



Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017

No. 6, 2017

An Act to amend the law in relation to financial products that relate to insurance, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (<https://www.legislation.gov.au/>)

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No. 6, 2017

An Act to amend the law in relation to financial products that relate to insurance, and for related purposes

[Assented to 22 February 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	22 February 2017
2. Schedule 1	1 January 2018.	1 January 2018

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Corporations Act 2001

1 At the end of subsection 912C(1A)

Add:

; and (e) may require a statement containing information to be given in a specified manner (including in electronic form).

2 Section 960

Insert:

benefit ratio, for a benefit given 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, for a year, has the meaning given by subsection 963B(3A).

3 Section 960 (definition of *conflicted remuneration*)

After “sections”, insert “963AA,”.

4 Section 960

Insert:

policy cost, for a life risk insurance product, or life risk insurance products, for a year has the meaning given by subsections 963B(3B) and (3C).

5 Section 963A (note)

After “963A,”, insert “963AA,”.

6 After section 963A

Insert:

963AA Benefits given in relation to life risk insurance products

The regulations may prescribe circumstances, in addition to those set out in section 963A, in which a benefit given 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, is ***conflicted remuneration***.

7 Subsection 963B(1)

Omit “Despite section 963A, a”, substitute “A”.

8 Paragraph 963B(1)(b)

Repeal the paragraph, substitute:

- (b) each of the following is satisfied in relation to the benefit:
 - (i) the benefit is given to the licensee or representative in relation to a life risk insurance product or life risk insurance products;
 - (ii) none of the products is a group life policy for members of a superannuation entity (see subsection (2)) or a life policy for a member of a default superannuation fund (see subsection (3));
 - (iii) either:
 - (A) the benefit ratio for the benefit is the same for the year in which the product or products are issued as it is for each year in which the product or products are continued; or
 - (B) the benefit ratio requirements and clawback requirements in section 963BA are satisfied in relation to the benefit;
- (ba) the benefit is given to the licensee or representative in relation to consumer credit insurance;

9 Paragraph 963B(1)(c)

After “each of the following is satisfied”, insert “in relation to a financial product other than a life risk insurance product”.

10 Subparagraph 963B(1)(c)(i)

Omit “a financial product”, substitute “the financial product”.

11 After subsection 963B(3) (after the note)

Insert:

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- (3A) The ***benefit ratio*** for a benefit given 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, for a year is the ratio between:
- (a) the benefit; and
 - (b) the policy cost payable for the product or products, or that part of the policy cost payable for the product or products to which the benefit relates, for the year.
- (3B) The ***policy cost*** for a life risk insurance product, or products, for a year is the sum of:
- (a) the premiums payable for the product, or products, for that year; and
 - (b) any fees payable for that year to the issuer of the product or products for that issue; and
 - (c) any additional fees payable because the premium for the product, or products, is paid periodically rather than in a lump sum; and
 - (d) any other amount prescribed by the regulations for the purposes of this paragraph.
- (3C) However, the ***policy cost*** for a life risk insurance product, or products, does not include any amount prescribed by the regulations for the purposes of this subsection.

12 At the end of section 963B

Add:

- (5) This section applies despite section 963A and any regulations made for the purposes of section 963AA.

13 After section 963B

Insert:

963BA Benefit ratio and clawback requirements

Benefit ratio requirements

- (1) The ***benefit ratio requirements*** are satisfied in relation to a benefit given 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 the benefit ratio for the benefit for:

- (a) the year in which the product or products are issued; and
- (b) each year during which the product or products are continued;

is equal to or less than that determined by ASIC under subsection (2) as an acceptable benefit ratio for that year.

- (2) ASIC may, by legislative instrument, determine an acceptable benefit ratio, or a way of working out an acceptable benefit ratio, for a benefit for a year.

Clawback requirements

- (3) The ***clawback requirements*** are satisfied in relation to a benefit given 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 arrangement under which the benefit is payable includes an obligation to repay all or part of the benefit if:
 - (i) the product, or one of the products, is cancelled or is not continued, other than because a claim is made under the insurance policy or because other prescribed circumstances exist; or
 - (ii) the policy cost for the product, or one of the products, during a year or across 2 years is reduced, other than in prescribed circumstances;within 2 years after the product is first issued to a retail client; and
 - (b) the amount to be repaid under the obligation is equal to or greater than the amount determined by ASIC under subsection (4) as an acceptable repayment.
- (4) ASIC may, by legislative instrument, determine the amount, or a way of working out the amount, that is an acceptable repayment for the purposes of paragraph (3)(b).

14 Subsection 963C(1)

Omit “Despite section 963A, a”, substitute “A”.

15 At the end of section 963C

Add:

- (3) This section applies despite section 963A and any regulations made for the purposes of section 963AA.

16 At the end of section 963D

Add:

- (4) This section applies despite section 963A and any regulations made for the purposes of section 963AA.

17 After Part 10.24

Insert:

**Part 10.24A—Transitional provisions relating to
the Corporations Amendment (Life
Insurance Remuneration Arrangements)
Act 2017**

1549A Definitions

In this Part:

amending Act means the *Corporations Amendment (Life Insurance Remuneration Arrangements) Act 2017*.

commencement day means the day on which Schedule 1 to the amending Act commences.

1549B Applications of amendments relating to life risk insurance products

- (1) Subject to subsections (2), (3) and (4), the amendments made by Schedule 1 to the amending Act apply to a benefit given to a financial services licensee, or a representative of a financial services licensee, under an arrangement entered into before, on or after the commencement day.

- (2) The amendments made by Schedule 1 to the amending Act do not apply to a benefit given to a financial services licensee, or a representative of a financial services licensee, in relation to a life risk insurance product if:
- (a) the life risk insurance product is issued before the commencement day; or
 - (b) the application for the issue of the life risk insurance product is made before the commencement day and the product is issued within 3 months after the commencement day.

Note: This means that if a benefit is given in relation to a group of life risk insurance products, some of which were issued before the commencement day and some after, the products issued before the commencement day, or in circumstances covered by paragraph (2)(b), would be ignored for the purposes of applying the amendments.

- (3) The regulations may prescribe circumstances in which the amendments made by Schedule 1 to the amending Act apply, or do not apply, to a benefit given to a financial services licensee or a representative of a financial services licensee.
- (4) Despite any other provision of this section or the regulations, the amendments made by Schedule 1 to the amending Act do not apply to a benefit given to a financial services licensee, or a representative of a financial services licensee, to the extent that the operation of those amendments would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph of the Constitution).

*[Minister's second reading speech made in—
House of Representatives on 12 October 2016
Senate on 30 November 2016]*

(152/16)
