



Workplace Relations (Registration and Accountability of Organisations) Amendment Regulations 2006 (No. 1)¹

Select Legislative Instrument 2006 No. 51

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Workplace Relations Act 1996*.

Dated 17 March 2006

P. M. JEFFERY
Governor-General

By His Excellency's Command

KEVIN ANDREWS
Minister for Employment and Workplace Relations

1 Name of Regulations

These Regulations are the *Workplace Relations (Registration and Accountability of Organisations) Amendment Regulations 2006 (No. 1)*.

2 Commencement

These Regulations commence on the commencement of Schedule 5 to the *Workplace Relations Amendment (Work Choices) Act 2005*.

Note Schedule 5 renumbers the *Workplace Relations Act 1996* so that the amended Act is sequentially numbered from section 1.

3 Amendment of *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003*

Schedule 1 amends the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003*.

Schedule 1 Amendments

(regulation 3)

[1] Regulation 4

omit

For the definition

insert

(1) For the definition

[2] Regulation 4

insert

- (2) However, a person whose registration as an auditor has been suspended under the *Corporations Act 2001* is not an approved auditor while the suspension is in force.

[3] Paragraph 26 (b)

substitute

- (b) a workplace inspector.

[4] Subparagraph 33 (a) (i)

omit

187 (1)

insert

119 (1)

[5] Subregulation 80 (1), definition of *Judge*

omit

[6] Paragraph 83 (l)

omit

amalgamated organisation;

insert

amalgamated organisation.

[7] Paragraph 83 (m)

omit

[8] Paragraph 84 (1) (a)

omit

the Federal Court,

insert

the Commission,

[9] Paragraph 84 (1) (b)

omit

the Federal Court

insert

the Commission

[10] Paragraph 84 (1) (c)

omit

the Federal Court

insert

the Commission

[11] Paragraph 84 (2) (a)

omit

the Federal Court

insert

the Commission

[12] Paragraph 84 (2) (b)

omit

the Federal Court

insert

the Commission

[13] Regulation 85

substitute

**85 Industrial Registrar to supply copies of question
(RAO Schedule, s 102 (1))**

If an application is made for approval for a withdrawal from the amalgamated organisation to be put to ballot, the Industrial Registrar must, as soon as practicable, give the AEC a copy of the question proposed to be put to ballot.

[14] Subregulation 86 (1)

omit

the Federal Court

insert

the Commission

[15] Paragraph 88 (2) (a)

omit

the Federal Court

insert

the Commission

[16] Subregulation 102 (1)

omit

the Federal Court

insert

the Commission

[17] Paragraph 102 (1) (a)

omit

the Federal Court Rules

insert

the Rules of the Commission

[18] Regulation 103

omit

the Federal Court or a Judge

insert

the Commission

[19] Regulation 103

omit

the Federal Court or the Judge

insert

the Commission

[20] Subregulation 104 (1)

omit

the Federal Court or a Judge

insert

the Commission

[21] Subregulations 105 (1), (2) and (3)*omit*

The Federal Court

insert

The Commission

[22] Subregulation 106 (1)*omit each mention of*

the Federal Court

insert

the Commission

[23] Subregulation 106 (3)*omit*

the Federal Court

insert

the Commission

[24] Paragraph 111 (b)*substitute*

(b) a workplace inspector.

[25] After Part 4*insert***Part 4A Representation orders
(RAO Schedule, Ch 4)****114A Representation rights of former State-registered association subject to demarcation order — transitional registration without demarcation order and no previous order under Chapter 4 of the RAO Schedule (RAO Schedule, section 138A)**

- (1) For subsection 138A (1) of the RAO Schedule, this regulation explains the way in which Chapter 4 of that Schedule applies in relation to an organisation if:
 - (a) immediately before the reform commencement:
 - (i) it was a State-registered association; and
 - (ii) a State demarcation order was in force in relation to it; and
 - (b) it became a transitionally registered association; and
 - (c) no demarcation order of a kind similar to the State demarcation order was made in relation to the organisation:
 - (i) while it was a transitionally registered association; or
 - (ii) under section 133 of the RAO Schedule.
- (2) Chapter 4 applies in relation to the organisation as if the Chapter:
 - (a) required the Commission to make an order to the same effect as the State demarcation order mentioned in subparagraph (1) (a) (ii); and
 - (b) permitted the Commission:
 - (i) to make orders under that Chapter about the representation rights of the association without the existence of a demarcation dispute; and

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- (ii) to disregard any requirement in that Chapter to have regard to:
 - (A) the existence of a demarcation dispute; or
 - (B) any matter relating to the existence of a demarcation dispute.
 - (3) The order:
 - (a) may be made with changes from the text of the State demarcation order mentioned in subparagraph (1) (a) (ii) that the Commission considers necessary to reflect the language and content of the Act and the RAO Schedule; and
 - (b) must be the same in substance as the State demarcation order mentioned in subparagraph (1) (a) (ii); and
 - (c) may be subject to conditions or limitations.
 - (4) For subregulation (2), sections 134, 135 and 138 of the RAO Schedule are taken not to apply in relation to the organisation.

114B Representation rights of former State-registered associations subject to demarcation order — no transitional registration and no previous order under Chapter 4 of the RAO Schedule (RAO Schedule, section 138A)

- (1) For subsection 138A (1) of the RAO Schedule, this regulation explains the way in which Chapter 4 of that Schedule applies in relation to an organisation if:
 - (a) immediately before the reform commencement:
 - (i) it was a State-registered association; and
 - (ii) a State demarcation order was in force in relation to it; and
 - (b) it did not become a transitionally registered association; and
 - (c) no demarcation order of a kind similar to the State demarcation order was made in relation to the organisation under section 133 of the RAO Schedule.

- (2) Chapter 4 applies in relation to the organisation as if the Chapter:
 - (a) required the Commission to make an order to the same effect as the State demarcation order mentioned in subparagraph (1) (a) (ii); and
 - (b) permitted the Commission:
 - (i) to make orders under that Chapter about the representation rights of the association without the existence of a demarcation dispute; and
 - (ii) to disregard any requirement in that Chapter to have regard to:
 - (A) the existence of a demarcation dispute; or
 - (B) any matter relating to the existence of a demarcation dispute.
- (3) The order:
 - (a) may be made with changes from the text of the State demarcation order mentioned in subparagraph (1) (a) (ii) that the Commission considers necessary to reflect the language and content of the Act and the RAO Schedule; and
 - (b) must be the same in substance as the State demarcation order mentioned in subparagraph (1) (a) (ii); and
 - (c) may be subject to conditions or limitations.
- (4) For subregulation (2), sections 134, 135 and 138 of the RAO Schedule are taken not to apply in relation to the organisation.

114C Representation rights of former State-registered associations subject to demarcation order — transitional registration with demarcation order and no previous order under Chapter 4 of the RAO Schedule (RAO Schedule, section 138A)

- (1) For subsection 138A (1) of the RAO Schedule, this regulation explains the way in which Chapter 4 of that Schedule applies in relation to an organisation if:
 - (a) immediately before the reform commencement:
 - (i) it was a State-registered association; and

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- (ii) a State demarcation order was in force in relation to it; and
 - (b) it became a transitionally registered association; and
 - (c) a demarcation order of a kind similar to the State demarcation order was made in relation to the organisation when it was a transitionally registered association; and
 - (d) no demarcation order of a kind similar to the State demarcation order was made in relation to the organisation under section 133 of the RAO Schedule.
 - (2) Chapter 4 applies in relation to the organisation as if the Chapter:
 - (a) required the Commission to make an order to the same effect as the demarcation order mentioned in paragraph (1) (c); and
 - (b) permitted the Commission:
 - (i) to make orders under that Chapter about the representation rights of the association without the existence of a demarcation dispute; and
 - (ii) to disregard any requirement in that Chapter to have regard to:
 - (A) the existence of a demarcation dispute; or
 - (B) any matter relating to the existence of a demarcation dispute.
 - (3) The order:
 - (a) may be made with changes from the text of the State demarcation order mentioned in subparagraph (1) (a) (ii) that the Commission considers necessary to reflect the language and content of the Act and the RAO Schedule; and
 - (b) must be the same in substance as the State demarcation order mentioned in subparagraph (1) (a) (ii); and
 - (c) may be subject to conditions or limitations.
 - (4) For subregulation (2), sections 134, 135 and 138 of the RAO Schedule are taken not to apply in relation to the organisation.

114D Representation rights of former State-registered association involved in proceedings regarding representation rights in a State or Territory immediately before the reform commencement (RAO Schedule, section 138A)

- (1) For subsection 138A (1) of the RAO Schedule, this regulation explains the way in which Chapter 4 of that Schedule applies in relation to an organisation if:
 - (a) immediately before the reform commencement:
 - (i) it was a State-registered association that was party to proceedings concerning representation rights under a State or Territory industrial law; and
 - (ii) no order regarding the representation rights of it and the other parties to the proceedings had been made by the court or tribunal hearing the proceedings; and
 - (b) the organisation is involved in proceedings before the Commission concerning the dispute which gave rise to the proceedings mentioned at subparagraph (a) (i).
- (2) Chapter 4 applies in relation to the organisation as if the Chapter required the Commission to have regard to any evidence that was given in the proceedings mentioned at subparagraph (1) (a) (i).

Note The Commission may treat the evidence which was before the State tribunal as being before the Commission.

[26] Schedule 1, Form 5

omit

members of the Union.

insert

members of the Organisation.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.