

# EXPOSURE DRAFT



EXPOSURE DRAFT (31/03/2016)

## Corporations Amendment (Life Insurance Remuneration Arrangements) Regulation 2016

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 2016

Peter Cosgrove  
Governor-General

By His Excellency's Command

Kelly O'Dwyer [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Assistant Treasurer

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## 1 Name

This is the *Corporations Amendment (Life Insurance Remuneration Arrangements) Regulation 2016*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	Immediately after the commencement of Schedule 1 to the <i>Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2016</i> .  However, the provisions do not commence at all if Schedule 1 to that Act does not commence.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Corporations Act 2001*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Corporations Regulations 2001*

#### **1 Regulation 7.7A.12A**

Repeal the regulation.

#### **2 After Subdivision 1 of Division 4 of Part 7.7A**

Insert:

#### **Subdivision 1A—Monetary benefits that relate to life risk insurance products**

##### **7.7A.12EB Life risk insurance products—policy costs relating to stamp duty**

- (1) This regulation is made for paragraph 963B(3B)(d) of the Act.
- (2) The *policy cost* for a life risk insurance product, or life risk insurance products, for a year, includes, for each product that includes a death benefit and in relation to which stamp duty is payable under a law of a State or Territory for the year, the amount of the stamp duty that relates to the death benefit.
- (3) This regulation applies where the year in relation to which the policy cost is worked out begins before the day that is 12 months after the day this regulation commences.

##### **7.7A.12EC Life risk insurance products—clawback requirements related to cancellation etc.**

For subparagraph 963BA(3)(a)(i) of the Act, the prescribed circumstances are that the life risk insurance product, or the relevant one of the life risk insurance products, is cancelled or is not continued because:

- (a) the person insured commits suicide; or
- (b) the person insured commits an act of self-harm; or
- (c) the person insured reaches an age that, under the terms of the life risk insurance product under which the person is insured, has the result that the product is cancelled or is not continued; or
- (d) the person to whom, or in relation to whom, the life risk insurance product is issued is not correctly described due to an administrative error.

##### **7.7A.12ED Life risk insurance products—clawback requirements related to reduction of policy cost**

For subparagraph 963BA(3)(a)(ii) of the Act, each of the following are prescribed circumstances:

- (a) the policy cost for the life risk insurance product, or the relevant one of the life risk insurance products, is reduced because the person who issues the product and the person to whom the product is issued agree that there is a reduction in the risk to the health of a person insured under the product;

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- (b) there is a reduction in the policy cost for the life risk insurance product, or the relevant one of the life risk insurance products, because:
    - (i) a rebate is paid or a discount applied; and
    - (ii) it is reasonable in all the circumstances to conclude that the rebate is paid or discount applied to induce the person to whom the product is issued to acquire, or to continue to hold, the product.

### 3 After regulation 7.7A.15A

Insert:

#### **Subdivision 2A—Application of provisions relating to the Corporations Amendment (Further Future of Financial Advice Measures) Act 2012**

### 4 After section 7.7A.16F

Insert:

#### **Subdivision 2B—Application provisions relating to the Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2016**

#### **7.7A.16G Definitions**

In this Subdivision:

*collective agreement-based transitional instrument* has the meaning given by subitem 2(5) of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

*commencement day* means the day on which Schedule 1 to the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2016* commences.

*enterprise agreement* has the same meaning as in the *Fair Work Act 2009*.

*transition day* means the day that is 12 months after the commencement day.

#### **7.7A.16H Employee arrangements**

- (1) This regulation is made for subsection 1549B(3) of the Act.

*Benefits paid under an enterprise agreement*

- (2) The amendments made by Schedule 1 to the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2016* do not apply to a benefit paid to a financial services licensee, or a representative of a financial services licensee, in relation to a life risk insurance product, or life risk insurance products, if:
  - (a) the benefit is paid under a remuneration arrangement between an employer and an employee; and
  - (b) the benefit is paid in accordance with an enterprise agreement (including its associated documents), or a collective agreement-based transitional

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## Schedule 1 Amendments

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instrument (including its associated documents), that was entered into before the commencement day; and

- (c) the agreement or instrument was in force immediately before the commencement day; and
- (d) either:
  - (i) if the nominal expiry date of the agreement or instrument has not passed before the commencement day—the benefit is paid within 6 months after the nominal expiry date for the agreement; or
  - (ii) if the nominal expiry date of the agreement or instrument passes before the commencement day—the benefit is paid before the transition day.

### *Benefits paid under another form of remuneration arrangement*

- (3) The amendments made by Schedule 1 to the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2016* do not apply to a benefit paid to a financial services licensee, or a representative of a financial services licensee, in relation to a life risk insurance product, or life risk insurance products, if:
  - (a) the benefit is paid under a remuneration arrangement between an employer and an employee; and
  - (b) the remuneration arrangement was in existence immediately before the commencement day; and
  - (c) the benefit is not paid in accordance with an enterprise agreement (including its associated documents), or a collective agreement-based transitional instrument (including its associated documents); and
  - (d) the benefit is payable in relation to a period that ends before the transition day.

- (4) In this regulation:

***nominal expiry date*** in relation to a collective agreement-based transitional instrument means:

- (a) if there is a nominal expiry date for the instrument—that date; and
- (b) if there is no nominal expiry date for the instrument—the last day of the period of the agreement.

## **7.7A.16J Life risk insurance products substantially related to existing products**

- (1) This regulation is made for subsection 1549B(3) of the Act.
- (2) The amendments made by Schedule 1 to the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2016* do not apply to a benefit paid to a financial services licensee, or a representative of a financial services licensee, in relation to a life risk insurance product issued to a person after the commencement day (the ***post-commencement product***) if:
  - (a) the person held another life risk insurance product immediately before the commencement day (the ***pre-commencement product***); and
  - (b) the person acquires the post-commencement product by exercising an option given to the person under the pre-commencement product.