

EXPLANATORY STATEMENT

Statutory Rules 2003 No.82

Issued by the authority of the Minister for Employment and Workplace Relations

WORKPLACE RELATIONS (REGISTRATION AND ACCOUNTABILITY OF ORGANISATIONS) REGULATIONS 2003

The *Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002* created a new Schedule 1B to the *Workplace Relations Act 1996* (the WR Act), entitled the Registration and Accountability of Organisations Schedule (the RAO Schedule). The RAO Schedule will commence on 12 May 2003. The RAO Schedule incorporates all legislative provisions relating to regulation of the internal affairs of registered organisations of employees and employers.

To a large extent the RAO Schedule replicates current provisions of the WR Act concerning registered organisations. The Schedule also makes a number of technical changes concerning the registration of organisations, the amalgamation and withdrawal from amalgamation of organisations, the rules of organisations, the conduct of elections for offices in registered organisations, and the financial accounting and reporting responsibilities of organisations, and establishes statutory duties upon officials and employees of organisations.

Upon commencement, section 359 of the RAO Schedule will provide that the Governor-General may make regulations prescribing all matters required or permitted by the RAO Schedule to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the RAO Schedule. Section 4 of the *Acts Interpretation Act 1901* allows the Governor-General to exercise the power to make regulations under the RAO Schedule before the RAO Schedule comes into operation.

The purpose of the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* (WR(RAO) Regulations) is to complement the RAO Schedule introduced by the WR(RAO) Act. Many of the regulations replicate, with appropriate amendments, the current regulations in the *Workplace Relations Regulations* (WR Regulations) dealing with registered organisations.

The WR(RAO) Regulations deal with procedures relating to documents, registration and cancellation of registration of organisations, amalgamation and withdrawal from amalgamation, rules and membership of organisations, democratic control of organisations, records and accounts, and civil penalty provisions.

The regulations are divided into 10 Parts.

Part 1 (Preliminary) contains preliminary matters, such as the name of the regulations, prescribed forms, definitions and the commencement date of the regulations. The regulations will commence on 12 May 2003, to coincide with the commencement date of the RAO Schedule.

Part 2 (Documents) contains general provisions regarding documents, such as the making, signing, lodgement, service and publication of documents. It also provides general provisions regarding the supply of copies of documents, sending documents to an association or organisation and the inspection of documents.

Part 3 (Registration and cancellation of registration) contains regulations relating to provisions in Chapter 2 of the RAO Schedule.

Division 1 sets out procedural requirements for the registration of employee and employer organisations, including the application process, objections to registration, withdrawal of applications, hearing processes and issue of certificates of registration.

Division 2 sets out the procedural requirements for the cancellation of registration on technical grounds by the Australian Industrial Relations Commission; for example, when an organisation is defunct.

Part 4 (Amalgamation and withdrawal of amalgamation) contains regulations relating to provisions in Chapter 3 of the RAO Schedule.

Division 1 sets out procedural requirements for applications for amalgamation, including objections to amalgamations, the conduct of amalgamation ballots, inquiries into ballots by the Federal Court and the date of effect of an amalgamation.

Division 2 sets out procedural requirements for applications by a constituent part of an organisation to withdraw from an amalgamated organisation, including the conduct of withdrawal from amalgamation ballots, inquiries into ballots by the Federal Court and the registration of a constituent part as an organisation under the RAO Schedule.

Division 3 contains civil penalty provisions for unauthorised action in relation to ballots conducted under Chapter 3 of the RAO Schedule.

Part 5 (Rules of organisations) contains regulations relating to provisions in Chapter 5 of the RAO Schedule.

Division 1 sets out the procedural requirements for seeking an exemption from conducting all elections by secret postal ballot, the process for alteration of rules and for applications by organisations to change their name or eligibility rules.

Division 2 sets out a process to ensure that an organisation is given an opportunity to be heard in relation to the proposed variation of a rule found to contravene section 142 of the RAO Schedule (which sets out general requirements for the rules of organisations).

Part 6 (Membership of organisations) relates to section 180 of the RAO Schedule, and sets out the process for the grant of a certificate of conscientious objection to membership of an organisation.

Part 7 (Democratic control) contains regulations relating to provisions in Chapter 7 of the RAO Schedule.

Division 1 deals with the conduct of elections for positions in an organisation, including applications by organisations to conduct their own elections, prescribed information to be supplied to the Industrial Registrar for elections conducted by the Australian Electoral Commission, post-election reporting requirements, and inquiries by the Federal Court into elections.

Division 2 contains a civil penalty provision for unauthorised action in relation to elections conducted by the Australian Electoral Commission under Part 2 of Chapter 7 of the RAO Schedule.

Part 8 (Records and accounts) contains regulations relating to provisions in Chapter 8 of the RAO Schedule. These regulations concern the financial and reporting requirements for organisations, including information to be lodged with the Industrial Registrar, the process for determining reporting units, information to be contained in operating and concise reports, financial and accounting records to be provided to members, and the granting of exemptions from reporting requirements.

Part 9 (Civil consequences of contravening civil penalty provisions) contains regulations setting out the process by which civil penalty provisions in the Regulations can be enforced. These regulations mirror the civil penalty provisions in Chapter 10 of the RAO Schedule. The regulations set out the penalties for contravention of civil penalty provisions in these Regulations, the orders that the Federal Court may make, and who may apply for these orders.

Part 10 (Miscellaneous) contains regulations relating to provisions in Chapter 11 of the RAO Schedule. It deals with miscellaneous matters, including the general powers of Industrial Registrars and procedural requirements in relation to matters before Registrars and the Australian Industrial Relations Commission, as well as setting out who has authorisation to act for certain persons in the Regulations and the RAO Schedule.

Schedule 1 (Forms) contains forms relating to matters dealt with in these Regulations.