

*When the deduction is authorised, it may still be unreasonable depending on other circumstances.*

## **Division 2—Payment of wages etc.**

### **323 Method and frequency of payment**

- (1) An employer must pay an employee amounts payable to the employee in relation to the performance of work:
  - (a) in full (except as provided by section 324); and

### **324 Permitted deductions**

- (1) An employer may deduct an amount from an amount payable to an employee in accordance with subsection 323(1) if:
  - (a) the deduction is authorised in writing by the employee and is principally for the employee's benefit; or
  - (b) the deduction is authorised by the employee in accordance with an enterprise agreement; or
  - (c) the deduction is authorised by or under a modern award or an FWC order; or
  - (d) the deduction is authorised by or under a law of the Commonwealth, a State or a Territory, or an order of a court.

Note 1: A deduction in accordance with a salary sacrifice or other arrangement, under which an employee chooses to:

- (a) forgo an amount payable to the employee in relation to the performance of work; but
  - (b) receive some other form of benefit or remuneration;
- will be permitted if it is made in accordance with this section and the other provisions of this Division.

Note 2: Certain terms of modern awards, enterprise agreements and contracts of employment relating to deductions have no effect (see section 326). A deduction made in accordance with such a term will not be authorised for the purposes of this section.

- (2) An authorisation for the purposes of paragraph (1)(a):
  - (a) must specify the amount of the deduction; and
  - (b) may be withdrawn in writing by the employee at any time.
- (3) Any variation in the amount of the deduction must be authorised in writing by the employee.

### **326 Certain terms have no effect**

#### *Unreasonable deductions for benefit of employer*

- (1) A term of a modern award, an enterprise agreement or a contract of employment has no effect to the extent that the term permits, or has the effect of permitting, an employer to deduct an amount from an amount that is payable to an employee in relation to the performance of work, if the deduction is:

- (a) directly or indirectly for the benefit of the employer or a party related to the employer; and
- (b) unreasonable in the circumstances.

(2) The regulations may prescribe circumstances in which a deduction referred to in subsection (1) is or is not reasonable.

(1) For subsection 326(2) of the Act, a circumstance in which a deduction mentioned in subsection 326(1) of the Act is reasonable is that:

- (a) the deduction is made in respect of the provision of goods or services:
  - (i) by an employer, or a party related to the employer; and
  - (ii) to an employee; and
- (b) the goods or services are provided in the ordinary course of the business of the employer or related party; and
- (c) the goods or services are provided to members of the general public on:
  - (i) the same terms and conditions as those on which the goods or services were provided to the employee; or
  - (ii) on terms and conditions that are not more favourable to the members of the general public.

Example 1: A deduction of health insurance fees made by an employer that is a health fund.

Example 2: A deduction for a loan repayment made by an employer that is a financial institution.