



# Disclosures required by the *Fair Work (Registered Organisations) Act 2009*

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## Disclosure schemes

The *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires officers, branches and organisations to make disclosures about remuneration, non-cash benefits, and payments to related parties and declared persons or bodies.

The RO Act mandates when these disclosures must occur, how they are made and who they are made to.

These disclosures are separate and in addition to any disclosure scheme contained within an organisation's rules.

## Officer disclosures

### 1. Disclosures that must be made by all officers

Each officer of an organisation or branch must disclose to the organisation or branch if any remuneration is paid to the officer:

- because the officer is a member of a board and
  - the officer is only a member of the board because they are an officer; or
  - the officer was nominated to the board by the organisation, branch or peak body
- by a related party of the organisation or branch in connection with the officer's duties as an officer.

The disclosure must be made in writing to the committee of management

- as soon as practicable after it is paid; or



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- as part of a standing disclosure made before or as soon as practicable after the first payment.

## **2. Disclosures that must be made by ‘disclosing officers’**

A disclosing officer is an officer with duties relating to the financial management of the organisation or branch.

A disclosing officer must disclose any material personal interest that the officer has or acquires that relates to the affairs of the organisation or branch.

The disclosure must:

- be made as soon as practicable after the interest is acquired;
- include details of the nature and extent of the interest and how it relates to the affairs of the organisation or branch;
- be made at a committee of management meeting (orally or in writing) or to the committee of management members individually in writing.

## **3. Interests that do not need to be disclosed**

Officers are not required to disclose material personal interests if the interest is:

- due to the officer being a member, or representative of a member, and the interest is held in common with other members of the organisation or branch
- in relation to the officer’s remuneration as an officer
- in relation to a contract of the organisation or branch that is subject to approval by the members
- in a contract for the benefit of a related party of the organisation or branch that is a body corporate and arises merely because the officer is on the board of the related party; or
- already contained in an effective standing notice of disclosure. Section 293D of the RO Act contains information on how to make standing disclosures.

## **4. Restriction on taking part in decisions**

An officer with a material personal interest must not be present during any deliberation or take part in any decision on the matter if the interest:



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- relates to the affairs of an organisation or branch AND
- is required to be disclosed.

The officer may be present and take part in decisions if the remaining members of the committee of management have passed a resolution stating the officer should not be disqualified. The requirements of the resolution are set out in section 293F of the RO Act.

## Organisation and branch disclosures

### 5. Disclosure of top five rankings of officers

Each organisation and branch must rank all of its officers from highest to lowest by relevant remuneration and for each officer ranked no lower than fifth, disclose in relation to the financial year:

- their identity
- the actual amount of each officer's relevant remuneration; and
- the value and form of the officer's relevant non-cash benefits

Relevant remuneration and relevant non-cash benefits are defined in section 293BC of the RO Act.

It is possible that an organisation or branch will need to disclose the identity, relevant remuneration and non-cash benefits of more than five officers. This could occur where two or more officers have received the same relevant remuneration which ranks them equal first, second, third, fourth or fifth.

The disclosure must occur within the officer and related party disclosure statement.

### 6. Disclosure of material personal interests

Once an organisation or branch receives a disclosure of a material personal interest it must record it in the minutes of the meeting of the committee of management where the disclosure was made (or the first meeting after a non-meeting disclosure).

The organisation or branch must provide details of the disclosure to any member who has made a written request for them within 28 days of receiving the request.



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## 7. Disclosure of payments to related parties and declared persons or bodies

For each financial year, the organisation and branch must disclose each payment made during the financial year to:

- a related party of the organisation or branch
- a declared person or body of the organisation or branch.

The disclosure must occur within the officer and related party disclosure statement.

### Payments that do not need to be disclosed

A payment does not need to be disclosed by an organisation or branch if:

- the related party is an officer of the organisation or branch and the payment relates to remuneration or reimbursement for expenses reasonably incurred in performing their duties
- the payment arises from a deduction from remuneration paid to officers or employees
- the payment would be a reasonable 'arm's length' transaction
- the total of non-disclosable payments to the related party is less than the amount prescribed by the regulations
- the payment is made to a related party in their capacity as a member of the organisation or branch and does not discriminate unfairly against other members.

The definition of related party is found in section 9B and the definition of declared person or body is found in section 293G of the RO Act.

## The officer and related party disclosure statement

Each organisation and branch must prepare an officer and related party disclosure statement as soon as practicable after the end of the financial year. The statement must be provided to members and lodged with the General Manager of the Fair Work Commission within six months after the end of the financial year.

A template officer and related party disclosure statement is available from the Fair Work Commission's website.



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## 8. Alternative disclosure arrangements

Organisations can apply for alternative disclosure arrangements if they believe the requirements are too onerous and that special circumstances exist in relation to the organisation.

### Further information

If you require further assistance regarding the information in this fact sheet please contact the Fair Work Commission at [regorgs@fwc.gov.au](mailto:regorgs@fwc.gov.au) or call us on **1300 341 665**.

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This fact sheet is not intended to be comprehensive. The Fair Work Commission does not provide legal advice. Users must rely upon the relevant legislation, which is set out in the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* and the *Fair Work (Registered Organisations) Regulations 2009*.