 1999* or the *Parliamentary Service Act 1999*; or
 - (b) by or in the service of a Commonwealth authority; or
 - (c) under a law of the Australian Capital Territory relating to employment by that Territory, including a law relating to the Australian Capital Territory Government Service; or
 - (d) by or in the service of:
 - (i) an enactment authority as defined by section 3 of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*; or
 - (ii) a body corporate incorporated by or under a law of the Australian Capital Territory and in which the Australian Capital Territory has a controlling interest;
other than an authority or body prescribed by the regulations;
or
 - (e) under a law of the Northern Territory relating to the Public Service of the Northern Territory; or
 - (f) by or in the service of a Northern Territory authority; or
 - (g) by or in the service of a person prescribed by the regulations;
or
 - (h) under a law prescribed by the regulations.
- (5) However, **public sector employment** does not include:

Section 795A

- (a) employment of, or service by, a person prescribed by the regulations; or
- (b) employment or service under a law prescribed by the regulations.

This subsection does not apply for the purposes of section 40.

Note: Section 40 deals with the interaction between fair work instruments and public sector employment laws.

*Meaning of **employing authority***

- (6) An **employing authority** of an employee is the person prescribed by the regulations as the employee's employing authority.

795A The Schedules

The Schedules have effect.

Note: The Schedules contain application, transitional and saving provisions relating to amendments of this Act.

796 Regulations—general

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations made under this Act prevail over procedural rules made under this Act, to the extent of any inconsistency.

796A Regulations conferring functions

The regulations may confer functions on the following:

- (a) the FWC;
- (b) the General Manager.

797 Regulations dealing with offences

- (1) The regulations may provide for offences against the regulations.
-

- (2) The penalties for offences must not be more than 20 penalty units.

798 Regulations dealing with civil penalties

- (1) The regulations may provide for civil penalties for contravention of the regulations.
- (2) The penalties for contravention must not be more than:
- (a) 20 penalty units for an individual; or
 - (b) 100 penalty units for a body corporate.

799 Regulations dealing with infringement notices

Infringement notices for offences

- (1) The regulations may provide for a person who is alleged to have committed an offence against the regulations to pay a penalty to the Commonwealth as an alternative to prosecution.
- (2) The penalty must not exceed one-fifth of the maximum penalty prescribed by the regulations for that offence.

800 Regulations dealing with exhibiting fair work instruments

The regulations may provide for the exhibiting, on the premises of an employer, of a fair work instrument or a term of a fair work instrument.

Schedule 1 Application, saving and transitional provisions relating to amendments of this Act

Part 1 Amendments made by the Fair Work Amendment (Textile, Clothing and Footwear Industry) Act 2012

Clause 1

Schedule 1—Application, saving and transitional provisions relating to amendments of this Act

Note: See section 795A.

Part 1—Amendments made by the Fair Work Amendment (Textile, Clothing and Footwear Industry) Act 2012

1 Definitions

In this Part:

amended Act means this Act as amended by the amending Act.

amending Act means the *Fair Work Amendment (Textile, Clothing and Footwear Industry) Act 2012*.

commencement means the commencement of this Part.

deemed employee means a TCF contract outworker who is taken by section 789BB of the amended Act to be an employee.

deemed employer means a person who is taken by section 789BB of the amended Act to be the employer of a deemed employee.

2 Section 789BB of amended Act applies to contracts entered into after commencement

- (1) Section 789BB of the amended Act applies in relation to particular TCF work performed by a TCF contract outworker only if the contract for the provision of services, for the purpose of which the outworker performs the work, is entered into after commencement.

-
- (2) Subclause (1) does not prevent regulations made for the purposes of section 789BC of the amended Act, or clause 7 of this Part, from dealing with the effect, in relation to a person who is taken by section 789BB of the amended Act to be an employee, of matters that occurred before commencement.

3 Effect on TCF contract outworker's entitlements

Accrued entitlements not affected

- (1) The amendments made by the amending Act do not affect any entitlement that a TCF contract outworker had accrued before commencement.

Effect of modern award term requiring National Employment Standards to be applied to TCF contract outworker

- (2) To avoid doubt, if:
- (a) a term of a modern award requires the principal of a TCF contract outworker to apply the National Employment Standards to the outworker as if the outworker were an employee; and
 - (b) because of Division 2 of Part 6-4A of the amended Act, the outworker is taken to be an employee (being a national system employee) of the principal for the purposes of Part 2-2 of the amended Act (the National Employment Standards);

then, to the extent that the term gives the outworker an entitlement that is the same as an entitlement (the **NES entitlement**) of the outworker (as a national system employee) under the National Employment Standards, the term operates in parallel with the outworker's NES entitlement, but not so as to give the outworker a double benefit.

4 Fair work instruments etc. made before commencement

- (1) This clause applies in relation to:

Schedule 1 Application, saving and transitional provisions relating to amendments of this Act

Part 1 Amendments made by the Fair Work Amendment (Textile, Clothing and Footwear Industry) Act 2012

Clause 5

- (a) a fair work instrument made before commencement; or
 - (b) a transitional instrument as continued in existence by Schedule 3 to the Transitional Act.
- (2) A reference in the instrument to an employee or an employer does not include a deemed employee or a deemed employer, unless the instrument is, after commencement, varied to make it clear that the reference is intended to include a deemed employee or deemed employer.
 - (3) This clause is not to be taken to confer a power to vary the instrument.

5 Application of Division 3 of Part 6-4A of amended Act

For the purposes of Division 3 of Part 6-4A of the amended Act, an entity is not an indirectly responsible entity in relation to particular TCF work if the arrangement to which the entity is a party, being the arrangement because of which the work can be regarded as being performed indirectly for the entity, was entered into before commencement.

6 Application of subsection 203(2A) of amended Act

Subsection 203(2A) of the amended Act applies in relation to enterprise agreements made after commencement.

7 Regulations dealing with various matters

Application, saving and transitional

- (1) The regulations may make provisions dealing with matters of an application, saving or transitional nature relating to the amendments made by the amending Act.
- (2) The provisions of this Part have effect subject to any regulations that are made for the purpose of subclause (1).

Application to TCF outworkers of provisions of the Transitional Act

- (3) The regulations may make provisions dealing with how the Transitional Act applies in relation to TCF outworkers.
- (4) Without limiting subclause (3), regulations made for the purposes of that subclause may:
 - (a) provide that the Transitional Act applies with specified modifications; or
 - (b) otherwise make provision relating to how provisions of that Act apply.

Retrospective application of regulations

- (5) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply to regulations made for the purposes of subclause (1) or (3) of this clause.

Schedule 1 Application, saving and transitional provisions relating to amendments of this Act

Part 2 Amendments made by the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012

Clause 8

Part 2—Amendments made by the Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012

8 Definitions

In this Part:

amended Act means this Act as amended by the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*.

9 Application of sections 149A and 155A of amended Act

Sections 149A and 155A of the amended Act apply in relation to a modern award that is in operation on or after 1 January 2014, whether or not the award was made before that day.

10 FWC to vary certain modern awards

- (1) This clause applies in relation to a modern award if the award:
 - (a) is made before 1 January 2014; and
 - (b) is in operation on that day; and
 - (c) immediately before that day, does not include a term (the *relevant term*) of the kind mentioned in section 149A of the amended Act.
- (2) The FWC must, by 31 December 2013, make a determination varying the modern award to include the relevant term.
- (3) A determination made under subclause (2) comes into operation on (and takes effect from) 1 January 2014.
- (4) Section 168 applies to a determination made under subclause (2) as if it were a determination made under Part 2-3.

11 FWC to update text of certain modern awards

- (1) This clause applies in relation to a modern award if the award:
 - (a) is made before 1 January 2014; and
 - (b) is in operation on that day; and
 - (c) immediately before that day, includes a term (the *relevant term*) of the kind mentioned in section 155A of the amended Act that specifies a fund or scheme (a *non-complying fund or scheme*) that does not satisfy paragraph (1)(a) or (b) of that section.
- (2) The FWC must ensure that the text of the modern award as published by the FWC does not include a non-complying fund or scheme in the relevant term.
- (3) The FWC must do so by 1 January 2014 (despite section 155A of the amended Act).

12 Application of paragraph 194(h) of amended Act

Paragraph 194(h) of the amended Act applies in relation to an enterprise agreement that is approved by the FWC on or after 1 January 2014.

Schedule 1 Application, saving and transitional provisions relating to amendments of this Act

Part 3 Amendments made by the Fair Work Amendment (Respect for Emergency Services Volunteers) Act 2016

Clause 13

Part 3—Amendments made by the Fair Work Amendment (Respect for Emergency Services Volunteers) Act 2016

13 Definitions

In this Part:

amended Act means this Act as amended by the *Fair Work Amendment (Respect for Emergency Services Volunteers) Act 2016*.

commencement means the commencement of this Part.

14 Application of amendments—objectionable emergency management terms

Application of amendments

- (1) The amended Act applies, after commencement, in relation to enterprise agreements approved, and workplace determinations made, before or after commencement.
- (2) Sections 254A and 281AA of the amended Act apply in relation to a matter that is before the FWC on or after commencement, even if the matter was before the FWC before commencement.

Enterprise agreements approved before commencement—preservation of terms in accordance with amended Act

- (3) If an enterprise agreement approved before commencement includes an objectionable emergency management term, a term of the agreement has effect after commencement to the extent that:
 - (a) the term can have effect in accordance with the amended Act;
 - and

- (b) it would not exceed the Commonwealth's legislative power
for the term so to have effect.

Schedule 1 Application, saving and transitional provisions relating to amendments of this Act

Part 4 Amendments made by the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017

Clause 15

Part 4—Amendments made by the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017

15 Definitions

In this Part:

amended Act means this Act as amended by the *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017*.

16 Application of amendments—unreasonable requirements to spend or pay amounts

Subsections 325(1) and (1A) of the amended Act apply in relation to requirements made after this clause commences.

17 Saving of regulations—unreasonable deductions

Regulations in force, immediately before the commencement of this clause, for the purposes of subsection 326(2) of the *Fair Work Act 2009* have effect after that commencement as if they had been made for the purposes of subsection 326(2) of the amended Act.

18 Application of amendments—increasing maximum penalties for contraventions of certain civil remedy provisions

- (1) Sections 539, 557A and 557B of the amended Act apply in relation to conduct engaged in on or after the commencement of this Part.
- (2) If:
 - (a) conduct was engaged in by a person before and after that commencement; and
 - (b) the conduct is part of a course of conduct referred to in subsection 557(1);

the conduct engaged in before that commencement is to be treated as constituting a separate contravention from the conduct engaged in after that commencement for the purposes of section 557.

- (3) However, a court may still consider a contravention of a civil remedy provision (whether or not the provision is referred to in subsection 557(2)) by a person that occurred before the commencement of this Part for the purposes of determining whether a person's conduct was part of a systematic pattern of conduct referred to in paragraph 557A(1)(b).

19 Application of amendments—responsibility of responsible franchisor entities and holding companies

- (1) Section 558B of the amended Act applies in relation to contraventions of civil remedy provisions by franchisee entities or subsidiaries that occur after the end of the period of 6 weeks beginning on the day this Part commences.
- (2) To avoid doubt, in determining for the purposes of paragraph 558B(1)(d) or (2)(c) of the amended Act whether a person could reasonably be expected to have had knowledge as referred to in that paragraph, a court may have regard to conduct that occurred, or circumstances existing, before the end of the period referred to in subclause (1).

20 Application of amendments—hindering or obstructing the Fair Work Ombudsman and inspectors etc.

Section 707A of the amended Act applies in relation to conduct engaged in at or after the commencement of this Part.

21 Application of power to give FWO notices

Sections 712A to 712F of the amended Act apply in relation to an FWO notice given after this Part commences, whether the investigation to which the notice relates is begun before or after the commencement of this Part.

Schedule 1 Application, saving and transitional provisions relating to amendments of this Act

Part 4 Amendments made by the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017

Clause 22

22 Application of amendments relating to self-incrimination etc.

Section 713 of the amended Act applies in relation to information given, records or documents produced or questions answered after the commencement of this Part.

23 Application of requirement for reports not to include information relating to an individual's affairs

Section 714A of the amended Act applies in relation to reports prepared after the commencement of this Part.

24 Application of amendments—false or misleading information or documents

Subsections 535(4) and 536(3) and section 718A of the amended Act apply in relation to conduct engaged in after the commencement of this Part.

24A Application of amendments—presumption where records not provided

Section 557C of the amended Act applies in relation to contraventions of civil remedy provisions that occur after the commencement of this Part.

Part 6—Amendments made by the Fair Work Amendment (Corrupting Benefits) Act 2017

30 Disclosure by organisations and employers

The amendments of Subdivision A of Division 4 of Part 2-4 made by Schedule 2 to the *Fair Work Amendment (Corrupting Benefits) Act 2017* apply in relation to a proposed enterprise agreement for which the access period under subsection 180(4) begins on or after the commencement of this Part.

Clause 1

Schedule 2—Amendments made by the Fair Work Amendment (Transfer of Business) Act 2012

Note: See section 795A.

1 Definitions

In this Schedule:

amending Act means the *Fair Work Amendment (Transfer of Business) Act 2012*.

commencement means the commencement of this Schedule.

2 Application of the amendments made by the amending Act

The amendments made by the amending Act apply in relation to a transfer of business referred to in Part 6-3A (as inserted by item 1 of Schedule 1 to the amending Act), but only if the connection between the old State employer and the new employer referred to in paragraph 768AD(1)(d) (as inserted by that item) occurs on or after commencement.

Schedule 3—Amendments made by the Fair Work Amendment Act 2012

Note: See section 795A.

Part 1—Preliminary

1 Definitions

In this Schedule:

amending Act means the *Fair Work Amendment Act 2012*.

doing a thing includes making an instrument.

FWA (short for Fair Work Australia) means the body referred to in section 575, as in force immediately before the commencement of Part 1 of Schedule 9 to the amending Act.

Part 2—Default superannuation (Schedule 1)

2 Schedule 1 to the amending Act

- (1) Section 149B, subsection 149C(1) and section 149D (as inserted by Schedule 1 to the amending Act) apply in relation to a modern award that:
 - (a) is made on or after 1 January 2014; or
 - (b) is made before 1 January 2014 and that is varied on or after that day under Division 4A of Part 2-3 (as inserted by Schedule 1 to the amending Act).
- (2) Despite the repeal of sections 149A and 155A made by Schedule 1 to the amending Act, those sections continue in force in relation to a modern award that:
 - (a) is made before 1 January 2014; and
 - (b) is not varied on or after that day under Division 4A of Part 2-3 (as inserted by Schedule 1 to the amending Act).
- (3) The amendments made by items 15, 18, 19 and 20 of Schedule 1 to the amending Act apply in relation to a modern award that is in operation on or after 1 January 2014, whether or not the award was made before that day.

2A Transitional provision—when first variations of default fund term take effect

- (1) This clause applies to the first 4 yearly review of default fund terms of modern awards under Division 4A of Part 2-3 (as inserted by Schedule 1 to the amending Act).
- (2) In the review, determinations under that Division (whether made under section 156H or 156J) varying the default fund term of a modern award:
 - (a) must take effect at the same time; and
 - (b) must not take effect before 1 January 2015.

**2B Transitional provision—modern awards made on or after
1 January 2014**

If a modern award is made in the period that starts on 1 January 2014 and ends on 31 December 2017, then, until the default fund term of the award is varied after that period under Division 4A of Part 2-3 (as inserted by Schedule 1 to the amending Act), this Act has effect in relation to the award as if subsection 149D(1A) (as inserted by that Schedule) were as follows:

Superannuation funds offering employer MySuper products

- (1A) A default fund term of a modern award must permit an employer covered by the award to make contributions, for the benefit of a default fund employee, to a superannuation fund that offers an employer MySuper product that relates to the employer.

Part 3—Modern awards (Schedule 3)

3 Part 1 of Schedule 3 to the amending Act

- (1) This clause applies if, before the commencement of Part 1 of Schedule 3 to the amending Act (which is about variation etc. of modern awards):
 - (a) a determination was made under subsection 160(1) (about varying a modern award); or
 - (b) an application was made under subsection 160(2) (about varying a modern award).
- (2) The determination and the application are as valid, and are taken always to have been as valid, as they would have been if paragraphs 160(2)(c) and (d) (as inserted by Part 1 of Schedule 3 to the amending Act) had been in force at the time the determination or application was made.

Part 4—Enterprise agreements (Schedule 4)

4 Part 1 of Schedule 4 to the amending Act

The amendment made by Part 1 of Schedule 4 to the amending Act (which is about enterprise agreements covering a single employee) applies in relation to enterprise agreements that are purportedly made after the commencement of that Part.

5 Part 2 of Schedule 4 to the amending Act

The amendments made by Part 2 of Schedule 4 to the amending Act (which is about bargaining representatives) apply in relation to appointments of bargaining representatives that are made after the commencement of that Part.

6 Part 3 of Schedule 4 to the amending Act

- (1) The amendment made by Part 3 of Schedule 4 to the amending Act (which is about unlawful terms) applies in relation to enterprise agreements that are made before or after the commencement of that Part.
- (2) However, if:
 - (a) an enterprise agreement that was made before the commencement of that Part included a term referred to in paragraph 194(ba) (as inserted by Part 3 of Schedule 4 to the amending Act); and
 - (b) a person made an election in accordance with that term before the commencement of that Part;then the amendment does not apply in relation to that person.

7 Part 4 of Schedule 4 to the amending Act

The amendment made by Part 4 of Schedule 4 to the amending Act (which is about scope orders) applies in relation to applications for a scope order that are made after the commencement of that Part.

8 Part 5 of Schedule 4 to the amending Act

- (1) The amendments made by Part 5 of Schedule 4 to the amending Act (which is about notice of employee representational rights) apply in relation to notices of employee representational rights that are given after the commencement of that Part.
- (2) Regulations that:
 - (a) were made for the purposes of subsection 174(6) before the commencement of Part 5 of Schedule 4 to the amending Act; and
 - (b) were in force immediately before that commencement; continue in force (and may be dealt with) after that commencement as if they had been made for the purposes of subsection 174(1A) (as inserted by Part 5 of Schedule 4 to the amending Act).

Part 5—General protections (Schedule 5)

9 Part 1 of Schedule 5 to the amending Act

The amendment made by Part 1 of Schedule 5 to the amending Act (which is about time limits for making applications) applies in relation to dismissals that take effect after the commencement of that Part.

Part 6—Unfair dismissal (Schedule 6)

10 Part 1 of Schedule 6 to the amending Act

The amendment made by Part 1 of Schedule 6 to the amending Act (which is about time limits for making applications) applies in relation to dismissals that take effect after the commencement of that Part.

11 Part 2 of Schedule 6 to the amending Act

The amendments made by Part 2 of Schedule 6 to the amending Act (which is about the power to dismiss applications) apply in relation to dismissals that take effect after the commencement of that Part.

12 Part 3 of Schedule 6 to the amending Act

The amendments made by Part 3 of Schedule 6 to the amending Act (which is about costs orders against parties) apply in relation to dismissals that take effect after the commencement of that Part.

13 Part 4 of Schedule 6 to the amending Act

The amendment made by Part 4 of Schedule 6 to the amending Act (which is about costs orders against lawyers and paid agents) applies in relation to dismissals that take effect after the commencement of that Part.

Part 7—Industrial action (Schedule 7)

14 Part 1 of Schedule 7 to the amending Act

The amendments made by Part 1 of Schedule 7 to the amending Act (which is about electronic voting in protected action ballots) apply in relation to applications for protected action ballot orders that are made after the commencement of that Part.

15 Part 2 of Schedule 7 to the amending Act

The amendments made by Part 2 of Schedule 7 to the amending Act (which is about employees to be balloted in protected action ballots) apply in relation to applications for protected action ballot orders that are made after the commencement of that Part.

16 Part 3 of Schedule 7 to the amending Act

The amendments made by Part 3 of Schedule 7 to the amending Act (which is about conducting protected action ballots) apply in relation to protected action ballot orders that are made after the commencement of that Part.

Part 8—The Fair Work Commission (Schedule 8)

17 Part 1 of Schedule 8 to the amending Act

The amendment made by Part 1 of Schedule 8 to the amending Act (which is about stay orders) applies in relation to orders under subsection 606(1) that are made after the commencement of that Part.

18 Part 2 of Schedule 8 to the amending Act

The amendments made by Part 2 of Schedule 8 to the amending Act (which is about conflicts of interest) apply in relation to matters that an FWC member begins to deal with before or after the commencement of that Part.

19 Part 4 of Schedule 8 to the amending Act

The amendments made by Part 4 of Schedule 8 to the amending Act (which is about appointing acting Commissioners) apply in relation to appointments that are made after the commencement of that Part.

20 Part 5 of Schedule 8 to the amending Act

The amendments made by Part 5 of Schedule 8 to the amending Act (which is about appointing the General Manager) apply in relation to appointments and acting appointments that are made after the commencement of that Part.

21 Part 6 of Schedule 8 to the amending Act

The amendments made by Part 6 of Schedule 8 to the amending Act (which is about Vice Presidents) apply in relation to appointments that take effect after the commencement of that Part.

22 Part 7 of Schedule 8 to the amending Act

The amendments made by Part 7 of Schedule 8 to the amending Act (which is about handling complaints) apply after the commencement of that Part in relation to a complaint about an FWC Member, regardless of whether:

- (a) the complaint is made before or after that commencement; or
- (b) the circumstances that give rise to the complaint occur before or after that commencement.

23 Part 8 of Schedule 8 to the amending Act

The amendments made by Part 8 of Schedule 8 to the amending Act (which is about engaging in outside work) apply in relation to paid work that is engaged in after the commencement of that Part.

Part 9—Changing the name of Fair Work Australia (Schedule 9)

24 Transitional provision—President

- (1) The person holding office as the President of FWA immediately before the commencement of Part 1 of Schedule 9 to the amending Act continues to hold office as the President of the FWC.
- (2) If, before that commencement, a thing was done by, or in relation to, the President of FWA, then, for the purposes of the operation of any law on or after that commencement, the thing is taken to have been done by, or in relation to, the President of the FWC.
- (3) For the purposes of subclause (2), a thing done before that commencement under a provision amended by Part 1, 2 or 3 of Schedule 9 to the amending Act has effect from that commencement as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (4) The Minister may, by writing, determine that subclause (2):
 - (a) does not apply in relation to a specified thing done by, or in relation to, the President of FWA; or
 - (b) applies as if the reference in that subclause to the President of the FWC were a reference to the FWC; or
 - (c) applies as if the reference in that subclause to the President of the FWC were a reference to another FWC member.A determination under this subclause has effect accordingly.
- (5) A determination made under subclause (4) is not a legislative instrument.

25 Transitional provision—Deputy President

- (1) Subject to subclause (2), a person holding office as a Deputy President of FWA immediately before the commencement of Part 1 of Schedule 9 to the amending Act continues to hold office as a Deputy President of the FWC.
- (2) If, immediately before that commencement, a person:
 - (a) is a member of a prescribed State industrial authority; and
 - (b) holds office as a Deputy President of FWA;the person continues to hold office as a Deputy President of the FWC for the balance of the person's term of appointment that remains immediately before that commencement.
- (3) If, before that commencement, a thing was done by, or in relation to, a Deputy President of FWA, then, for the purposes of the operation of any law on or after that commencement, the thing is taken to have been done by, or in relation to, a Deputy President of the FWC.
- (4) For the purposes of subclause (3), a thing done before that commencement under a provision amended by Part 1, 2 or 3 of Schedule 9 to the amending Act has effect from that commencement as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (5) The Minister may, by writing, determine that subclause (3):
 - (a) does not apply in relation to a specified thing done by, or in relation to, a Deputy President of FWA; or
 - (b) applies as if the reference in that subclause to the Deputy President of the FWC were a reference to the FWC; or
 - (c) applies as if the reference in that subclause to the Deputy President of the FWC were a reference to another FWC member.A determination under this subclause has effect accordingly.
- (6) A determination made under subclause (5) is not a legislative instrument.

Clause 26

26 Transitional provision—Commissioner

- (1) Subject to subclause (2), a person holding office as a Commissioner of FWA immediately before the commencement of Part 1 of Schedule 9 to the amending Act continues to hold office as a Commissioner of the FWC.
- (2) If, immediately before that commencement, a person:
 - (a) is a member of a prescribed State industrial authority; and
 - (b) holds office as a Commissioner of FWA;the person continues to hold office as a Commissioner of the FWC for the balance of the person's term of appointment that remains immediately before that commencement.
- (3) If, before that commencement, a thing was done by, or in relation to, a Commissioner of FWA, then, for the purposes of the operation of any law on or after that commencement, the thing is taken to have been done by, or in relation to, a Commissioner of the FWC.
- (4) For the purposes of subclause (3), a thing done before that commencement under a provision amended by Part 1, 2 or 3 of Schedule 9 to the amending Act has effect from that commencement as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (5) The Minister may, by writing, determine that subclause (3):
 - (a) does not apply in relation to a specified thing done by, or in relation to, a Commissioner of FWA; or
 - (b) applies as if the reference in that subclause to a Commissioner of the FWC were a reference to the FWC; or
 - (c) applies as if the reference in that subclause to a Commissioner of the FWC were a reference to another FWC member.A determination under this subclause has effect accordingly.
- (6) A determination made under subclause (5) is not a legislative instrument.

27 Transitional provision—Minimum Wage Panel Member

- (1) A person holding office as a Minimum Wage Panel Member of FWA immediately before the commencement of Part 1 of Schedule 9 to the amending Act continues to hold office:
 - (a) as a Minimum Wage Panel Member of the FWC; and
 - (b) for the balance of the person's term of appointment that remains immediately before that commencement.
- (2) If, before that commencement, a thing was done by, or in relation to, a Minimum Wage Panel Member of FWA, then, for the purposes of the operation of any law on or after that commencement, the thing is taken to have been done by, or in relation to, a Minimum Wage Panel Member of the FWC.
- (3) For the purposes of subclause (2), a thing done before that commencement under a provision amended by Part 1, 2 or 3 of Schedule 9 to the amending Act has effect from that commencement as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (4) The Minister may, by writing, determine that subclause (2):
 - (a) does not apply in relation to a specified thing done by, or in relation to, a Minimum Wage Panel Member of FWA; or
 - (b) applies as if the reference in that subclause to a Minimum Wage Panel Member of the FWC were a reference to the FWC; or
 - (c) applies as if the reference in that subclause to a Minimum Wage Panel Member of the FWC were a reference to another FWC member.A determination under this subclause has effect accordingly.
- (5) A determination made under subclause (4) is not a legislative instrument.

28 Operation of laws—things done by, or in relation to, FWA

- (1) If, before the commencement of Part 1 of Schedule 9 to the amending Act, a thing was done by, or in relation to, FWA, then, for the purposes of the operation of any law on or after that commencement, the thing is taken to have been done by, or in relation to, the FWC.
- (2) For the purposes of subclause (1), a thing done before that commencement under a provision amended by Part 1, 2 or 3 of Schedule 9 to the amending Act has effect from that commencement as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (3) The Minister may, by writing, determine that subclause (1):
 - (a) does not apply in relation to a specified thing done by, or in relation to, FWA; or
 - (b) applies as if the reference in that subclause to the FWC were a reference to the President of the FWC; or
 - (c) applies as if the reference in that subclause to the FWC were a reference to another FWC member.A determination under this subclause has effect accordingly.
- (4) A determination made under subclause (3) is not a legislative instrument.

29 Transitional provision—General Manager and staff of FWA

General Manager

- (1) The person holding office as the General Manager of FWA immediately before the commencement of Part 1 of Schedule 9 to the amending Act continues to hold office:
 - (a) as the General Manager of the FWC; and
 - (b) for the balance of the person's term of appointment that remains immediately before that commencement.

- (2) If, before that commencement, a thing was done by, or in relation to, the General Manager of FWA, then, for the purposes of the operation of any law on or after that commencement, the thing is taken to have been done by, or in relation to, the General Manager of the FWC.
- (3) For the purposes of subclause (2), a thing done before that commencement under a provision amended by Part 1, 2 or 3 of Schedule 9 to the amending Act has effect from that commencement as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (4) The Minister may, by writing, determine that subclause (2):
- (a) does not apply in relation to a specified thing done by, or in relation to, the General Manager of FWA; or
 - (b) applies as if the reference in that subclause to the General Manager of the FWC were a reference to the Commonwealth.
- A determination under this subclause has effect accordingly.
- (5) A determination made under subclause (4) is not a legislative instrument.

Staff

- (6) A person who, immediately before that commencement, was a member of the staff of FWA, continues, on and after that commencement, as a member of the staff of the FWC.

30 Operation of section 7 and subsection 25B(1) of the *Acts Interpretation Act 1901* not limited

This Part and Schedule 9 to the amending Act do not limit the operation of section 7 or subsection 25B(1) of the *Acts Interpretation Act 1901*.

Part 10—Other amendments (Schedule 10)

31 Part 1 of Schedule 10 to the amending Act

The amendment made by Part 1 of Schedule 10 to the amending Act (which is about costs orders in court proceedings) applies in relation to proceedings commenced after the commencement of that Part.

Part 11—Regulations

32 Regulations about application, transitional and saving matters

- (1) The regulations may prescribe matters of an application, transitional or saving nature relating to the amendments and repeals made by the amending Act.
- (2) Without limiting subclause (1), the regulations may:
 - (a) provide that Part 9 of this Schedule or Part 4 of Schedule 9 to the amending Act applies with specified modifications; or
 - (b) provide that the Transitional Act applies with specified modifications.
- (3) The provisions referred to in subclause (2) have effect subject to regulations made for the purposes of this clause.
- (4) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply to:
 - (a) regulations relating to the amendments and repeals made by Schedule 9 to the amending Act; and
 - (b) regulations made for the purposes of subclause (2).

Clause 1

Schedule 4—Amendments made by the Fair Work Amendment Act 2013

Note: See section 795A.

Part 1—Preliminary

1 Definition

In this Schedule:

amending Act means the *Fair Work Amendment Act 2013*.

Part 2—Family-friendly measures (Schedule 1)

2 Part 1 of Schedule 1 to the amending Act

The amendments made by Part 1 of Schedule 1 to the amending Act apply in relation to a period of unpaid special maternity leave that starts after the commencement of that Part.

3 Part 2 of Schedule 1 to the amending Act

The amendments made by Part 2 of Schedule 1 to the amending Act apply in relation to the taking of unpaid parental leave by members of an employee couple if the first taking of leave by either member of the employee couple occurs after the commencement of that Part.

4 Part 3 of Schedule 1 to the amending Act

The amendments made by Part 3 of Schedule 1 to the amending Act apply in relation to a request that is made under subsection 65(1) after the commencement of that Part.

5 Part 4 of Schedule 1 to the amending Act

Application of amendments

- (1) The amendment made by item 19 of Schedule 1 to the amending Act applies in relation to a modern award that is in operation on or after 1 January 2014, whether or not the award was made before that day.
- (2) The amendments made by items 20 and 21 of Schedule 1 to the amending Act apply in relation to an enterprise agreement that is made after the commencement of Part 4 of that Schedule.

Clause 6

Transitional provision

- (3) If:
- (a) a modern award is made before 1 January 2014; and
 - (b) the modern award is in operation on that day; and
 - (c) immediately before that day, the modern award does not include a term (the **relevant term**) of the kind mentioned in section 145A (as inserted by item 19 of Schedule 1 to the amending Act);
- then the FWC must, by 31 December 2013, make a determination varying the modern award to include the relevant term.
- (4) A determination made under subclause (3) comes into operation on (and takes effect from) 1 January 2014.
- (5) Section 168 applies to a determination made under subclause (3) as if it were a determination made under Part 2-3.

6 Part 5 of Schedule 1 to the amending Act

The amendments made by Part 5 of Schedule 1 to the amending Act apply in relation to evidence that is given under section 81 after the commencement of that Part.

Part 3—Modern awards objective (Schedule 2)

7 Schedule 2 to the amending Act

The amendment made by Schedule 2 to the amending Act applies in relation to a modern award that is made or varied after the commencement of that Schedule.

Part 4—Anti-bullying measure (Schedule 3)

8 Schedule 3 to the amending Act

The amendments made by Schedule 3 to the amending Act apply in relation to an application that is made under section 789FC (as inserted by item 6 of that Schedule) after the commencement of that Schedule.

Part 4A—Conferences (Schedule 3A)

8A Schedule 3A to the amending Act

The amendments made by Schedule 3A to the amending Act apply in relation to a matter that arises before or after the commencement of that Schedule, whether or not a conference starts to be conducted in relation to the matter before or after that commencement.

Part 5—Right of entry (Schedule 4)

9 Schedule 4 to the amending Act

Application of amendment relating to sections 492 and 492A

- (1) The amendment made by item 7 of Schedule 4 to the amending Act applies in relation to interviews conducted and discussions held after the commencement of that item.

Application of amendments relating to section 505A

- (2) The amendments made by items 12 and 13 of Schedule 4 to the amending Act apply in relation to the frequency of entry after the commencement of those items.

Application of amendments relating to accommodation arrangements and transport arrangements

- (3) The amendments made by items 14 and 15 of Schedule 4 to the amending Act do not apply in relation to arrangements entered into before the commencement of those items.

Part 6—Consent arbitration for general protections and unlawful termination (Schedule 4A)

10 Schedule 4A to the amending Act

- (1) The amendments made by Part 1 of Schedule 4A to the amending Act apply in relation to dismissals that take effect after the commencement of that Schedule.
- (2) The amendments made by Part 2 of Schedule 4A to the amending Act apply in relation to employment that is terminated after the commencement of that Schedule.

Part 7—The FWC (Schedule 5)

11 Item 4 of Schedule 5 to the amending Act

The amendment made by item 4 of Schedule 5 to the amending Act applies in relation to an appointment made after the commencement of that Schedule.

Schedule 5—Amendments made by the Fair Work Amendment Act 2015

Note: See section 795A.

1 Definition

In this Schedule:

amending Act means the *Fair Work Amendment Act 2015*.

2 Part 1 of Schedule 1 to the amending Act

The amendment made by Part 1 of Schedule 1 to the amending Act applies in relation to a request made after the commencement of that Part.

9 Part 5 of Schedule 1 to the amending Act

The amendments made by Part 5 of Schedule 1 to the amending Act, so far as they concern proposed enterprise agreements, apply in relation to a proposed enterprise agreement if an employer agrees to bargain for the proposed enterprise agreement after the commencement of that Part.

11 Part 7 of Schedule 1 to the amending Act

The amendment of section 437 made by Part 7 of Schedule 1 to the amending Act applies in relation to an application made under that section, if the application was made after the commencement of that Part.

14 Part 10 of Schedule 1 to the amending Act

Paragraph 559(3A)(c) applies in relation to an amount that was paid to the Commonwealth under subsection 559(1) after the commencement of Part 10 of Schedule 1 to the amending Act.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Fair Work Act 2009	28, 2009	7 Apr 2009	s 3–40: 26 May 2009 (s 2(1) item 2) s 41–43, 50–54, 58, 169–281A, 300–327, 332, 333, 334–572, 719–740 and 769–800: 1 July 2009 (s 2(1) items 3, 5) s 44–49, 55–57A, 59–168, 282–299, 328–331, 333A and 741–768: 1 Jan 2010 (s 2(1) items 3, 5) s 573–718 and Sch 1: 26 May 2009 (s 2(1) items 4, 6) Remainder: 7 Apr 2009 (s 2(1) item 1)	
Fair Work (State Referral and Consequential and Other Amendments) Act 2009	54, 2009	25 June 2009	Sch 1 (items 1–12) and Sch 3: 25 June 2009 (s 2(1) items 2–4, 9) Sch 2 (items 52–63), Sch 5 (items 67–72, 80) and Sch 12 (items 1–3): 1 Jan 2009 (s 2(1) items 8, 15–18, 34) Sch 5 (items 81, 82): 5 Aug 2009 (s 2(1) items 19, 20)	Sch 20
as amended by				
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 2 (item 14): 1 July 2009 (s 2(1) item 14)	—

Fair Work Act 2009

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Fair Work (Transitional Provisions and Consequential Amendments) Act 2009	55, 2009	25 June 2009	Sch 6 (items 18–28) and Sch 23 (items 3–7): 1 Jan 2010 (s 2(1) items 4, 10, 11) Sch 18 (items 21, 21A–21G, 22), Sch 22 (items 92–95, 405, 583, 584) and Sch 23 (items 1–2E, 8–22): 1 July 2009 (s 2(1) items 5, 8, 9, 12–16)	Act No 55, 2009
Disability Discrimination and Other Human Rights Legislation Amendment Act 2009	70, 2009	8 July 2009	Sch 3 (items 111–114): 1 Jan 2010 (s 2(1) item 8)	—
Fair Work Amendment (State Referrals and Other Measures) Act 2009	124, 2009	9 Dec 2009	Sch 1 (items 1–6, 8–12, 14, 15, 17–41), Sch 3 (items 1A, 4–17) and Sch 2 (items 125–132): 1 Jan 2010 (s 2(1) items 2, 4, 6, 8, 10, 11, 13) Sch 1 (item 7) and Sch 3 (items 1–3): 15 Dec 2009 (s 2(1) items 3, 13) Sch 1 (items 13, 16): 29 June 2009 (s 2(1) item 5, 7) Sch 1 (item 42): 9 Dec 2009 (s 2(1) item 9)	Sch 1 (item 42)
Freedom of Information Amendment (Reform) Act 2010	51, 2010	31 May 2010	Sch 5 (item 34): 1 Nov 2010 (s 2(1) item 7)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Sex and Age Discrimination Legislation Amendment Act 2011	40, 2011	20 June 2011	Sch 2 (items 11–13): 29 July 2011 (<i>see</i> F2011L01552)	—
Fair Work Amendment (Textile, Clothing and Footwear Industry) Act 2012	33, 2012	15 Apr 2012	Sch 1: 1 July 2012 (<i>see</i> F2012L01396) Remainder: Royal Assent	—
Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Act 2012	109, 2012	22 July 2012	Sch 2 (items 9–21): 23 July 2012	—
Navigation (Consequential Amendments) Act 2012	129, 2012	13 Sept 2012	Sch 2 (item 13): 1 July 2013 (<i>see</i> s 2(1))	—
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 1 (items 122, 123): 1 Aug 2011 Sch 1 (item 124): 1 July 2012 (s 2(1) item 4) Sch 2 (item 14): 1 July 2009 (s 2(1) item 14)	—
Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012	171, 2012	3 Dec 2012	Sch 4 (items 1–8): 1 Jan 2013 (s 2(1) item 19)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Fair Work Amendment Act 2012	174, 2012	4 Dec 2012	Sch 1: 1 Jan 2014 Sch 2 (items 1–61): 1 July 2013 Sch 3–7 and Sch 8 (items 1–45, 57–76): 1 Jan 2013 (<i>see</i> F2012L02450) Sch 9 (items 1–886, 1339–1383) and Sch 10: 1 Jan 2013 Sch 11: Royal Assent	—
as amended by				
Fair Work Amendment Act 2013	73, 2013	28 June 2013	Sch 6 (items 9–11, 14): (<i>see</i> 73, 2013 below)	—
Superannuation Laws Amendment (MySuper Capital Gains Tax Relief and Other Measures) Act 2013	89, 2013	28 June 2013	Sch 3: Royal Assent	—
Fair Work Amendment (Transfer of Business) Act 2012	175, 2012	4 Dec 2012	Sch 1 (items 1–13, 16–67): 5 Dec 2012	—
Federal Circuit Court of Australia (Consequential Amendments) Act 2013	13, 2013	14 Mar 2013	Sch 1 (items 234–246) and Sch 2 (item 1): 12 Apr 2013 (s 2(1) items 2, 3) Sch 3 (item 96): never commenced (s 2(1) item 19)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation Legislation Amendment (Service Providers and Other Governance Measures) Act 2013	61, 2013	26 June 2013	Sch 1 (items 12B–12P): 1 Jan 2013 (s 2(1) item 8B)	—
Fair Work Amendment Act 2013	73, 2013	28 June 2013	Sch 1 (items 1–18, 22–30), Sch 3A, Sch 5 (items 3, 4) and Sch 6 (item 5): 1 July 2013 (s 2(1) items 2, 4, 6A, 10, 13) Sch 1 (items 19–21), Sch 2, Sch 3, Sch 4, Sch 4A and Sch 6 (item 1): 1 Jan 2014 (s 2(1) items 3, 5–7, 7A, 11) Sch 5 (item 1): 5 Dec 2012 (s 2(1) item 8) Sch 5 (item 2): 1 July 2012 (s 2(1) item 9) Sch 6 (items 2–4, 6–8) and Sch 7: 28 June 2013 (s 2(1) items 12, 14, 18) Sch 6 (items 9–14): 1 Jan 2013 (s 2(1) items 15–17)	—
Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013	98, 2013	28 June 2013	Sch 1 (items 63C–63G): 1 Aug 2013 (s 2(1) item 2)	—
Statute Law Revision Act 2013	103, 2013	29 June 2013	Sch 1 (item 47): 29 June 2013 (s 2(1) item 2)	—

Fair Work Act 2009

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Tax Laws Amendment (Fairer Taxation of Excess Concessional Contributions) Act 2013	118, 2013	29 June 2013	Sch 1 (items 3, 110): 29 June 2013 (s 2(1) items 2, 11)	Sch 1 (item 110)
Statute Law Revision Act (No. 1) 2014	31, 2014	27 May 2014	Sch 1 (items 25–33): 24 June 2014 (s 2(1) item 2)	—
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 6 (item 40), Sch 9 (items 3–11) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14
as amended by Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): 5 Mar 2016 (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): 5 Mar 2016 (s 2(1) item 2)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (items 209–215): 5 Mar 2016 (s 2(1) item 2)	—
Fair Work Amendment Act 2015	156, 2015	26 Nov 2015	Sch 1 (items 1, 19–52, 56) and Sch 2: 27 Nov 2015 (s 2(1) items 2, 5, 9) Sch 1 (items 79, 80): 1 Jan 2016 (s 2(1) item 8) Remainder: 26 Nov 2015 (s 2(1) item 1)	s 4
Law and Justice Legislation Amendment (Northern Territory Local Court) Act 2016	26, 2016	23 Mar 2016	Sch 1 (items 21, 34, 35): 1 May 2016 (s 2(1) item 2)	Sch 1 (items 34, 35)
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 5 (items 51–56): 1 July 2016 (s 2(1) item 7)	—
Fair Work Amendment (Respect for Emergency Services Volunteers) Act 2016	62, 2016	12 Oct 2016	13 Oct 2016 (s 2(1) item 1)	—
Statute Law Revision (Spring 2016) Act 2016	67, 2016	20 Oct 2016	Sch 1 (item 27): 17 Nov 2016 (s 2(1) item 2)	—
Fair Work (Registered Organisations) Amendment Act 2016	79, 2016	24 Nov 2016	Sch 1 (items 1–5, 129–137): 1 May 2017 (s 2(1) item 2)	Sch 1 (items 129–137)
Fair Work Amendment (Corrupting Benefits) Act 2017	84, 2017	16 Aug 2017	Sch 1 and 2: 11 Sept 2017 (s 2(1) item 2)	—

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Update (Winter 2017) Act 2017	93, 2017	23 Aug 2017	Sch 1 (item 11): 20 Sept 2017 (s 2(1) item 2)	—
Fair Work Amendment (Protecting Vulnerable Workers) Act 2017	101, 2017	14 Sept 2017	15 Sept 2017 (s 2(1) item 1)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Chapter 1	
Part 1-1	
Division 2	
s 3.....	am No 55, 2009
Division 3	
s 4.....	am Nos 33 and 174, 2012
s 5.....	am No 174, 2012
s 6.....	am No 84, 2017
s 8.....	am No 174, 2012
s 9.....	am Nos 33 and 175, 2012; No 73, 2013
s 9A.....	ad No 33, 2012
	rs No 175, 2012
Part 1-2	
Division 1	
s 11.....	am No 33, 2012
Division 2	
s 12.....	am Nos 54, 55 and 124, 2009; No 40, 2011; Nos 33, 109, 129, 171, 174 and 175, 2012; No 13 and 73, 2013; No 31, 2014; No 156, 2015; No 26, 2016; No 33, 2016; No 62, 2016; No 84, 2017; No 101, 2017
Division 3	
s 13.....	am No 54, 2009; No 124, 2009
s 14.....	am No 54, 2009; No 124, 2009; No 126, 2015; No 33, 2016
s 14A.....	ad No 124, 2009
	am No 175, 2012
s 15.....	am No 54, 2009; No 124, 2009
Division 4	
s 17A.....	ad No 33, 2012
s 20.....	am No 93, 2017
s 21.....	am No 174, 2012

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Endnote 4—Amendment history

Provision affected	How affected
s 22.....	am No 55, 2009
s 23A.....	ad No 174, 2012
Part 1-3	
Division 1	
s 24.....	rs No 54, 2009 am No 124, 2009
s 25.....	am No 33, 2012
Division 2	
s 27.....	am No 54, 2009; No 136, 2012
s 29.....	am No 62, 2016
Division 2A	
Division 2A heading	rs No 124, 2009
Division 2A.....	ad No 54, 2009
s 30A.....	ad No 54, 2009 am No 124, 2009
s 30B.....	ad No 54, 2009 am No 124, 2009
s 30C.....	ad No 54, 2009 am No 124, 2009
s 30D.....	ad No 54, 2009 am No 124, 2009
s 30E.....	ad No 54, 2009 am No 124, 2009
s 30F.....	ad No 54, 2009 am No 124, 2009
s 30G.....	ad No 54, 2009 am No 124, 2009
s 30H.....	ad No 54, 2009 am No 124, 2009
s 30J.....	ad No 54, 2009 rep No 124, 2009

Endnote 4—Amendment history

Provision affected	How affected
Division 2B	
Division 2B	ad No 124, 2009
s 30K	ad No 124, 2009
s 30L	ad No 124, 2009
s 30M	ad No 124, 2009
s 30N	ad No 124, 2009
s 30P	ad No 124, 2009
s 30Q	ad No 124, 2009
s 30R	ad No 124, 2009
s 30S	ad No 124, 2009
Division 3	
s 31	am No 126, 2015; No 33, 2016
s 32A	ad No 33, 2016
Division 4	
s 40	am No 174, 2012
s 40A	ad No 124, 2009
Chapter 2	
Part 2-1	
Division 1	
s 42	am No 33, 2012
Division 2	
Subdivision A	
s 43	am No 175, 2012
Subdivision C	
s 48	am No 55, 2009; No 174, 2012; No 175, 2012
s 49	am No 54, 2009; No 174, 2012
Subdivision D	
s 53	am No 55, 2009; No 174, 2012; No 175, 2012
s 54	am No 174, 2012

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Endnote 4—Amendment history

Provision affected	How affected
Part 2-2	
Division 1	
s 60.....	am No 33, 2012
Division 3	
s 63.....	am No 55, 2009
s 64.....	am No 55, 2009
Division 4	
s 65.....	am No 73, 2013
Division 5	
Subdivision A	
s 67.....	am No 73, 2013
Subdivision B	
s 70.....	am No 109, 2012
s 71.....	am No 109, 2012; No 73, 2013
s 72.....	am No 109, 2012, No 73, 2013
s 73.....	am No 73, 2013
s, 74.....	am No 73, 2013
s 75.....	am No 73, 2013
s 76.....	am No 109, 2012; No 73, 2013; No 156, 2015
s 77A.....	ad No 109, 2012
s 78.....	am No 109, 2012
s 79A.....	ad No 109, 2012
s 79B.....	ad No 109, 2012
Subdivision C	
s 80.....	am No 73, 2013
s 81.....	rs No 73, 2013
s 81A.....	ad No 73, 2013
s 82A.....	ad No 73, 2013
s 84A.....	ad No 109, 2012
	am No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
Division 6	
s 87.....	am No 174, 2012
Division 7	
Subdivision A	
s 97.....	am No 73, 2013
Division 9	
s 113.....	am No 124, 2009; Nos 174 and 175, 2012
s 113A.....	am No 175, 2012
Division 11	
Subdivision B	
s 120.....	am No 174, 2012
s 122.....	am No 174, 2012
Division 12	
s 124.....	am No 174, 2012
Division 13	
s 126.....	am No 174, 2012
Part 2-3	
Division 1	
s 132.....	am No 54, 2009; No 55, 2009; No 174, 2012
s 133.....	am No 33, 2012
Division 2	
s 134.....	am No 174, 2012; No 73, 2013
s 135.....	am No 70, 2009; No 174, 2012
Division 3	
Subdivision B	
s 140.....	am No 55, 2009
s 141.....	am No 174, 2012
Subdivision C	
s 143.....	am Nos 54, 2009; No 55, 2009; No 175, 2012
s 143A.....	ad No 55, 2009
s 143B.....	ad No 54, 2009

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 145A.....	ad No 73, 2013
s 146.....	am No 174, 2012
s 149.....	am No 174, 2012
s 149A.....	ad No 171, 2012 rep No 174, 2012
s 149B.....	ad No 174, 2012
s 149C.....	ad No 174, 2012
s 149D.....	ad No 174, 2012
Subdivision D	
s 151.....	rs No 101, 2017
s 153.....	am No 98, 2013
s 154.....	am No 174, 2012
s 155A.....	ad No 171, 2012 am No 61, 2013 rep No 174, 2012
Division 4	
s 156.....	am No 174, 2012
Division 4A	
Division 4A.....	ad No 174, 2012
Subdivision A	
s 156A.....	ad No 174, 2012
Subdivision B	
s 156B.....	ad No 174, 2012
s 156C.....	ad No 174, 2012
s 156D.....	ad No 174, 2012
s 156E.....	ad No 174, 2012
s 156F.....	ad No 174, 2012
Subdivision C	
s 156G.....	ad No 174, 2012
s 156H.....	ad No 174, 2012
s 156J.....	ad No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
s 156K.....	ad No 174, 2012
Subdivision D	
s 156L.....	ad No 174, 2012
s 156M.....	ad No 174, 2012
s 156N.....	ad No 174, 2012
s 156P.....	ad No 174, 2012
s 156Q.....	ad No 174, 2012
s 156R.....	ad No 174, 2012
s 156S.....	ad No 174, 2012
s 156T.....	ad No 174, 2012
Subdivision E	
s 156U.....	ad No 174, 2012
Division 5	
Subdivision A	
s 157.....	am No 174, 2012
s 158.....	am No 174, 2012
Subdivision B	
s 159.....	am No 174, 2012
s 159A.....	ad No 174, 2012
s 160.....	am No 174, 2012
s 161.....	am No 54, 2009; No 70, 2009; No 40, 2011; No 174, 2012
Division 6	
s 162.....	am No 174, 2012
s 163.....	am No 174, 2012
s 164.....	am No 174, 2012
s 165.....	am No 174, 2012
s 166.....	am No 174, 2012
s 167.....	am No 174, 2012
s 168.....	am No 174, 2012
Division 7	
Division 7.....	ad No 55, 2009

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 168A.....	ad No 55, 2009
s 168B.....	ad No 55, 2009 am No 174, 2012
s 168C.....	ad No 55, 2009 am No 174, 2012; No 175, 2012
s 168D.....	ad No 55, 2009 am No 174, 2012
Division 8	
Division 8.....	ad No 54, 2009
s 168E.....	ad No 54, 2009 am No 124, 2009
s 168F.....	ad No 54, 2009 am No 174, 2012
s 168G.....	ad No 54, 2009 am No 174, 2012; No 175, 2012
s 168H.....	ad No 54, 2009
s 168J.....	ad No 54, 2009
s 168K.....	ad No 54, 2009 am No 174, 2012
s 168L.....	ad No 54, 2009 am No 174, 2012
Part 2-4	
Division 1	
s 169.....	am No 174, 2012
s 170.....	am No 33, 2012
s 171.....	am No 174, 2012
Division 2	
s 172.....	am No 174, 2012; No 156, 2015
Division 3	
s 174.....	am No 174, 2012
s 176.....	am No 174, 2012; No 73, 2013

Endnote 4—Amendment history

Provision affected	How affected
s 177.....	ad No 156, 2015
s 178.....	am No 156, 2015
s 178A.....	am No 156, 2015
s 178B.....	ad No 156, 2015
Division 4	
Subdivision A	
Subdivision A heading	am No 174, 2012
s 179.....	ad No 84, 2017
s 179A.....	ad No 84, 2017
s 180.....	am No 84, 2017
s 182.....	am No 156, 2015
s 183.....	am No 174, 2012
s 185.....	am No 174, 2012; No 156, 2015
s 185A.....	ad No 156, 2015
Subdivision B	
Subdivision B heading	am No 174, 2012
s 186.....	am No 174, 2012; No 156, 2015
s 187.....	am No 174, 2012; No 156, 2015
s 188.....	am No 174, 2012
s 188A.....	ad No 84, 2017
s 189.....	am No 174, 2012
s 190.....	am No 174, 2012; No 156, 2015
s 191.....	am No 174, 2012
s 192.....	am No 174, 2012; No 156, 2015
Subdivision C	
s 193.....	am No 174, 2012; No 156, 2015
Subdivision D	
s 194.....	am No 171, 2012; No 174, 2012; No 62, 2016
s 195.....	am No 98, 2013
s 195A.....	ad No 62, 2016

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Subdivision E	
s 196.....	am No 174, 2012
s 197.....	am No 174, 2012
s 198.....	am No 174, 2012
s 199.....	am No 174, 2012
s 200.....	am No 174, 2012
Subdivision F	
s 201.....	am No 174, 2012; No 156, 2015
Division 5	
s 203.....	am No 33, 2012
s 205.....	am No 73, 2013; No 62, 2016
Division 7	
Subdivision A	
s 207.....	am No 174, 2012
s 210.....	am No 174, 2012
s 211.....	am No 174, 2012; No 156, 2015
s 212.....	am No 174, 2012
s 213.....	am No 174, 2012
s 214.....	am No 174, 2012
s 215.....	am No 174, 2012
Subdivision B	
s 217.....	am No 174, 2012
s 217A.....	am No 174, 2012
s 218.....	am No 54, 2009; No 70, 2009; No 40, 2011; No 174, 2012
Subdivision C	
s 219.....	am No 174, 2012
s 222.....	am No 174, 2012
s 223.....	am No 174, 2012
Subdivision D	
s 225.....	am No 174, 2012
s 226.....	am No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
Division 8	
Division 8 heading	am No 174, 2012
Subdivision A	
s 228.....	am No 156, 2015
s 229.....	am No 174, 2012; No 156, 2015
s 230.....	am No 174, 2012; No 156, 2015
s 231.....	am No 174, 2012
s 232.....	am No 174, 2012; No 156, 2015
Subdivision B	
s 234.....	am No 174, 2012; No 156, 2015
s 235.....	am No 174, 2012; No 156, 2015
Subdivision C	
s 236.....	am No 174, 2012
s 237.....	am No 174, 2012
s 238.....	am No 174, 2012; No 156, 2015
s 239.....	am No 174, 2012
Subdivision D	
Subdivision D heading	am No 174, 2012
s 240.....	am No 174, 2012; No 156, 2015
Division 9	
s 241.....	am No 174, 2012
s 242.....	am No 174, 2012
s 243.....	am No 174, 2012
s 244.....	am No 174, 2012
s 245.....	am No 174, 2012
s 246.....	am No 174, 2012
Division 10	
Subdivision B	
s 248.....	am No 174, 2012
s 249.....	am No 174, 2012
s 250.....	am No 174, 2012

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 251.....	am No 174, 2012
s 252.....	am No 174, 2012
Division 11	
s 253.....	am No 101, 2017
s 254A.....	ad No 62, 2016
s 255.....	am No 174, 2012; No 156, 2015
s 255A.....	ad No 156, 2015
Part 2-5	
Division 1	
s 258.....	am No 174, 2012; No 62, 2016
s 259.....	am No 33, 2012
Division 2	
s 260.....	am No 174, 2012
s 261.....	am No 174, 2012
s 262.....	am No 174, 2012
s 263.....	am No 174, 2012
s 264.....	am No 174, 2012
Division 3	
s 266.....	am No 174, 2012
s 267.....	am No 174, 2012
Division 4	
s 269.....	am No 174, 2012; No 156, 2015
s 270.....	am No 174, 2012
s 271A.....	ad No 156, 2015
Division 5	
s 272.....	am No 174, 2012
s 273.....	am No 174, 2012
s 275.....	am No 174, 2012
Division 6	
s 277.....	am No 174, 2012
s 279.....	am No 54, 2009

Endnote 4—Amendment history

Provision affected	How affected
Division 7	
s 281AA	ad No 62, 2016
Part 2-6	
Division 1	
s 282	am No 174, 2012
s 283	am No 33, 2012
Division 2	
s 284	am No 174, 2012
Division 3	
Subdivision A	
s 285	am No 174, 2012
s 286	am No 174, 2012
s 287	am No 174, 2012
Subdivision B	
s 288	am No 174, 2012
s 289	am No 174, 2012
s 290	am No 174, 2012
s 291	am No 174, 2012
s 292	am No 54, 2009; No 55, 2009; No 174, 2012
Division 4	
s 296	am No 174, 2012
s 297	am No 174, 2012
Part 2-7	
Division 1	
s 300	am No 174, 2012
s 301	am No 33, 2012
Division 2	
s 302	am No 174, 2012
s 303	am No 174, 2012
s 304	am No 174, 2012
s 306	am No 174, 2012

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Part 2-8	
Division 1	
s 307.....	am Nos 174 and 175, 2012
s 308.....	am No 33, 2012
Division 2	
s 312.....	am No 55, 2009; No 174, 2012
s 313.....	am No 174, 2012
s 314.....	am No 174, 2012
s 315.....	am No 174, 2012
Division 3	
Division 3 heading	am No 174, 2012
s 317.....	am No 174, 2012
s 318.....	am No 174, 2012
s 319.....	am No 174, 2012
s 320.....	am No 174, 2012
Part 2-9	
Part 2-9 heading	rs No 55, 2009
Division 1	
s 322.....	am No 33, 2012
Division 2	
Division 2 heading	rs No 101, 2017
s 324.....	am No 174, 2012
s 325.....	am No 101, 2017
s 326.....	rs No 101, 2017
s 327.....	am No 101, 2017
Division 3	
s 332.....	am No 118, 2013
Chapter 3	
Part 3-1	
Division 1	
s 334.....	am No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
s 335.....	am No 33, 2012
s 336.....	am No 174, 2012
Division 2	
s 337.....	am No 54, 2009; No 124, 2009
Division 3	
s 341.....	am No 174, 2012; No 175, 2012
s 344.....	am No 109, 2012
Division 5	
s 351.....	am No 136, 2012; No 98, 2013
Division 7	
s 361.....	am No 73, 2013
Division 8	
Subdivision A	
s 365.....	am No 174, 2012; No 73, 2013
s 366.....	am No 174, 2012
s 367.....	am No 174, 2012
s 368.....	am No 174, 2012
	rs No 73, 2013
s 369.....	am No 174, 2012
	rs No 73, 2013
s 370.....	am No 174, 2012
	rs No 73, 2013
s 371.....	am No 55, 2009; No 174, 2012
	rep No 73, 2013
Subdivision B	
s 372.....	am No 174, 2012; No 73, 2013
s 373.....	am No 174, 2012
s 374.....	am No 174, 2012
s 375.....	am No 174, 2012
Subdivision C	
Subdivision C.....	rs No 73, 2013

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 375A.....	ad No 73, 2013
s 375B.....	ad No 73, 2013
s 376.....	am No 174, 2012 rs No 73, 2013
s 377.....	am No 174, 2012 rs No 73, 2013
s 377A.....	ad No 73, 2013
s 378.....	rs No 73, 2013
Part 3-2	
Division 1	
s 379.....	am No 174, 2012
s 380.....	am No 33, 2012
Division 3	
s 385.....	am No 174, 2012
s 387.....	am No 174, 2012
Division 4	
s 390.....	am No 174, 2012
s 391.....	am No 174, 2012
s 392.....	am No 174, 2012
s 393.....	am No 174, 2012
Division 5	
s 394.....	am No 174, 2012
s 395.....	am No 174, 2012
s 396.....	am No 174, 2012
s 397.....	am No 174, 2012
s 398.....	am No 174, 2012
s 399.....	am No 174, 2012
s 399A.....	ad No 174, 2012
s 400.....	am No 174, 2012; No 73, 2013
s 400A.....	ad No 174, 2012
s 401.....	am No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
s 402.....	am No 174, 2012
s 403.....	am No 174, 2012
Part 3-3	
Division 1	
s 406.....	am No 174, 2012
s 407.....	am No 33, 2012
Division 2	
Subdivision A	
s 409.....	am No 174, 2012
s 410.....	am No 174, 2012
s 411.....	am No 55, 2009
Subdivision C	
s 416A.....	ad No 55, 2009
Division 3	
s 417.....	am No 174, 2012; No 13, 2013
Division 4	
Division 4 heading	am No 174, 2012
s 418.....	am No 174, 2012
s 419.....	am No 174, 2012
s 420.....	am No 174, 2012
s 421.....	am No 13, 2013
Division 5	
s 422.....	am No 13, 2013
Division 6	
Division 6 heading	am No 174, 2012
s 423.....	am No 124, 2009; No 174, 2012
s 424.....	am No 124, 2009; No 174, 2012
s 425.....	am No 174, 2012
s 426.....	am No 124, 2009; No 174, 2012
s 427.....	am No 174, 2012
s 428.....	am No 174, 2012

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 430.....	am No 174, 2012
Division 7	
s 432.....	am No 174, 2012
Division 8	
Subdivision A	
s 435.....	am No 174, 2012
Subdivision B	
s 437.....	am No 174, 2012; No 156, 2015
s 441.....	am No 174, 2012
s 442.....	am No 174, 2012
s 443.....	am No 174, 2012
s 444.....	am No 174, 2012
s 445.....	am No 174, 2012
s 446.....	am No 174, 2012
s 447.....	am No 174, 2012
s 448.....	am No 174, 2012
Subdivision C	
s 449.....	am No 174, 2012
s 450.....	am No 174, 2012
s 451.....	am No 174, 2012
s 452.....	am No 174, 2012
s 453.....	am No 174, 2012
s 454.....	am No 174, 2012
s 455.....	am No 174, 2012
s 457.....	am No 174, 2012
s 458.....	am No 174, 2012
Subdivision D	
s 459.....	am No 174, 2012
s 460.....	am No 174, 2012
s 461.....	am No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
Subdivision E	
s 462.....	am No 174, 2012
s 463.....	am No 174, 2012
Subdivision G	
s 467.....	am No 174, 2012
Division 9	
Subdivision A	
s 471.....	am No 174, 2012
s 472.....	am No 174, 2012
Part 3-4	
Division 1	
s 478.....	am Nos 33 and 174, 2012; No 73, 2013
s 480.....	am No 33, 2012
Division 2	
Subdivision A	
s 481.....	am No 174, 2012
s 483AA.....	am No 174, 2012
Subdivision AA	
Subdivision AA heading.....	rs No 33, 2012
s 483A.....	am No 33, 2012; No 73, 2013
s 483B.....	am No 33, 2012
Subdivision B	
s 484.....	am No 33, 2012; No 73, 2013
Subdivision C	
s 487.....	am No 174, 2012
s 489.....	am No 174, 2012
s 491.....	am No 174, 2012
s 492.....	rs No 73, 2013
s 492.....	am No 174, 2012; No 73, 2013
s 492A.....	ad No 73, 2013

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Division 3	
s 499.....	am No 174, 2012
Division 4	
s 500.....	am No 73, 2013
Division 5	
Division 5 heading	am No 174, 2012
Subdivision A	
s 505.....	am No 174, 2012; No 73, 2013
s 505A.....	ad No 73, 2013
s 506.....	am No 73, 2013
Subdivision B	
s 507.....	am No 174, 2012
Subdivision C	
s 508.....	am No 174, 2012
Subdivision D	
Subdivision D heading	am No 174, 2012
s 510.....	am No 51, 2010; No 174, 2012
Subdivision E	
s 511.....	am No 174, 2012
Division 6	
Subdivision A	
s 512.....	am No 174, 2012
s 513.....	am No 174, 2012
s 514.....	am No 174, 2012
s 515.....	am No 174, 2012; No 73, 2013
s 516.....	am No 174, 2012
s 517.....	am No 174, 2012
Subdivision B	
s 518.....	am No 33, 2012
Subdivision C	
s 519.....	am No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
Subdivision D	
s 520.....	am No 174, 2012
Division 7	
Division 7.....	ad No 73, 2013
s 521A.....	ad No 73, 2013
s 521B.....	ad No 73, 2013
s 521C.....	ad No 73, 2013
s 521D.....	ad No 73, 2013
Part 3-5	
Division 1	
s 522.....	am No 174, 2012
Division 3	
s 526.....	am No 174, 2012
s 527.....	am No 174, 2012
Part 3-6	
Division 1	
s 528.....	am No 174, 2012
s 529.....	am No 33, 2012
Division 2	
Subdivision B	
s 531.....	am No 174, 2012
s 532.....	am No 174, 2012
s 533.....	am No 174, 2012
Division 3	
s 535.....	am No 101, 2017
s 536.....	am No 109, 2012; No 101, 2017
Part 3-7	
Part 3-7.....	ad No 84, 2017
Division 1	
s 536A.....	ad No 84, 2017
s 536B.....	ad No 84, 2017

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 536C	ad No 84, 2017
s 536CA	ad No 84, 2017
Division 2	
s 536D	ad No 84, 2017
s 536E	ad No 84, 2017
Division 3	
s 536F	ad No 84, 2017
s 536G	ad No 84, 2017
s 536H	ad No 84, 2017
Chapter 4	
Part 4-1	
Division 1	
s 537	am No 13, 2013; No 101, 2017
s 538	am No 33, 2012
Division 2	
Subdivision A	
s 539	am No 55, 2009; Nos 174 and 175, 2012; No 13 and 73, 2013; No 67, 2016; No 84, 2017; No 101, 2017
s 540	am No 55, 2009; No 101, 2017
s 543	am No 13, 2013
s 544	am No 73, 2013
Subdivision B	
s 545	am No 13, 2013
s 546	am No 13, 2013
Division 3	
s 548	am No 13, 2013
Division 4	
s 550	am No 101, 2017
s 557	am No 101, 2017
s 557A	ad No 101, 2017
s 557B	ad No 101, 2017

Endnote 4—Amendment history

Provision affected	How affected
s 557C	ad No 101, 2017
s 558	am No 55, 2009
Division 4A	
Division 4A	ad No 101, 2017
s 558A	ad No 101, 2017
s 558B	ad No 101, 2017
s 558C	ad No 101, 2017
Division 5	
s 559	am No 156, 2015
Part 4-2	
Division 1	
s 560	am No 13, 2013
s 561	am No 33, 2012
Division 2	
s 563	am No 13, 2013
s 565	am No 124, 2009
Division 3	
Division 3 heading	rs No 13, 2013
s 566	am No 13, 2013
s 567	am No 13, 2013
s 568	am No 13, 2013
Division 4	
s 569A	ad No 124, 2009
s 570	am No 124, 2009; No 174, 2012
Chapter 5	
Part 5-1	
Part 5-1 heading	rs No 174, 2012
Division 1	
s 573	am No 174, 2012
s 574	am No 33, 2012
s 574A	rep No 55, 2009

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Division 2	
Division 2 heading	am No 174, 2012
Subdivision A	
Subdivision A heading	am No 174, 2012
s 575	am No 55, 2009; No 174, 2012
s 576	am No 55, 2009; No 174, 2012; No 175, 2012; No 13, 2013; No 73, 2013; No 79, 2016
s 577	am No 174, 2012
s 578	am No 174, 2012; No 98, 2013
s 579	am No 174, 2012
s 580	am No 174, 2012
Subdivision B	
s 581	am No 174, 2012
s 581A	ad No 174, 2012
s 581B	ad No 174, 2012
s 582	am No 174, 2012
s 584	am No 174, 2012; No 73, 2013
Subdivision C	
Subdivision C	ad No 174, 2012
s 584B	ad No 174, 2012
Division 3	
Division 3 heading	am No 174, 2012
Subdivision A	
Subdivision A heading	am No 174, 2012
s 585	am No 174, 2012
s 586	am No 174, 2012
s 587	am No 174, 2012
s 588	am No 174, 2012
Subdivision B	
Subdivision B heading	am No 174, 2012
s 589	am No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
s 590.....	am No 174, 2012
s 591.....	am No 174, 2012
s 592.....	am No 174, 2012; No 73, 2013
s 593.....	am No 174, 2012
s 594.....	am No 174, 2012
s 595.....	am No 174, 2012; No 73, 2013
Subdivision C	
s 596.....	am No 174, 2012; No 175, 2012
s 597.....	am No 174, 2012
s 597A.....	ad No 124, 2009 am No 174, 2012
Subdivision D	
Subdivision D heading	am No 174, 2012
s 598.....	am No 174, 2012
s 599.....	am No 174, 2012
s 600.....	am No 174, 2012
s 601.....	am No 174, 2012; No 73, 2013
s 602.....	am No 174, 2012
s 603.....	am No 174, 2012; No 73, 2013
Subdivision E	
s 604.....	am No 124, 2009; No 174, 2012; No 175, 2012; No 79, 2016
s 605.....	am No 174, 2012
s 606.....	am No 174, 2012
s 607.....	am No 124, 2009; No 174, 2012; No 79, 2016
s 608.....	am No 174, 2012
Subdivision F	
s 609.....	am No 174, 2012; No 73, 2013
s 610.....	am No 174, 2012
s 611.....	am No 174, 2012
Division 4	
Division 4 heading	am No 174, 2012

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Subdivision A	
Subdivision A heading	am No 174, 2012
s 612.....	am No 174, 2012
s 613.....	am No 124, 2009; No 174, 2012; No 175, 2012; No 79, 2016
s 615.....	am No 174, 2012
s 615A.....	ad No 174, 2012
s 615B	ad No 174, 2012
	am No 31, 2014
s 615C	ad No 174, 2012
	am No 31, 2014
s 616.....	am No 174, 2012
s 617.....	am No 174, 2012
Subdivision B	
Subdivision B heading	rs No 174, 2012
	am No 174, 2012
s 618.....	am No 174, 2012
s 619.....	am No 174, 2012
s 620.....	am No 174, 2012
s 621.....	am No 174, 2012
s 622.....	am No 55, 2009; No 174, 2012; No 31, 2014
s 623.....	am No 174, 2012
s 624.....	am No 174, 2012
Subdivision C	
Subdivision C heading	am No 174, 2012
s 625.....	am No 174, 2012
Division 5	
Division 5 heading	am No 174, 2012
Subdivision A	
Subdivision A heading	am No 174, 2012
s 626.....	am No 174, 2012
s 627.....	am No 174, 2012; No 13, 2013

Endnote 4—Amendment history

Provision affected	How affected
s 628.....	am No 174, 2012
s 629.....	am No 174, 2012
Subdivision B	
Subdivision B heading	am No 174, 2012
s 629A.....	ad No 55, 2009
s 630.....	am No 174, 2012
s 632.....	am No 174, 2012; No 73, 2013
s 633.....	am No 174, 2012
s 634.....	am No 174, 2012
s 637.....	am No 174, 2012
s 639.....	am No 174, 2012
s 640.....	am No 174, 2012; No 31, 2014
s 641.....	am No 174, 2012
s 641A.....	ad No 174, 2012
s 642.....	am No 174, 2012
s 643.....	am No 174, 2012
s 644.....	am No 174, 2012 (as am by No 73, 2013)
s 645.....	am No 174, 2012
s 646.....	am No 174, 2012
s 647.....	am No 174, 2012
s 648.....	am No 174, 2012
Division 6	
s 649.....	am No 124, 2009; No 174, 2012
s 650.....	am No 174, 2012
Division 7	
s 651.....	am No 174, 2012
s 652.....	am No 174, 2012; No 62, 2014
s 653A.....	am No 174, 2012; No 13, 2013
s 654.....	am No 55, 2009; No 174, 2012
s 655.....	am No 174, 2012

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Division 8	
Subdivision A	
s 656.....	am No 174, 2012
s 657.....	am No 174, 2012
s 658.....	am No 174, 2012; No 62, 2014
Subdivision B	
s 660.....	am No 174, 2012
s 663.....	am No 174, 2012
s 664.....	rs No 62, 2014
s 666.....	am No 174, 2012
s 668.....	am No 174, 2012
s 669.....	am No 174, 2012
Subdivision C	
s 670.....	am No 174, 2012; No 73, 2013
s 671.....	am No 174, 2012
s 672.....	am No 174, 2012
s 673.....	am No 174, 2012
Subdivision D	
s 673A.....	ad No 62, 2014
Division 9	
Division 9 heading	am No 174, 2012
s 674.....	am No 174, 2012
s 675.....	am No 174, 2012; No 73, 2013
s 676.....	am No 174, 2012
s 677.....	am No 174, 2012
s 678.....	am No 174, 2012
Part 5-2	
Division 1	
s 680.....	am No 33, 2012

Endnote 4—Amendment history

Provision affected	How affected
Division 2	
Subdivision A	
s 682.....	am No 174, 2012
s 683.....	am No 101, 2017
s 684.....	am No 126, 2015
s 685.....	am No 101, 2017
s 686.....	rs No 62, 2014 am No 101, 2017
Subdivision B	
s 690.....	am No 174, 2012
s 691.....	rep No 62, 2014
s 693.....	am No 174, 2012; No 62, 2014
Division 3	
Subdivision D	
Subdivision D heading	rs No 101, 2017
s 703.....	am No 101, 2017
s 707A.....	ad No 101, 2017
Subdivision DA	
Subdivision DA heading	ad No 101, 2017
s 709.....	am No 54, 2009
Subdivision DB	
Subdivision DB heading.....	ad No 101, 2017
s 712A.....	ad No 101, 2017
s 712AA.....	ad No 101, 2017
s 712AB.....	ad No 101, 2017
s 712AC.....	ad No 101, 2017
s 712AD.....	ad No 101, 2017
s 712AE.....	ad No 101, 2017
s 712B.....	ad No 101, 2017
s 712C.....	ad No 101, 2017
s 712D.....	ad No 101, 2017

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Endnote 4—Amendment history

Provision affected	How affected
s 712E	ad No 101, 2017
s 712F.....	ad No 101, 2017
Subdivision DC	
Subdivision DC heading.....	ad No 101, 2017
s 713.....	am No 54, 2009; No 103, 2013
	rs No 101, 2017
s 713A.....	ad No 54, 2009
s 713AA.....	ad No 101, 2017
s 714.....	am No 101, 2017
s 714A.....	ad No 101, 2017
Subdivision DD	
Subdivision DD heading	ad No 101, 2017
s 715.....	am No 13, 2013
s 716.....	am No 13, 2013
s 717.....	am No 13, 2013
Subdivision F	
Subdivision F	ad No 101, 2017
s 718A.....	ad No 101, 2017
Chapter 6	
Part 6-1	
Division 1	
s 720.....	am No 33, 2012
Division 2	
s 721.....	am No 174, 2012
s 722.....	am No 55, 2009; No 174, 2012
Division 3	
Subdivision A	
s 724.....	am No 174, 2012
Subdivision B	
s 727.....	am No 174, 2012; No 73, 2013
s 729.....	am No 174, 2012

Endnote 4—Amendment history

Provision affected	How affected
s 730.....	am No 174, 2012; No 73, 2013
s 732.....	am No 70, 2009
Part 6-2	
Division 1	
s 735.....	am No 174, 2012
s 736.....	am No 33, 2012
Division 2	
Subdivision B	
s 739.....	am No 174, 2012
s 740.....	am No 174, 2012
Part 6-3A	
Part 6-3A.....	ad No 175, 2012
Division 1	
s 768AA.....	ad No 175, 2012
s 768AB.....	ad No 175, 2012
Division 2	
s 768AC.....	ad No 175, 2012
s 768AD.....	ad No 175, 2012
s 768AE.....	ad No 175, 2012
Division 3	
Subdivision A	
s 768AF.....	ad No 175, 2012
Subdivision B	
s 768AG.....	ad No 175, 2012
s 768AH.....	ad No 175, 2012
s 768AI.....	ad No 175, 2012
s 768AJ.....	ad No 175, 2012
s 768AK.....	ad No 175, 2012
s 768AL.....	ad No 175, 2012
s 768AM.....	ad No 175, 2012
	am No 174, 2012

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Endnote 4—Amendment history

Provision affected	How affected
s 768AN	ad No 175, 2012
	am No 174, 2012
s 768AO	ad No 175, 2012
	am No 174, 2012
Division 4	
Subdivision A	
s 768AP	ad No 175, 2012
Subdivision B	
s 768AQ	ad No 175, 2012
s 768AR	ad No 175, 2012
Subdivision C	
s 768AS	ad No 175, 2012
	am No 174, 2012
s 768AT	ad No 175, 2012
	am No 174, 2012
Subdivision D	
s 768AU	ad No 175, 2012
	am No 174, 2012
Division 5	
Subdivision A	
s 768AV	ad No 175, 2012
Subdivision B	
s 768AW	ad No 175, 2012
s 768AX	ad No 175, 2012
	am No 174, 2012
Subdivision C	
s 768AY	ad No 175, 2012
Division 6	
Division 6 heading	am No 174, 2012
Subdivision A	
s 768AZ	ad No 175, 2012

Endnote 4—Amendment history

Provision affected	How affected
	am No 174, 2012
s 768AZA.....	ad No 175, 2012
Subdivision B	
s 768BA.....	ad No 175, 2012
	am No 174, 2012
s 768BB.....	ad No 175, 2012
	am No 174, 2012
Division 7	
Division 7 heading.....	am No 174, 2012
Subdivision A	
s 768BC.....	ad No 175, 2012
	am No 174, 2012
s 768BCA.....	ad No 175, 2012
Subdivision B	
s 768BD.....	ad No 175, 2012
	am No 174, 2012
s 768BE.....	ad No 175, 2012
s 768BF.....	ad No 175, 2012
	am No 174, 2012
Subdivision C	
s 768BG.....	ad No 175, 2012
	am No 174, 2012
s 768BH.....	ad No 175, 2012
s 768BI.....	ad No 175, 2012
	am No 174, 2012
Division 8	
Subdivision A	
s 768BJ.....	ad No 175, 2012
	am No 174, 2012
Subdivision B	
s 768BK.....	ad No 175, 2012

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Endnote 4—Amendment history

Provision affected	How affected
Subdivision C	
s 768BL.....	ad No 175, 2012
s 768BM.....	ad No 175, 2012
s 768BN.....	ad No 175, 2012
s 768BO.....	ad No 175, 2012
	am No 174, 2012
s 768BP.....	ad No 175, 2012
s 768BQ.....	ad No 175, 2012
Subdivision D	
s 768BR.....	ad No 175, 2012
s 768BS.....	ad No 175, 2012
	am No 174, 2012
s 768BT.....	ad No 175, 2012
s 768BU.....	ad No 175, 2012
s 768BV.....	ad No 175, 2012
s 768BW.....	ad No 175, 2012
	am No 174, 2012
Subdivision E	
s 768BX.....	ad No 175, 2012
Subdivision F	
s 768BY.....	ad No 175, 2012
	am No 174, 2012
Subdivision G	
s 768BZ.....	ad No 175, 2012
Division 9	
s 768CA.....	ad No 175, 2012
Part 6-4	
Division 1	
s 769.....	am No 174, 2012
Division 2	
s 772.....	am No 98, 2013

Endnote 4—Amendment history

Provision affected	How affected
s 773.....	am No 174, 2012
s 774.....	am No 174, 2012; No 73, 2013
s 775.....	am No 174, 2012
s 776.....	am No 174, 2012 rs No 73, 2013
s 777.....	am No 174, 2012 rs No 73, 2013
s 778.....	am No 174, 2012 rs No 73, 2013
s 779.....	am No 55, 2009; No 174, 2012 rs No 73, 2013
s 779A.....	ad No 73, 2013
s 780.....	am No 174, 2012 rs No 73, 2013
s 781.....	am No 174, 2012 rs No 73, 2013
s 781A.....	ad No 73, 2013
s 782.....	am No 73, 2013
s 783.....	am No 73, 2013
Division 3	
Subdivision C	
s 786.....	am No 174, 2012
s 787.....	am No 174, 2012
s 788.....	am No 174, 2012
Part 6-4A	
Part 6-4A.....	ad No 33, 2012
Division 1	
s 789AA.....	ad No 33, 2012
s 789AB.....	ad No 33, 2012
s 789AC.....	ad No 33, 2012

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Endnote 4—Amendment history

Provision affected	How affected
Division 2	
s 789BA	ad No 33, 2012 am No 175, 2012
s 789BB.....	ad No 33, 2012
s 789BC.....	ad No 33, 2012
Division 3	
s 789CA	ad No 33, 2012 am No 175, 2012
s 789CB.....	ad No 33, 2012
s 789CC.....	ad No 33, 2012 am No 136, 2012
s 789CD	ad No 33, 2012 am No 13, 2013
s 789CE.....	ad No 33, 2012 am No 13, 2013
s 789CF	ad No 33, 2012
Division 4	
s 789DA	ad No 33, 2012
s 789DB	ad No 33, 2012
s 789DC	ad No 33, 2012
s 789DD	ad No 33, 2012
s 789DE.....	ad No 33, 2012 am No 175, 2012; No 126, 2015
Division 5	
s 789EA.....	ad No 33, 2012
Part 6-4B	
Part 6-4B	ad No 73, 2013
Division 1	
s 789FA.....	ad No 73, 2013
s 789FB.....	ad No 73, 2013

Endnote 4—Amendment history

Provision affected	How affected
Division 2	
s 789FC.....	ad No 73, 2013
s 789FD.....	ad No 73, 2013
s 789FE.....	ad No 73, 2013
s 789FF.....	ad No 73, 2013
s 789FG.....	ad No 73, 2013
s 789FH.....	ad No 73, 2013
s 789FI.....	ad No 73, 2013
s 789FJ.....	ad No 73, 2013
s 789FK.....	ad No 73, 2013
s 789FL.....	ad No 73, 2013
Part 6-5	
Division 1	
s 791.....	am No 33, 2012
Division 2	
s 792.....	am No 33, 2016
s 795A.....	ad No 33, 2012
	rs No 175, 2012
s 796A.....	ad No 55, 2009
	am No 174, 2012
s 799.....	am No 55, 2009
Schedule 1	
Schedule 1.....	rep No 55, 2009
	ad No 33, 2012
Part 1	
c 1.....	rep No 55, 2009
	ad No 33, 2012
c 2.....	rep No 55, 2009
	ad No 33, 2012
c 3.....	rep No 55, 2009
	ad No 33, 2012

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
c 4	rep No 55, 2009 ad No 33, 2012 am No 175, 2012
c 5	rep No 55, 2009 ad No 33, 2012
c 6	rep No 55, 2009 ad No 33, 2012
c 7	rep No 55, 2009 ad No 33, 2012 am No 175, 2012; No 126, 2015
Part 2	
Part 2	ad No 171, 2012
c 8	ad No 171, 2012
c 9	ad No 171, 2012
c 10.....	ad No 171, 2012 am No 61, 2013
c 11.....	ad No 171, 2012 am No 61, 2013
c 12.....	ad No 171, 2012 am No 61, 2013
Part 3	
Part 3	ad No 62, 2016
c 13.....	ad No 62, 2016
c 14.....	ad No 62, 2016
Part 4	
Part 4	ad No 101, 2017
c 15.....	ad No 101, 2017
c 16.....	ad No 101, 2017
c 17.....	ad No 101, 2017
c 18.....	ad No 101, 2017
c 19.....	ad No 101, 2017

Endnote 4—Amendment history

Provision affected	How affected
c 20.....	ad No 101, 2017
c 21.....	ad No 101, 2017
c 22.....	ad No 101, 2017
c 23.....	ad No 101, 2017
c 24.....	ad No 101, 2017
c 24A.....	ad No 101, 2017
Part 6	
Part 6.....	ad No 84, 2017
c 30.....	ad No 84, 2017
Schedule 2	
Schedule 2.....	ad No 175, 2012
c 1.....	ad No 175, 2012
c 2.....	ad No 175, 2012
Schedule 3	
Schedule 3.....	ad No 174, 2012
Part 1	
c 1.....	ad No 174, 2012
Part 2	
c 2.....	ad No 174, 2012
c 2A.....	ad No 174, 2012 (as am by No 89, 2013)
c 2B.....	ad No 174, 2012 (as am by No 89, 2013)
Part 3	
c 3.....	ad No 174, 2012
Part 4	
c 4.....	ad No 174, 2012
c 5.....	ad No 174, 2012
c 6.....	ad No 174, 2012
c 7.....	ad No 174, 2012
c 8.....	ad No 174, 2012
Part 5	
c 9.....	ad No 174, 2012

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Endnote 4—Amendment history

Provision affected	How affected
Part 6	
c 10.....	ad No 174, 2012
c 11.....	ad No 174, 2012
c 12.....	ad No 174, 2012
c 13.....	ad No 174, 2012
Part 7	
c 14.....	ad No 174, 2012
c 15.....	ad No 174, 2012
c 16.....	ad No 174, 2012
Part 8	
c 17.....	ad No 174, 2012
c 18.....	ad No 174, 2012
c 19.....	ad No 174, 2012
c 20.....	ad No 174, 2012
c 21.....	ad No 174, 2012
c 22.....	ad No 174, 2012
c 23.....	ad No 174, 2012
Part 9	
c 24.....	ad No 174, 2012
c 25.....	ad No 174, 2012
c 26.....	ad No 174, 2012
c 27.....	ad No 174, 2012
c 28.....	ad No 174, 2012
c 29.....	ad No 174, 2012
c 30.....	ad No 174, 2012
Part 10	
c 31.....	ad No 174, 2012
Part 11	
c 32.....	ad No 174, 2012 am No 126, 2015

Endnote 4—Amendment history

Provision affected	How affected
Schedule 4	
Schedule 4.....	ad No 73, 2013
Part 1	
c 1	ad No 73, 2013
Part 2	
c 2	ad No 73, 2013
c 3	ad No 73, 2013
c 4	ad No 73, 2013
c 5	ad No 73, 2013
c 6	ad No 73, 2013
Part 3	
c 7	ad No 73, 2013
Part 4	
c 8	ad No 73, 2013
Part 4A	
c 8A.....	ad No 73, 2013
Part 5	
c 9	ad No 73, 2013
Part 6	
c 10.....	ad No 73, 2013
Part 7	
c 11.....	ad No 73, 2013
Schedule 5	
Schedule 5.....	ad No 156, 2015