

Corrupting benefits

On 11 September 2017, the Fair Work Amendment (Corrupting Benefits) Act 2017 took effect. It introduced new provisions into the Fair Work Act 2009 related to:

- prohibiting giving, receiving, or soliciting corrupting benefits
- prohibiting the payment of cash or 'in kind' payments to relevant employee organisations
- requirements for bargaining representatives and employers about disclosing financial links or benefits they may receive from the proposed agreement.

These changes apply now.

You can find detailed information and useful resources about these requirements on the [Registered Organisations Commission \(http://www.roc.gov.au/compliance/corrupting-benefits/corrupting-benefits-and-disclosures\)](http://www.roc.gov.au/compliance/corrupting-benefits/corrupting-benefits-and-disclosures) website.

Prohibiting giving, receiving or soliciting corrupting benefits

These provisions prohibit a person from dishonestly providing, requesting, receiving or soliciting corrupting benefits with the intention of influencing an officer or employee of a registered organisation in performing their duties.

Individuals who breach these rules face possible penalties of up to 10 years imprisonment and/or fines of up to \$1.05 million. Companies face possible fines of up to \$5.25 million.

Prohibiting cash or in kind payments

These provisions make it a criminal offence for:

- an employer to provide, offer or promise, a cash or an in kind payment to relevant employee organisations (or certain related parties)
- a relevant employee organisation to request, receive or agree to receive a cash or in kind payment from an employer.

There are some exclusions for employers in relation to certain kinds of payments (for example, the deduction of union membership fees from an employee's wages).

Individuals who breach these rules face possible penalties of up to 2 years imprisonment and/or fines of up to \$105 000. Companies face possible fines of up to \$525 000.

Because these are criminal offences, we don't investigate these situations. The Australian Federal Police will conduct these kinds of criminal investigations. However, if we identify these situations in the course of our work we will refer them to the Australian Federal Police.

Disclosure requirements

It is a requirement that employers and unions or employer organisations that are bargaining representatives for a proposed enterprise agreement, disclose certain financial benefits that they (or certain related parties), will (or could) get because of a term of the proposed agreement.


The disclosure must be set out in a document with details of the relevant financial benefit (a 'disclosure document'). Where an organisation is making this disclosure they must give the document to the employer(s), who must also give it to the relevant employees. Where an employer is making the disclosure they must give it to the employees who will be covered by the enterprise agreement.

The [Fair Work Regulations 2009 \(https://www.legislation.gov.au/Details/F2019C00030\)](https://www.legislation.gov.au/Details/F2019C00030) provide specific information about how a disclosure document should be set out and what information needs to be included in it.

These disclosure requirements are civil remedy provisions. That means that we can investigate potential breaches of these provisions. A person who breaches these rules can be ordered by a court to pay fines of up to \$12 600.

More information

Read more, download fact sheets and watch their webinars on the Registered Organisations Commission's [Corrupting Benefits page](#)

(<http://www.roc.gov.au/compliance/corrupting-benefits/corrupting-benefits-and-disclosures>) . You can also call their Corrupting Benefits Hotline on 02 9246 0555.

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Contact us

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