



Workplace Relations (Registration and Accountability of Organisations) Amendment Regulations 2003 (No. 1)¹

Statutory Rules 2003 No. 351²

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 section 359 of Schedule 1B to the *Workplace Relations Act 1996*.

Dated 18 December 2003

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 2003 (No. 1)*.

2 Commencement

These Regulations commence on gazettal.

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] Subregulations 15 (1) and (2)

omit each mention of

indorsed

insert

endorsed

[2] Paragraph 25 (2) (a)

after

withdrawal

insert

, and

[3] After subregulation 31 (3)

insert

- (4) If, after a replacement certificate has been issued under subsection 26 (6) of the RAO Schedule, the organisation finds the certificate that was thought to have been lost or destroyed, the organisation must surrender the certificate that was thought to have been lost or destroyed to the Industrial Registrar.

[4] Subregulation 34 (4)

omit

subregulation (2),

insert

subregulation (3),

[5] Subregulation 35 (3)

omit

1 of the grounds

insert

one of the grounds

[6] Paragraph 67 (4) (d)

omit

subregulation 60 (7); or

insert

subregulation 60 (7).

[7] Paragraph 67 (4) (e)

omit

[8] Subregulation 68 (9)

after

subregulation (8)

insert

not later than 21 days after the AEC has become aware of the possible contravention

[9] Paragraph 69 (1) (d)

after

official

insert

by the closing day of the ballot

[10] Subregulation 87 (3)

after

subregulation (2)

insert

not later than 21 days after the AEC has become aware of the possible contravention

[11] Paragraph 96 (3) (d)

omit

(b); or

insert

(b).

[12] Paragraph 96 (3) (e)

omit

[13] Subregulation 97 (11)

after

subregulation (10)

insert

not later than 21 days after the AEC has become aware of the possible contravention

[14] After subregulation 98 (4)

insert

- (5) An organisation that does not have a web site must, as soon as practicable after receiving a report mentioned in paragraph (2) (a), publish a notice of the availability of the report in a manner that is reasonably accessible to the organisation's members.

Examples

- 1 Publishing the notice in a public notice in a newspaper.
- 2 Publishing the notice in the organisation's official union journal.

[15] Subregulation 112 (3)

after

subregulation (2)

insert

not later than 21 days after the AEC has become aware of the possible contravention

[16] Subregulation 113 (2)

after

subregulation (1)

insert

not later than 21 days after the AEC has become aware of the possible contravention

[17] After subregulation 115 (3)

insert

- (4) A notice published under subregulation (3) must remain on the web site until:
- (a) the application mentioned in subregulation (1) or (2) is rejected by the Industrial Registrar; or
 - (b) the Industrial Registrar revokes an exemption under subsection 144 (6) of the RAO Schedule, relating to the application mentioned in subregulation (1) or (2).
- (5) An organisation that does not have a web site must publish a notice that it has lodged the application mentioned in subregulation (1) or (2) in a manner that is reasonably accessible to the organisation's members.

Examples

- 1 Publishing the notice in a public notice in a newspaper.
- 2 Publishing the notice in the organisation's official union journal.

[18] Paragraph 140 (1) (c)

omit

date

insert

day

[19] Paragraph 140 (1) (d)

after

official

insert

by the closing day of the ballot

[20] After subregulation 141 (4)

insert

- (5) A notice published under subregulation (4) must remain on the web site until the end of the period in which an application may be made under subregulation 143 (1).
- (6) An organisation that does not have a web site must, as soon as practicable after receiving the post-election report, publish a notice that a copy of the report is available from the organisation or branch, or from the AEC, on the request of a member who was eligible to vote in the election.
- (7) The notice mentioned in subregulation (6) must be published in a manner that is reasonably accessible to the organisation's members.

Examples

- 1 Publishing the notice in a public notice in a newspaper.
- 2 Publishing the notice in the organisation's official union journal.

[21] Subregulation 142 (1)

after

Schedule

insert

not later than 21 days after the AEC has become aware of the possible contravention

[22] Subregulation 145 (2)

after

subregulation (1)

insert

not later than 21 days after the AEC has become aware of the possible contravention

[23] Subregulation 152 (2)

substitute

- (2) The Industrial Registrar must be of the opinion that the notice mentioned in subregulation (1) is likely to come to the attention of persons likely to be affected by the proposed amalgamation.
- (3) A reference to a particular Australian Accounting Standard in subsection 241 (1) of the RAO Schedule includes a reference to a part of that standard.

[24] After subregulation 153 (2)

insert

- (3) A notice published under subregulation (2) must remain on the web site until:
 - (a) the application mentioned in subregulation (1) is rejected by the Industrial Registrar; or
 - (b) the Industrial Registrar revokes a certificate under subsection 249 (1) of the RAO Schedule, relating to the application mentioned in subregulation (1).
- (4) An organisation that does not have a web site must publish a notice that it has lodged the application mentioned in subregulation (1) in a manner that is reasonably accessible to the organisation's members.

Examples

- 1 Publishing the notice in a public notice in a newspaper.
- 2 Publishing the notice in the organisation's official union journal.

[25] **After Part 10**

insert

Part 11 Consequential provisions

182 Information to be provided to members or Registrar (RAO Schedule, s 272 (1) (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*))

- (1) For subsection 272 (1) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*), an application to an organisation must be:
 - (a) addressed to the secretary, or any other executive officer, of the organisation; and
 - (b) delivered by hand at, or sent by pre-paid post to, the office of the organisation.
- (2) For subsection 272 (1) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*), the following information in relation to an organisation, being information relating to the financial year of the organisation for which accounts and statements were last prepared in accordance with subsection 273 (1) or 285 (5) of the Act (as in force before the commencement of the RAO Schedule), is prescribed information in relation to the organisation:
 - (a) for a compulsory levy raised by the organisation, other than a levy for which the organisation has, during the financial year, operated a special fund or account:
 - (i) the purpose for which the levy was raised; and
 - (ii) the total amount received by the organisation;

- (b) for a collection by the organisation of voluntary contributions made by the members for the furtherance of a particular purpose, other than voluntary contributions for which the organisation has, during the financial year, operated a special fund or account:
 - (i) the purpose for which the contributions were collected; and
 - (ii) the total amount received by the organisation as voluntary contributions for the furtherance of that purpose;
- (c) for a donation or grant of more than \$1 000 made to the organisation:
 - (i) if the donation or grant was made for a specified purpose — that purpose; and
 - (ii) the amount of the donation or grant;
- (d) for a compulsory levy imposed on the organisation:
 - (i) the purpose for which the levy was imposed; and
 - (ii) the total amount paid by the organisation;
- (e) for a donation or grant of more than \$1 000 made by the organisation:
 - (i) the purpose for which the donation or grant was made; and
 - (ii) the amount of the donation or grant; and
 - (iii) if the donation or grant is not a prescribed donation or grant — the name and address of the person to whom the donation or grant was made;
- (f) for an amount of more than \$1 000 received or paid by the organisation (other than an amount included in an amount mentioned in a subparagraph of paragraph 107 (a) of the *Workplace Relations Regulations 1996* (as in force before the commencement of the RAO Schedule) in relation to the organisation):
 - (i) the purpose for which the amount was received or paid by the organisation; and
 - (ii) the amount received or paid by the organisation; and
 - (iii) the name and address of the person from whom the amount was received or to whom the amount was paid;

- (g) the amount paid as remuneration to the holder of an office in the organisation;
- (h) for a sale or revaluation of an asset of the organisation that has resulted in a profit or loss of more than \$1 000:
 - (i) a description of the asset sold or revalued; and
 - (ii) for a revaluation of an asset — the reason for which the asset was revalued; and
 - (iii) the amount of the profit made or the loss incurred;
- (i) for a loan of more than \$1 000 made by the organisation:
 - (i) the purpose for which the loan was made; and
 - (ii) the amount of the loan; and
 - (iii) the security given for the loan; and
 - (iv) if the loan is not a prescribed loan — the name and address of the person to whom the loan was made and the arrangements made for the repayment of the loan;
- (j) the total amount paid by the organisation for investments (other than investments in Government, municipal or other public debentures, stock or bonds) made by the organisation during the financial year;
- (k) for an investment (other than an investment in Government, municipal or other public debentures, stock or bonds) held by the organisation at the end of the financial year, being an investment the book value of which, as at the end of that financial year, is more than the greater of \$1 000 and 20% of the total book value of all such investments held by the organisation at the end of that financial year:
 - (i) a description of the investment; and
 - (ii) the book value of the investment as at the end of the financial year; and
 - (iii) if applicable, the quoted market value of the investment as at the end of the financial year;

- (l) for an asset (other than an asset included in a class of assets mentioned in a subparagraph of paragraph 107 (b) of the *Workplace Relations Regulations 1996* (as in force before the commencement of the RAO Schedule)) held by the organisation at the end of the financial year, the book value of which, as at the end of the financial year, is more than the greater of \$1 000 and 5% of the total book value of all the assets held by the organisation at the end of the financial year:
 - (i) a description of the asset; and
 - (ii) the book value of the asset as at the end of the financial year;
- (m) for a loan of more than \$10 000 received by the organisation:
 - (i) the purpose for which the loan was received; and
 - (ii) the amount of the loan; and
 - (iii) the name and address of the person from whom the loan was received; and
 - (iv) the security given for the loan; and
 - (v) the arrangements made for the repayment of the loan;
- (n) for an amount held by the organisation as provision for one of the following purposes:
 - (i) the payment of annual leave entitlements to its officers and employees;
 - (ii) the payment of long service leave entitlements to its officers and employees;
 - (iii) the payment of superannuation or retirement benefits to its officers and employees;the number of officers and employees for whom the amount so held provides;
- (o) for a contingent liability of the organisation as at the end of the financial year, being a contingent liability the amount of which has been ascertained and is more than 5% of the net value of the assets of the organisation as at the end of the financial year:
 - (i) a description of the liability; and
 - (ii) the amount for which the organisation is liable;

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- (p) for a liability of the organisation (other than a liability included in a class of liabilities mentioned in a subparagraph of paragraph 107 (b) of the *Workplace Relations Regulations 1996* (as in force before the commencement of the RAO Schedule)) outstanding at the end of the financial year involving an amount of more than 5% of the total amount of the other liabilities of the organisation as at the end of the financial year:
- (i) a description of the liability; and
 - (ii) the amount for which the organisation is liable;
- (q) for a fund or account operated by the organisation for a compulsory levy raised by the organisation or for voluntary contributions collected from the members of the organisation:
- (i) the purpose for which the levy was raised or the voluntary contributions collected; and
 - (ii) if applicable, the amount of the balance of the fund or account at the commencement of the financial year; and
 - (iii) whether any amounts were transferred to the fund or account from any other fund or account operated by the organisation and, if any amounts were so transferred, a description of each fund or account from which amounts were so transferred and the amount transferred from each fund or account; and
 - (iv) the total amount paid by the members of the organisation for the levy or as voluntary contributions; and
 - (v) the total amount of payments made out of the fund or account in furtherance of the purpose for which the levy was raised or the voluntary contributions collected; and
 - (vi) whether any payment was made out of the fund or account in furtherance of a purpose other than the purpose for which the levy was raised or the voluntary contributions collected and, if any payment was so made, the amount of each payment and the purpose for which it was made; and

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- (vii) whether any amounts were transferred from the fund or account to any other fund or account operated by the organisation and, if any amounts were so transferred, a description of each fund or account to which the amounts were transferred and the amount transferred to each fund or account; and
 - (viii) in respect of:
 - (A) each payment details of which are given in accordance with subparagraph (vi); and
 - (B) each transfer details of which are given in accordance with subparagraph (vii);the designation within the organisation of the person who approved the payment or transfer and the date on which the approval was given; and
 - (ix) the amount of the balance of the fund or account at the end of the financial year or, for a fund or account that the organisation ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets;
 - (r) for a fund (other than the general fund or a fund mentioned in paragraph (q)) the operation of which is required by the rules of the organisation:
 - (i) the purpose for which the fund was operated; and
 - (ii) if applicable, the amount of the balance of the fund at the beginning of the financial year; and
 - (iii) whether any amounts were transferred to the fund from any other fund or any account operated by the organisation and, if any amounts were so transferred, a description of each fund or account from which amounts were so transferred and the amount transferred from each fund or account; and
 - (iv) the total of the amounts, other than amounts mentioned in subparagraph (iii), paid into the fund; and
 - (v) the total amount of payments made out of the fund in furtherance of the purpose for which the fund was operated; and

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- (vi) whether any payment was made out of the fund in furtherance of a purpose other than the purpose for which the fund was operated and, if any payment was so made, the amount of each payment and the purpose for which it was made; and
 - (vii) whether any amounts were transferred from the fund to any other fund or any account operated by the organisation and, if any amounts were so transferred, a description of each fund or account to which the amounts were transferred and the amount transferred to each fund or account; and
 - (viii) in respect of:
 - (A) each payment details of which are given in accordance with subparagraph (vi); and
 - (B) each transfer details of which are given in accordance with subparagraph (vii);the designation within the organisation of the person who approved the payment or transfer and the date on which the approval was given; and
 - (ix) the amount of the balance of the fund at the end of the financial year or, for a fund that the organisation ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets; and
 - (x) the amount paid for payroll deduction services provided by the employer of the member:
 - (A) who made an application under subsection 272 (1) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*); or
 - (B) on whose behalf the application was made.

- (3) In subregulation (2):
- (a) a reference to a person includes a reference to any body whether corporate or unincorporated; and
 - (b) a reference to a prescribed donation or grant, or to a prescribed loan, is a reference to a donation or grant made, or a loan granted, by an organisation to a member of the organisation on the certification of the officer of the organisation authorising the donation, grant or loan that the officer was satisfied, from investigations made by the officer, that the donation, grant or loan was necessary to relieve the member or a dependant of the member from severe financial hardship.
- (4) For paragraph (2) (f), a member must:
- (a) specify the nature of any transaction for which the amount was received or paid; and
 - (b) provide any other information the member has to assist the organisation to identify in its financial records the information applied for under subsection 272 (1) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*).
- (5) Any information that must be made available to a member of an organisation, or to a Registrar, under subsection 272 (3) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*):
- (a) must be in writing signed by the secretary, or any other executive officer, of the organisation; and
 - (b) must:
 - (i) if the application was made by a Registrar — be delivered by hand at, or sent by prepaid post to, the office of that Registrar; or
 - (ii) if the application was made by a member of the organisation and specifies an address for the member — be sent by prepaid post to that address; or

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- (iii) in any other case — be left for collection at the office of the organisation.

[26] Schedule 1, Form 2, section headed ‘PARTICULARS’, after item 4

insert

Note Section 95 of the RAO Schedule requires that this application must be accompanied by a fair and accurate written outline of the proposal to withdraw from the amalgamation.

[27] Further amendments

The following provisions are amended by omitting ‘1’ and inserting ‘one’:

- paragraph 16 (4) (b)
- paragraphs 36 (3) (a) and (b)
- paragraph 39 (c)
- paragraph 40 (1) (c)
- paragraph 45 (1) (a)
- paragraph 49 (c)
- regulation 58
- paragraph 63 (a)
- paragraph 78 (1) (a)
- subregulation 80 (1), definition of *applicant*, paragraph (a)
- paragraph 107 (2) (a)
- paragraph 134 (1) (a)
- paragraph 138 (1) (c)
- paragraph 152 (1) (b).

Notes

1. These Regulations amend Statutory Rules 2003 No. 82.
2. Notified in the *Commonwealth of Australia Gazette* on 23 December 2003.