



# **Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002**

**No. 105, 2002**

**An Act to deal with matters consequential on the  
enactment of the *Workplace Relations Amendment  
(Registration and Accountability of Organisations)  
Act 2002*, and for other purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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**An Act to deal with matters consequential on the  
enactment of the *Workplace Relations Amendment  
(Registration and Accountability of Organisations)  
Act 2002*, and for other purposes**

*[Assented to 14 November 2002]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Workplace Relations Legislation  
Amendment (Registration and Accountability of Organisations)  
(Consequential Provisions) Act 2002*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	14 November 2002
2. Schedules 1 and 2	A single day to be fixed by Proclamation, subject to subsection (3)	12 May 2003 ( <i>Gazette</i> 2002, No. GN49)
3. Schedule 3, items 1, 2 and 3	At the same time as the provisions covered by item 2 of this table	12 May 2003
4. Schedule 3, items 4 and 5	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
5. Schedule 3, items 6 and 7	At the same time as the provisions covered by item 2 of this table	12 May 2003
6. Schedule 3, item 8	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
7. Schedule 3, item 9	At the same time as the provisions covered by item 2 of this table	12 May 2003
8. Schedule 3, items 10, 11 and 12	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
9. Schedule 3, items 13 and 14	At the same time as the provisions covered by item 2 of this table	12 May 2003

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
10. Schedule 3, items 15 and 16	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
11. Schedule 3, items 17 and 18	At the same time as the provisions covered by item 2 of this table	12 May 2003
12. Schedule 3, item 19	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
13. Schedule 3, item 20	At the same time as the provisions covered by item 2 of this table	12 May 2003
14. Schedule 3, item 21	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
15. Schedule 3, items 22 and 23	At the same time as the provisions covered by item 2 of this table	12 May 2003
16. Schedule 3, items 24 and 25	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
17. Schedule 3, item 26	At the same time as the provisions covered by item 2 of this table	12 May 2003
18. Schedule 3, item 27	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
19. Schedule 3, item 28	At the same time as the provisions covered by item 2 of this table	12 May 2003
20. Schedule 3, item 29	Immediately after section 15 of the <i>Industrial Relations Legislation Amendment Act 1990</i> commenced	1 February 1991
21. Schedule 3, item 30	At the same time as the provisions covered by item 2 of this table	12 May 2003

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
22. Schedule 3, item 31	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	25 November 1996
23. Schedule 3, items 32 to 41	At the same time as the provisions covered by item 2 of this table	12 May 2003
24. Schedule 3, items 42 to 46	The day on which this Act receives the Royal Assent	14 November 2002
25. Schedule 3, item 47	At the same time as the provisions covered by item 2 of this table	12 May 2003
27. Schedule 3, items 50 to 58	At the same time as the provisions covered by item 2 of this table	12 May 2003
28. Schedule 3, item 59	At the same time as the provisions covered by item 2 of this table, subject to subsection (5)	12 May 2003
29. Schedule 3, items 60 to 64	At the same time as the provisions covered by item 2 of this table	12 May 2003
30. Schedule 4, items 1 and 2	The 28th day after the day on which this Act receives the Royal Assent	12 December 2002
31. Schedule 4, items 3, 4, 5 and 6	At the same time as the provisions covered by item 2 of this table	12 May 2003
<p>Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.</p>		

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If a provision covered by item 2 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.
- (5) If a provision covered by item 28 of the table does not commence before item 10 of Schedule 1 to the *Occupational Health and Safety (Commonwealth Employment) Amendment (Employee*



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*Involvement and Compliance) Act 2002* commences, then it does not commence at all.

### **3 Schedule(s)**

Each Act 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—Transitional provisions

### Part 1—General

#### 1 Definitions

- (1) In this Schedule:

*commencement* means the commencement of this item.

*repealed provision* means a provision of the WR Act repealed by this Act.

*RAO Schedule* means Schedule 1B to the *Workplace Relations Act 1996*.

*WR Act* means the *Workplace Relations Act 1996* (other than Schedule 1B).

- (2) If a provision of the WR Act, as in force immediately before commencement, and a provision of the RAO Schedule have substantially the same effect, each provision is, in relation to the other, a *corresponding provision*.
- (3) An expression used in this Schedule and in the RAO Schedule has the same meaning in this Schedule as it has in that Schedule.

#### 2 Orders etc. continue in force

An authorisation, certificate, decision, declaration, determination, direction, exemption, injunction, order, notice or permission that:

- (a) was made, given or granted under a repealed provision; and
- (b) was in force immediately before commencement;

continues in force on and after commencement as if it had been made, given or granted under the corresponding provision of the RAO Schedule.

#### 3 Certain obligations continue

If:

- (a) a person or body had an obligation imposed under a repealed provision to do an act or thing for a specified period, or within a specified period; and
- (b) immediately before commencement, that period had not ended;

the provision continues to operate in relation to the obligation of the person or body as if it had not been repealed.

#### **4 Terms of office continue**

If:

- (a) a person was elected to an office under a repealed provision;  
and
- (b) immediately before commencement, the term of office for which the person was elected had not ended;

the person continues to hold office, subject to the RAO Schedule, for the remainder of the term for which the person was elected.

#### **5 Proceedings etc. commenced under WR Act continue under WR Act**

- (1) If, immediately before commencement, a proceeding (whether or not initiated by an application) in a matter arising under a repealed provision was pending in a court, the WR Act continues to apply in relation to the proceeding as if the amendments made by this Act had not been made.
- (2) If, immediately before commencement, a proceeding (whether or not initiated by an application) before the Commission in a matter arising under a repealed provision has not been completed, the WR Act continues to apply in relation to the proceeding as if the amendments made by this Act had not been made.
- (3) If, immediately before commencement, a matter (whether or not initiated by an application) under a repealed provision is before an Industrial Registrar, the WR Act continues to apply in relation to the matter as if the amendments made by this Act had not been made.
- (4) If, in relation to the proceeding or matter mentioned in subitem (1), (2) or (3), the court, Commission or Industrial Registrar makes an order on or after commencement, the order is taken to have been made under the corresponding provision of the RAO Schedule and not under the repealed provision, under which (apart from this subitem) the order would have been made.
- (5) If a penalty is imposed as a result of the order, the penalty is the penalty applicable under the WR Act as in force immediately before

commencement and not the penalty applicable under the RAO Schedule.

(6) In this item:

*make* includes give or grant.

*order* includes authorisation, certificate, decision, declaration, determination, direction, exemption, injunction, notice or permission.

## **6 Pre-commencement WR Act continues for transitional purposes**

If a repealed provision is continued in operation after commencement by this Act:

- (a) any other provisions of the WR Act that are necessary for the effective operation and enforcement of the repealed provision; and
- (b) any provisions of regulations made under provisions mentioned in paragraph (a) that are necessary for the effective operation and enforcement of the repealed provision;

continue to operate as if the amendments made by this Act had not been made.

## **7 RAO Schedule regulations may extend to transitional applications etc.**

In section 359 of the RAO Schedule, references to applications and proceedings under that Schedule include references to applications and proceedings that are to be dealt with or completed under that Schedule because of this Act.

## **8 Power of President of the Commission to resolve difficulties**

If a difficulty arises in the application of this Act to a particular proceeding or matter before the Commission or the Industrial Registrar, the President of the Commission may, subject to any order made by the Federal Court of Australia under item 9, give directions not inconsistent with the RAO Schedule to resolve the difficulty.

## **9 Power of Federal Court of Australia to resolve difficulties**

(1) If a difficulty arises in:

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- (a) the application of this Act in relation to a particular matter; or
- (b) the application, in relation to a particular matter, of a provision of the RAO Schedule because of the operation of this Act;

the Federal Court of Australia may, on the application of an interested person, make any order it considers proper to resolve the difficulty.

- (2) An order made under subitem (1) has effect in spite of anything contained in this Act, in the RAO Schedule or in any Act in force immediately before commencement.
- (3) The Federal Court of Australia has jurisdiction with respect to matters arising under this Act in relation to which applications may be made to it under subitem (1).

## **10 General rules are subject to specific rules**

This Part has effect subject to the following Parts of this Schedule.

## **Part 2—Registered organisations**

### **11 Register of organisations**

The register of organisations required to be kept by the Industrial Registry under paragraph 63(1)(a) of the WR Act as in force immediately before commencement is taken to be the register of organisations required to be kept by the Industrial Registry under paragraph 13(1)(a) of the RAO Schedule.

### **12 Applications for registration**

If an application for registration as an organisation was made but not determined under the WR Act before commencement, the application is to be determined under the WR Act as if the amendments made by this Act had not been made.

### **13 Acts or omissions relevant to prohibited conduct**

In sections 21 and 22 of the RAO Schedule:

- (a) references to acts done or omitted under that Schedule include references to acts done or omitted under the WR Act; and
- (b) references in those sections to section 18 of the RAO Schedule include references to the corresponding provision of the WR Act.

### **14 Correction of errors in rules of association applying for registration**

If an application for registration as an organisation had been made but not determined under the WR Act before commencement, the Commission may grant leave to the applicant association under paragraph 25(1)(c) of the RAO Schedule, despite item 12.

### **15 Registration as an organisation continues**

- (1) A body that was an organisation under the WR Act immediately before commencement is taken to have been registered under section 19 or 20 of the RAO Schedule (as the case requires).

- (2) Subject to this Schedule, the operation of subitem (1) in relation to an organisation does not otherwise affect the organisation or the operation of the WR Act (as in force after commencement) in relation to it.
- (3) If:
- (a) an organisation is taken to be registered under the RAO Schedule because of the operation of subitem (1); and
  - (b) immediately before commencement, an undertaking given by the organisation under subsection 189(2) of the WR Act was in force;
- the undertaking is, after commencement, taken to have been given under subsection 19(2) of the RAO Schedule.
- (4) In subsection 26(6) of the RAO Schedule:
- (a) the reference to a certificate of registration issued under subsection (4) of that section includes a reference to a certificate issued under subsection 191(4) of the WR Act as in force immediately before commencement; and
  - (b) the reference to a certificate as amended under section 160 of the RAO Schedule includes a reference to a certificate as amended under section 206 of the WR Act as in force immediately before commencement.

## **16 Representation orders**

Subsection 133(2) of the RAO Schedule applies to the following orders:

- (a) orders made by the Commission under subsection 133(1) of that Schedule on or after commencement;
- (b) orders taken to have been made under that subsection because of item 2 or item 5.

## **17 Applications for amalgamation**

If an application for approval for the submission of an amalgamation to ballot was made under section 242 of the WR Act but not determined before commencement, Division 7 of Part IX of the WR Act continues to apply in relation to the amalgamation as if the amendments made by this Act had not been made.

Note: This general rule is subject to some exceptions in relation to particular aspects of amalgamation proceedings (see, for example, item 20 (ballots)).

## **18 Applications for recognition as a federation**

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- (1) If an application for recognition as a federation was made under section 236 of the WR Act but not determined before commencement, the application is to be determined under the WR Act as if the amendments made by this Act had not been made.
- (2) For the purposes of applying subitem (1), each reference in section 236 of the WR Act to section 242 of that Act includes a reference to section 44 of the RAO Schedule.

## **19 Applications for community of interest declaration**

- (1) If an application for a declaration was made under section 241 of the WR Act but not determined before commencement, the application is to be determined under the WR Act as if the amendments made by this Act had not been made.
- (2) For the purposes of applying subitem (1), each reference in section 241 of the WR Act to section 242 of that Act includes a reference to section 44 of the RAO Schedule.

## **20 Amalgamation ballots approved after commencement**

If, on or after commencement, the Commission approves the submission of an amalgamation to ballot and the ballot (the ***approved ballot***) is, because of the operation of item 17, to be conducted under the WR Act:

- (a) in addition to the requirements of the WR Act, subsections 65(6) and (7) of the RAO Schedule apply in relation to the approved ballot; and
- (b) the reference in subsection 65(6) of the RAO Schedule to a ballot conducted under that section includes a reference to the approved ballot.

## **21 Withdrawal from amalgamation—application made before commencement etc.**

- (1) If an application for a ballot was made under section 253ZJ of the WR Act but not determined before commencement, Subdivision B of Division 7A of Part IX of the WR Act continues to apply in relation to:
    - (a) the application; and
    - (b) any ballot ordered by the Federal Court of Australia in granting the application;as if the amendments made by this Act had not been made.
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- (2) However, if the application is granted, section 101, paragraph 102(2)(d) and subsection 102(3) of the RAO Schedule apply in relation to the ballot ordered by the Federal Court of Australia in granting the application.

## **22 Organisation not to penalise members in relation to withdrawal from amalgamation**

- (1) Section 131 of the RAO Schedule applies to amalgamated organisations and officers and members of such organisations in relation to any conduct of the organisation that occurs on or after commencement.
- (2) For the purposes of applying subitem (1), the reference in subsection 131(1) of the RAO Schedule to section 130 of that Schedule includes a reference to section 253ZX of the WR Act as in force immediately before commencement.

## **23 Withdrawal from amalgamation—application made after commencement**

For the purposes of applying Part 3 of Chapter 3 of the RAO Schedule to an organisation that became an amalgamated organisation under the WR Act, references in that Part to a provision or provisions of the RAO Schedule are taken to include references to the corresponding provision or provisions of the WR Act.

## **24 Grounds for deregistration**

- (1) An application under the RAO Schedule for cancellation of the registration of an organisation may be made, in relation to conduct occurring before commencement, on the grounds set out in the following provisions of the RAO Schedule:
- (a) paragraph 28(1)(a) (conduct preventing or hindering object of the WR Act);
  - (b) paragraph 28(1)(b) (industrial action interfering with trade or commerce etc.);
  - (c) paragraph 28(1)(c) (industrial action affecting community safety, health or welfare);
  - (d) paragraph 28(1)(d) (failure to comply with injunctions under section 127 or 187AD of the WR Act).
- (2) For the purposes of applying paragraph (1)(a) of this item:

**Schedule 1** Transitional provisions

**Part 2** Registered organisations

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- (a) the reference in paragraph 28(1)(a) of the RAO Schedule to an object of the RAO Schedule is taken to be omitted; and
- (b) a reference in paragraph 28(1)(a) of the RAO Schedule to the Workplace Relations Act is taken to be a reference to that Act as in force before commencement.

## Part 3—Rules of organisations

### 25 Existing rules

Rules of a registered organisation that were in force immediately before commencement continue in force on and after commencement but may be altered under the RAO Schedule.

Note: For transitional provisions applying to rule changes that were in the process of being certified at commencement, see item 5.

### 26 New rule requirements

- (1) This item applies only to the extent that it concerns alterations of rules of an organisation required to bring them into conformity with the RAO Schedule where:
  - (a) the organisation is taken to be registered under the RAO Schedule because of subitem 15(1); and
  - (b) the requirements (the *new rule requirements*) are provided for in the RAO Schedule but not in the WR Act (as in force immediately before commencement).
- (2) The Industrial Registrar must not exercise the power conferred by subsection 156(1) of the RAO Schedule in relation to the new rule requirements until the end of the interim period.

Note: This means that the Industrial Registrar cannot alter an organisation's rules to bring them into conformity with the RAO Schedule if the requirement for the particular rule is imposed by the RAO Schedule only and did not exist under the WR Act (as in force immediately before commencement).
- (3) For the purposes of this item, the *interim period* is the period of:
  - (a) 6 months immediately after commencement; or
  - (b) in relation to an organisation that has been granted an extension by a Registrar—6 months immediately after commencement, extended by the period determined by the Registrar in granting the extension.
- (4) If, within 6 months immediately after commencement, an organisation applies to a Registrar for an extension of the interim period beyond the period mentioned in paragraph (3)(a), the Registrar may extend the period in relation to the organisation. The period must not be extended by more than 6 months.

- (5) In determining an application for an extension under subitem (4), the Registrar must take into account:
- (a) the ability of the organisation to make the necessary changes to its rules within 6 months immediately after commencement; and
  - (b) any other matter the Registrar considers relevant.

## **27 Review of rules by Industrial Registrar**

As soon as practicable after the end of the interim period applying to an organisation under item 26, the Industrial Registrar must review the rules of the organisation.

**Note:** If the Industrial Registrar finds that an organisation's rules do not meet the requirements of the RAO Schedule, the Industrial Registrar may alter the rules to bring them into conformity with the Schedule (see section 156 of the RAO Schedule).

## **28 Rules relating to retirement age of office-holders**

If, immediately before commencement, the rules of an organisation made provision as set out in paragraph 199(1)(b) of the WR Act, those rules:

- (a) continue to apply to a person elected to a full-time office in an election for which nominations were called before commencement; and
- (b) do not apply to a person elected in an election for which nominations were called on or after commencement.

**Note:** Although the rules relating to retirement age may have some continuing application under this item, they must still be removed from the organisation's rules during the interim period applying to it under item 26 in order for the rules to conform with section 145 of the RAO Schedule.

## **29 Membership agreements between organisation and State union**

- (1) An agreement that was made under section 202 of the WR Act and was in force immediately before commencement continues in force after commencement as if it had been made under Subdivision B of Division 4 of Part 2 of Chapter 5 of the RAO Schedule.
- (2) If a copy of an agreement made under section 202 of the WR Act was lodged in the Industrial Registry but had not come into force before commencement, the WR Act continues to apply in relation to the agreement as if the amendments made by this Act had not been made.

- (3) If a copy of an agreement to terminate made under subsection 202(11) of the WR Act was lodged in the Industrial Registry but had not taken effect before commencement, the WR Act continues to apply in relation to the agreement as if the amendments made by this Act had not been made.

### **30 Certain alterations of rules to be recorded**

If, under the WR Act:

- (a) there was a change in the name of an organisation or an alteration of the eligibility rules of an organisation; and
- (b) the Industrial Registrar had not taken the actions required under section 206 of that Act before commencement in relation to the change or alteration;

section 160 of the RAO Schedule applies in relation to the change or alteration as if the change or alteration had occurred on or after commencement.

### **31 Evidence of rules**

In section 161 of the RAO Schedule, the reference to a copy of the rules of an organisation certified by a Registrar includes a reference to a copy certified by a Registrar under the WR Act.

## **Part 4—Membership of organisations**

### **32 Resignation from membership**

If a member of an organisation gave notice of resignation from membership under section 264 of the WR Act but the notice did not take effect before commencement, section 264 of the WR Act continues to apply in relation to the resignation, and to any outstanding dues of the member, as if the amendments made by this Act had not been made.

### **33 Recovery of arrears**

- (1) Section 178 of the RAO Schedule applies only to amounts that become payable on or after the commencement of that section.
- (2) Sections 264A and 265 of the WR Act continue to apply to amounts that became payable before commencement as if the amendments made by this Act had not been made.

## **Part 5—Democratic control**

### **34 Elections**

- (1) The RAO Schedule applies in relation to an election for an office, or a position other than an office, in an organisation or a branch of an organisation if no steps (including the calling of nominations) relating to the election have started before commencement.
- (2) In the case of any other election for an office in an organisation or a branch of an organisation:
  - (a) the WR Act as in force immediately before commencement applies to the completion of so much of any step (including the calling of nominations) that was started, but not been completed, before commencement; and
  - (b) the RAO Schedule (except section 188) applies to any step (including the calling of nominations) that starts on or after commencement.

### **35 Elections completed before commencement**

The WR Act as in force immediately before commencement continues to apply in relation to:

- (a) elections held under that Act that were completed before commencement; and
- (b) inquiries into those elections.

### **36 Inquiries into elections**

- (1) To avoid doubt, the Electoral Commissioner must make an application under subsection 200(2) of the RAO Schedule for an inquiry by the Federal Court of Australia into an irregularity in relation to an election for an office if at least one step in relation to the election started on or after commencement even if the irregularity concerned conduct relating to a step started before commencement.
- (2) To avoid doubt, the Electoral Commissioner may make an application under subsection 200(3) of the RAO Schedule for an inquiry by the Federal Court of Australia into an irregularity in relation to an election for an office if at least one step in relation to the election started on or

after commencement even if the irregularity concerned conduct relating to a step that started before commencement.

### **37 Action after inquiries into elections**

- (1) If, after an inquiry into an election where the inquiry was conducted under Division 5 of Part IX of the WR Act because of item 35, the Federal Court of Australia orders a new election to be held, the RAO Schedule applies to the new election.
- (2) If, after an inquiry into an election where the inquiry was conducted under Division 5 of Part IX of the WR Act because of item 35, the Federal Court of Australia makes an order other than an order that a new election be held, the RAO Schedule applies to the action the subject of the order.

### **38 Post election report by Australian Electoral Commission**

Section 197 of the RAO Schedule applies only in relation to an election conducted under Part 2 of Chapter 7 of that Schedule where each step in relation to the election (including the calling of nominations) occurs on or after commencement.

### **39 Applications for leave to hold office**

- (1) If an application was made under section 229 or 230 of the WR Act but not determined before commencement, that Act continues to apply in relation to the application as if the amendments made by this Act had not been made.
- (2) Subsection 216(4) of the RAO Schedule has effect after commencement as if “or under section 229 or 230 of the Workplace Relations Act as in force immediately before the commencement of this section” were inserted after “section 217”.
- (3) Subsection 217(4) of the RAO Schedule has effect after commencement as if “or under section 229 or 230 of the Workplace Relations Act as in force immediately before the commencement of this section” were inserted after “section 216”.

### **40 Prescribed offences**

Section 212 of the RAO Schedule has effect as if the following paragraph were inserted before paragraph (a):



- (aa) a prescribed offence within the meaning of section 227 of the Workplace Relations Act as in force immediately before the commencement of this section; or

#### **41 Certain persons disqualified from holding office in organisations**

Section 215 of the RAO Schedule applies in relation to a person who was convicted of a prescribed offence before commencement as if the following paragraph were inserted before paragraph (1)(a):

- (aa) on an application made under section 229 or 230 of the Workplace Relations Act (as in force immediately before the commencement of this section) in relation to the conviction of the person for the prescribed offence:
  - (i) the person was granted leave to hold office in organisations; or
  - (ii) the person was refused leave to hold office in organisations but, under paragraph 229(2)(b) or 230(2)(b) of the Workplace Relations Act (as in force immediately before the commencement of this section), the Court specified a period for the purposes of subsection 228(1) of the Workplace Relations Act (as in force immediately before the commencement of this section), and the period has elapsed since the person was convicted of the prescribed offence or, if the person served a term of imprisonment in relation to the prescribed offence, since the person was released from prison; or

## **Part 6—Records and accounts**

### **42 Records to be kept and lodged by organisations**

- (1) The register of members kept by an organisation under paragraph 268(1)(a) of the WR Act as in force immediately before commencement is taken to be the register of members required (as from commencement) to be kept by the organisation under paragraph 230(1)(a) of the RAO Schedule.
- (2) The lists mentioned in paragraphs 268(1)(b) and (c) of the WR Act as in force immediately before commencement are taken to be the lists required (as at commencement) to be kept by the organisation under paragraphs 230(1)(b) and (c) of the RAO Schedule.
- (3) To the extent that Part 2 of Chapter 10 of the RAO Schedule applies to contraventions of subsection 230(1) or (2) or section 231 of the RAO Schedule, it applies only to contraventions that occur on or after commencement.
- (4) Section 232 of the RAO Schedule applies only to conduct occurring on or after commencement.

### **43 Loans, grants and donations**

- (1) Section 237 of the RAO Schedule applies in relation to each financial year of an organisation that starts on or after commencement.
- (2) Section 269 of the WR Act continues to apply in relation to the financial year of an organisation that had started, but had not ended, before commencement as if the amendments made by this Act had not been made.

### **44 Accounts and audit—application of Part 3 of Chapter 8 of RAO Schedule**

- (1) Part 3 of Chapter 8 of the RAO Schedule (except sections 242, 243, 244, 245, 246, 247, 249 and 251 and Subdivision B of Division 3) applies to each financial year of an organisation that starts on or after the commencement of the reporting guidelines.

- (2) Subdivision B of Division 3 of Part 3 of Chapter 8 applies from commencement.
- (3) Sections 242, 243, 244, 245, 246, 247, 249 and 251 of the RAO Schedule apply in relation to an organisation after commencement.
- (4) If, because of subitem (3), a certificate is issued in relation to an organisation under section 245 of the RAO Schedule during the transition period, section 248 of the RAO Schedule has effect in relation to that certificate as if paragraph (a) were omitted and the following paragraph were substituted:
  - (a) the first financial year of the organisation concerned that starts after the commencement of the reporting guidelines; and
- (5) If, because of subitem (3), an alteration to the rules under section 246 of the RAO Schedule is certified in relation to a reporting unit during the transition period, section 250 of the RAO Schedule has effect in relation to that alteration as if subsection (1) were omitted and the following subsection were substituted:
  - (1) An alteration to rules under section 246 takes effect at the beginning of the first financial year of the organisation concerned that starts after commencement of the reporting guidelines.
- (6) If, because of subitem (3), an alteration to rules under section 247 of the RAO Schedule is determined in relation to a reporting unit during the transition period, section 250 of the RAO Schedule has effect in relation to that alteration as if subsection (1) were omitted and the following subsection were substituted:
  - (1) An alteration to rules of an organisation under section 247 takes effect at the beginning of the first financial year of the organisation concerned that starts after commencement of the reporting guidelines.
- (7) If, because of subitem (3), an alteration to rules under section 249 of the RAO Schedule is certified in relation to a reporting unit during the transition period, section 250 of the RAO Schedule has effect in relation to that alteration as if subsection (1) were omitted and the following subsection were substituted:
  - (1) An alteration to rules under section 249 takes effect immediately after the certificate concerned takes effect.

- (8) This item has effect subject to item 46.
- (9) In this item:  
*transition period*, in relation to an organisation, means the period from commencement to the beginning of the first financial year of the organisation that starts on or after the commencement of the reporting guidelines.

#### **45 Accounting records**

- (1) If an organisation, or a branch of an organisation, corresponds to a reporting unit, the accounting records of the organisation or branch are taken to be the financial records of the reporting unit.
- (2) If an organisation, or a branch of an organisation, corresponds to 2 or more reporting units, the accounting records of the organisation or branch are taken to be the financial records of each of the reporting units.
- (3) If 2 or more organisations, or branches of an organisation, correspond to one reporting unit, the accounting records of each organisation or branch are taken to be the financial records of the reporting unit.
- (4) In this item:  
*organisation* means an organisation registered under the WR Act immediately before commencement.  
*reporting unit* has the meaning given by section 242 of the RAO Schedule.

#### **46 Members' access to accounting records**

The RAO Schedule has effect in relation to an organisation:

- (a) on and after commencement; and
- (b) before the start of the first financial year of the organisation after the commencement of the reporting guidelines;

as if Division 7 of Part 3 of Chapter 8 of that Schedule were omitted and the following Division were substituted:

## **Division 7—Members’ access to accounting records**

### **271A Definitions**

In this Division:

**accounting records**, in relation to an organisation, includes books of account and such working papers and other documents as are necessary to explain the methods and calculations by which the accounts of the organisation are made up.

**commencement** means the commencement of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*.

**organisation** has the same meaning as in the Workplace Relations Act as in force immediately before commencement.

### **271B Application of Division in relation to organisations divided into branches**

- (1) If an organisation is divided into branches:
  - (a) this Division (other than this section) applies in relation to the organisation as if the financial affairs (including transactions) of a branch did not form part of those of the organisation; and
  - (b) this Division (other than this section) applies in relation to each of the branches as if the branch were itself an organisation.
- (2) For the purposes of the application of this Division, in accordance with paragraph (1)(b), in relation to a branch of an organisation, the members of the organisation constituting the branch are taken to be members of the branch.

### **272 Information to be provided to members or Registrar**

- (1) A member of an organisation, or a Registrar, may apply to the organisation for specified prescribed information in relation to the organisation to be made available to the person making the application.

(2) The application must be in writing and must specify the period within which, and the manner in which, the information is to be made available. The period must not be less than 14 days after the application is given to the organisation.

(3) An organisation must comply with an application made under subsection (1).

Note: This subsection is a civil penalty provision (see section 305).

(4) A Registrar may only make an application under subsection (1) at the request of a member of the organisation concerned, and the Registrar must provide to a member information received because of an application made at the request of the member.

(5) Accounts prepared under section 273 of the Workplace Relations Act as in force immediately before commencement must include a notice drawing attention to subsections (1), (2) and (3) of this section and setting out those subsections.

Note: This subsection is a civil penalty provision (see section 305).

(6) Without limiting the information that may be prescribed under subsection (1), the information prescribed must include details (including the amount) of any fees paid by the organisation for payroll deduction services provided by a person who is an employer of:

- (a) the member making the application for information; or
- (b) the member at whose request the application was made.

### **273 Order for inspection of accounting records**

- (1) On application by a member of an organisation, the Commission may make an order:
- (a) authorising the applicant to inspect accounting records of the organisation specified in the order; or
  - (b) authorising another person (whether a member or not) to inspect accounting records of the organisation specified in the order on the applicant's behalf.

This subsection is subject to subsections (2) and (3).

- (2) The Commission may only make the order if it is satisfied:
- (a) that the applicant is acting in good faith; and
  - (b) there are reasonable grounds for suspecting a breach of:

- (i) a provision of Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement; or
  - (ii) a regulation made for the purposes of Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement; or
  - (iii) a rule of an organisation relating to its finances or financial administration; and
- (c) it is reasonable to expect that an examination of the accounting records will assist in determining if there is such a breach.
- (3) The Commission may only make an order authorising the inspection of accounting records that relate to the suspected breach mentioned in paragraph (2)(b).
- (4) A person authorised to inspect the accounting records may make copies of the accounting records unless the Commission orders otherwise.

#### **274 Frivolous or vexatious applications**

- (1) A person must not make an application under section 273 that is vexatious or without reasonable cause.
- Note: This subsection is a civil penalty provision (see section 305).
- (2) If the Commission considers an application under section 273 to be vexatious or without reasonable cause, the Commission must dismiss the application as soon as possible.

#### **275 Ancillary orders**

If the Commission makes an order under section 273, the Commission may make any other orders it considers appropriate, including any or all of the following:

- (a) an order limiting the use that a person who inspects the accounting records may make of information obtained during the inspection;
- (b) an order limiting the right of a person who inspects the accounting records to make copies in accordance with subsection 273(4);

- (c) an order that the organisation is not required to provide the names and addresses of its members.

## **276 Disclosure of information acquired in inspection**

- (1) An applicant who inspects the accounting records under section 273, or a person who inspects the accounting records on behalf of an applicant, must not disclose information obtained during the inspection unless the disclosure is to:
  - (a) a Registry official; or
  - (b) the applicant.
- (2) A person who receives information under paragraph (1)(a) or (b) must not disclose the information other than to another person covered by one of those paragraphs.

Note: This section is a civil penalty provision (see section 305).

## **277 Organisation or committee of management may allow member to inspect books**

The committee of management of an organisation, or the organisation by a resolution passed at a general meeting, may authorise a member to inspect accounting records of the organisation.

## **278 Commission to be advised of breaches of Part or rules etc. found during inspection**

- (1) If, as a result of inspecting the accounting records of an organisation, a person reasonably believes that a breach of:
  - (a) a provision of Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement; or
  - (b) a regulation made for the purposes of Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement; or
  - (c) a rule of an organisation relating to its finances or financial administration;may have occurred, the person must give the Industrial Registry written notice to that effect and give to the Industrial Registry any relevant information obtained during the inspection.



- (2) If the Industrial Registry receives notice under subsection (1) and the Commission is satisfied that there are reasonable grounds for believing that there has been a breach of:
- (a) a provision of Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement; or
  - (b) a regulation made for the purposes of Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement; or
  - (c) a rule of an organisation relating to its finances or financial administration;

the Commission must refer the matter to the Industrial Registrar.

Note: Where a matter is referred, it will be investigated under section 334.

## **279 Constitution of Commission**

For the purposes of this Division, the Commission must be constituted by a Presidential Member.

## **47 Accounts and audit—continued application of Division 11 of Part IX of WR Act**

- (1) Division 11 of Part IX of the WR Act continues to apply in relation to:
- (a) each financial year of an organisation that starts after commencement and ends before the commencement of the reporting guidelines; and
  - (b) the financial year of an organisation that had started, but had not ended, before the commencement of the reporting guidelines;

as if the amendments made by this Act had not been made.

- (2) Subsections 280(2), (3), (4), (5), (6) and (10) and sections 280A and 280B of the WR Act continue to apply in relation to investigations into conduct where the investigations had started under any of those provisions before commencement, as if the amendments made by this Act had not been made.

## **48 Inquiries and investigations—transitional operation**

The RAO Schedule has effect in relation to:

- (a) conduct under Division 11 of Part IX of the WR Act as continued in operation because of subitem 47(1); and

(b) conduct under that Division before commencement (except conduct to which subitem 47(2) applies);  
as if Part 4 of Chapter 11 of that Schedule were omitted and the following Part were substituted:

## Part 4—Inquiries and investigations

### 329A Definitions

In this Part:

**commencement** means the commencement of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*.

**organisation** has the same meaning as in the Workplace Relations Act as in force immediately before commencement.

### 330 Registrar or staff may make inquiries

- (1) A Registrar, or another Registry official on behalf of a Registrar, may make inquiries as to whether the following are being complied with:
  - (a) Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement;
  - (b) regulations made for the purposes of that Division;
  - (c) rules of an organisation relating to its finances or financial administration.
- (2) A Registrar, or another Registry official on behalf of a Registrar, may make inquiries as to whether a civil penalty provision (see section 305) has been contravened.
- (3) The person making the inquiries may take such action as he or she considers necessary for the purposes of making the inquiries. However, he or she cannot compel a person to assist with the inquiries under this section.

### **331 Registrar may conduct investigations**

- (1) If a Registrar is satisfied that there are reasonable grounds for doing so, the Registrar may conduct an investigation as to whether:
  - (a) a provision of Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement has been contravened; or
  - (b) a regulation made for the purposes of that Division has been contravened; or
  - (c) a rule of an organisation relating to its finances or financial administration has been contravened.
- (2) If a Registrar is satisfied that there are reasonable grounds for doing so, the Registrar may conduct an investigation as to whether a civil penalty provision (see section 305) has been contravened.
- (3) A Registrar may also conduct an investigation in the circumstances set out in the regulations.
- (4) Where, having regard to matters that have been brought to notice in the course of, or because of, an investigation under subsection (1) or (2), a Registrar forms the opinion that there are grounds for investigating the finances or financial administration of the organisation, the Registrar may make the further investigation.
- (5) An investigation may, but does not have to, follow inquiries under section 330.

### **332 Investigations arising from auditor's report**

- (1) Subject to subsection (2), a Registrar must:
  - (a) where the documents lodged in the Industrial Registry under section 268 include a report of an auditor setting out any:
    - (i) defect or irregularity; or
    - (ii) deficiency, failure or shortcoming; and
  - (b) where for any other reason the Registrar considers that a matter revealed in the documents should be investigated—investigate the matter.
- (2) The Registrar is not required to investigate the matters raised in the report of the auditor if:

- (a) the defect, irregularity, deficiency, failure or shortcoming consists solely of the fact that the organisation concerned has kept accounting records for its membership subscriptions separately on a cash basis as provided in subsection 272(2) of the WR Act as in force immediately before commencement; or
  - (b) after consultation with the organisation and the auditor, the Registrar is satisfied that the matters are trivial or will be remedied in the following financial year.
- (3) Where, having regard to matters that have been brought to notice in the course of, or because of, an investigation under subsection (1), a Registrar forms the opinion that there are grounds for investigating the finances or the financial administration of the organisation, the Registrar may make the further investigation.

### **333 Investigations arising from request from members**

- (1) Where documents have been lodged in the Industrial Registry under subsection 280(1) of the Workplace Relations Act as in force immediately before commencement, at least:
  - (a) if the organisation has more than 5,000 members—250 members; or
  - (b) in any other case—5% of the members of the organisation;may request a Registrar to investigate the finances and the financial administration of the organisation.
- (2) On receipt of a request under subsection (1), a Registrar must investigate the finances and the financial administration of the organisation concerned. The Registrar, in conducting the investigation, is not limited to the most recent financial year for which documents have been lodged and may investigate years for which documents are yet to be lodged.
- (3) Where the Registrar receives more than one request in relation to a organisation during a financial year, the Registrar is only required to conduct one investigation but may conduct more than one investigation.

### **334 Investigations arising from referral under section 278**

If a matter is referred to the Industrial Registrar under section 278, the Industrial Registrar must ensure that a Registrar conducts an investigation.

### **335 Conduct of investigations**

- (1) This section applies to:
  - (a) a designated officer or employee of the organisation concerned; and
  - (b) a former designated officer or employee of the organisation; and
  - (c) a person who held the position of auditor of the organisation during the period that is the subject of the investigation;if a Registrar has reason to believe that the person:
  - (d) has information or a document that is relevant to the investigation; or
  - (e) is capable of giving evidence which the Registrar has reason to believe is relevant to the investigation.
- (2) For the purpose of making an investigation, the Registrar may, by written notice, require the person:
  - (a) to give to the Registrar, within the period (being a period of not less than 14 days after the notice is given) and in the manner specified in the notice, any information within the knowledge or in the possession of the person; and
  - (b) to produce or make available to the Registrar, at a reasonable time (being a time not less than 14 days after the notice is given) and place specified in the notice, any documents in the custody or under the control of the person, or to which he or she has access; and
  - (c) to attend before the Registrar, at a reasonable time (being a time not less than 14 days after the notice is given) and place specified in the notice, to answer questions relating to matters relevant to the investigation, and to produce to the Registrar all records and other documents in the custody or under the control of the person relating to those matters.

- (3) A notice requiring a person to attend must state that the person may be accompanied by another person. The other person may be, but does not have to be, a lawyer.

### **336 Action following an investigation**

- (1) If, at the conclusion of an investigation, the Registrar who conducted the investigation is satisfied that the organisation concerned has contravened:
- (a) a provision of Division 11 of Part IX of the Workplace Relations Act as in force immediately before commencement; or
  - (b) a provision of the regulations; or
  - (c) a rule of the organisation relating to the finances or financial administration of the organisation;
- the Registrar must notify the organisation accordingly.
- (2) In addition to taking action under subsection (1), the Industrial Registrar may do either or both of the following:
- (a) issue a notice to the organisation requesting that the organisation take specified action, within a specified period, to rectify the matter;
  - (b) refer the matter to the Director of Public Prosecutions for action in relation to possible criminal offences.
- (3) The Registrar may, on application by the organisation, extend any periods specified in the notice issued under subsection (2).
- (4) The organisation must comply with the request made in the notice issued under subsection (2).
- (5) The Federal Court may, on application by the Registrar, make such orders as the Court thinks fit to ensure that the organisation complies with subsection (4).

### **337 Offences in relation to investigation by Registrar**

- (1) A person commits an offence if:
- (a) the person does not comply with:
    - (i) a requirement under subsection 335(2) to attend before a Registrar; or

- (ii) a requirement under subsection 335(2) to give information or produce a document; or
- (b) the person gives information, or produces a document, in purported compliance with a requirement under subsection 335(2), and the person knows, or is reckless as to whether, the information or document is false or misleading; or
- (c) when attending before a Registrar in accordance with a requirement under subsection 335(2), the person makes a statement, whether orally or in writing, and the person knows, or is reckless as to whether, the statement is false or misleading.

Maximum penalty: 30 penalty units.

- (2) Strict liability applies to paragraph (1)(a).

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (3) Paragraph (1)(a) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) A person is not excused from giving information, or producing a document, that the person is required to give or produce under subsection 335(2) on the ground that the information, or the production of the document, might tend to incriminate the person or expose the person to a penalty.

- (5) However:

- (a) giving the information or producing the document; or
- (b) any information, document or thing obtained as a direct or indirect consequence of giving the information or producing the document;

is not admissible in evidence against the person in criminal proceedings or proceedings that may expose the person to a penalty, other than proceedings under, or arising out of, paragraph (1)(b) or (c).

## **49 Inquiries and investigations—conduct occurring on or after commencement of the reporting guidelines**

To avoid doubt, Part 4 of Chapter 11 of the RAO Schedule applies only in relation to conduct that occurs in a financial year of an organisation that starts on or after the commencement of the reporting guidelines.



## **Part 8—Miscellaneous**

### **51 Requests by members under section 288 of the WR Act**

If a request was made under section 288 of the WR Act but not complied with before commencement, Part XI of the WR Act continues to apply in relation to the request as if the amendments made by this Act had not been made.

### **52 List of officers to be evidence**

A list of the officers of an organisation or a branch of an organisation lodged before commencement in the Industrial Registry on behalf of the organisation, or a copy of any such list certified by a Registrar before commencement, as mentioned in section 292 of the WR Act is, after commencement, evidence that the persons named in the list were, on the day when the list was lodged, officers of the organisation or branch.

### **53 Authorisation of financial assistance**

Division 1 of Part XII of the WR Act as in force immediately before commencement relating to the granting of financial assistance in connection with proceedings under that Act continues to have effect in relation to all proceedings started under that Act before commencement.

### **54 Delegations**

A delegation made under a repealed provision that was in force immediately before commencement and did not end at that time, continues in force after commencement as if it had been made under the corresponding provision of the RAO Schedule.

### **55 Regulations may deal with other transitional matters**

- (1) The regulations may deal with matters of a transitional nature (except transitional matters provided for in this Schedule) relating to the amendments of the WR Act made by this Act and the enactment of the RAO Schedule.
- (2) Without limiting subitem (1), the regulations may provide for a matter to be dealt with, wholly or partly, in either of the following ways:
  - (a) by applying (with or without modifications) to the matter:

- (i) provisions of the WR Act as in force immediately before commencement; or
    - (ii) provisions of the RAO Schedule; or
    - (iii) a combination of provisions mentioned in subparagraphs (i) and (ii);
  - (b) by otherwise specifying rules for dealing with the matter.
- (3) Despite subsection 48(2) of the *Acts Interpretation Act 1901*, regulations made for the purposes of this item may be expressed to take effect from a date before the regulations are notified in the *Gazette*.
- (4) To the extent to which a regulation mentioned in subitem (3) takes effect from a date that is earlier than the date of its publication in the *Gazette*, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (except the Commonwealth or an authority of the Commonwealth), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (except the Commonwealth or an authority of the Commonwealth), in respect of anything done or omitted to be done before the date of its publication.
- (5) The Governor-General may make regulations, not inconsistent with any other provision of this Schedule, for the purposes of subitem (1).
- (6) In this item:  
***matters of a transitional nature*** also includes matters of an application or saving nature.

## **Schedule 2—Amendment of the Workplace Relations Act 1996**

### **Part 1—Amendments**

#### ***Workplace Relations Act 1996***

##### **1 Paragraph 3(g)**

Repeal the paragraph.

##### **2 Subsection 4(1) (definition of *accounting records*)**

Repeal the definition.

##### **3 Subsection 4(1) (definition of *auditor*)**

Repeal the definition.

##### **4 Subsection 4(1) (definition of *collegiate electoral system*)**

Repeal the definition.

##### **5 Subsection 4(1) (paragraph (c) of the definition of *demarcation dispute*)**

After “this Act”, insert “, or the Registration and Accountability of Organisations Schedule,”.

##### **6 Subsection 4(1) (definition of *designated Presidential Member*)**

Repeal the definition.

##### **7 Subsection 4(1) (definition of *direct voting system*)**

Repeal the definition.

##### **8 Subsection 4(1) (definition of *electoral official*)**

Repeal the definition.

##### **9 Subsection 4(1) (definition of *eligibility rules*)**

Repeal the definition.

**10 Subsection 4(1) (definition of *enterprise association*)**

Repeal the definition.

**11 Subsection 4(1) (definition of *financial year*)**

Repeal the definition.

**12 Subsection 4(1) (definition of *full-time office*)**

Repeal the definition.

**13 Subsection 4(1) (definition of *irregularity*)**

Repeal the definition.

**14 Subsection 4(1) (definition of *office*)**

Repeal the definition, substitute:

*office* has the same meaning as in the Registration and Accountability of Organisations Schedule.

**15 Subsection 4(1) (definition of *one-tier collegiate electoral system*)**

Repeal the definition.

**16 Subsection 4(1) (definition of *organisation*)**

Repeal the definition, substitute:

*organisation* means an organisation registered under the Registration and Accountability of Organisations Schedule.

Note: An organisation that was registered under the *Workplace Relations Act 1996* immediately before the commencement of item 1 of Schedule 2 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002* (the *Consequential Provisions Act*) is taken to have been registered under the Registration and Accountability of Organisations Schedule (see item 15 of Schedule 1 to the *Consequential Provisions Act*).

**17 Subsection 4(1) (definition of *panel*)**

Omit “, except in section 38,”.

**18 Subsection 4(1) (definition of *postal ballot*)**

Repeal the definition.

**19 Subsection 4(1)**

Insert:

*Registration and Accountability of Organisations Schedule*  
means Schedule 1B.

**19A Subsection 4(1) (at the end of the definition of *this Act*)**

Add “but does not include Schedule 1B or regulations made under that Schedule”.

**20 Subsection 4(2)**

Repeal the subsection.

**21 At the end of paragraph 4(3)(a)**

Add “and”.

**22 At the end of subsection 4(3)**

Add:

; and (d) an industrial dispute within the meaning of the Registration and Accountability of Organisations Schedule.

**23 Subsection 4(4)**

Repeal the subsection.

**24 Subsection 4(5)**

Omit “subsection 202(1)”, substitute “subsection 151(1) of the Registration and Accountability of Organisations Schedule”.

**25 Subsection 4(6)**

Repeal the subsection.

**26 Section 6**

Repeal the section, substitute:

**6 Act binds Crown**

(1) This Act binds the Crown in each of its capacities.

- (2) However, this Act does not make the Crown liable to be prosecuted for an offence.

## **27 After section 8**

Insert:

### **8A Functions of Commission**

The functions of the Commission are the functions conferred on the Commission by this Act, the Registration and Accountability of Organisations Schedule or otherwise.

## **28 At the end of section 27**

Add:

- (3) In this section:

*proceeding* includes a proceeding under the Registration and Accountability of Organisations Schedule.

## **29 Subsection 30(1)**

After “this Act”, insert “and the Registration and Accountability of Organisations Schedule”.

## **30 Subsection 30(3)**

After “this Act” (wherever occurring), insert “, the Registration and Accountability of Organisations Schedule”.

## **31 Section 31**

After “this Act”, insert “and the Registration and Accountability of Organisations Schedule”.

## **32 Section 32**

After “this Act”, insert “or the Registration and Accountability of Organisations Schedule”.

## **33 Section 32**

Omit “(including a member in the capacity of designated Presidential Member)”.

## **34 Section 33**

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After “this Act”, insert “and the Registration and Accountability of Organisations Schedule”.

**35 At the end of subsection 37(3)**

Add “mentioned in subsection (1)”.

**36 At the end of section 37**

Add:

- (4) A member of the Commission may be a member of the panel established under section 14 of the Registration and Accountability of Organisations Schedule.

**37 Section 38**

Repeal the section.

**38 At the end of subsection 40(1)**

Add “or the Registration and Accountability of Organisations Schedule”.

**39 At the end of paragraphs 45(1)(a) to (ed)**

Add “and”.

Note: The heading to section 45 is altered by adding at the end “**relating to matters arising other than under the Registration and Accountability of Organisations Schedule**”.

**40 Paragraph 45(1)(f)**

Repeal the paragraph.

**41 At the end of paragraphs 45(3)(a) to (bb)**

Add “and”.

**42 Paragraph 45(3)(c)**

Repeal the paragraph.

**43 After section 45**

Insert:

**45A Appeals to Full Bench relating to matters arising under the  
Registration and Accountability of Organisations  
Schedule etc.**

- (1) Subject to the Registration and Accountability of Organisations Schedule and this Act, an appeal lies to a Full Bench, with the leave of the Full Bench, against:
  - (a) a decision of a member of the Commission by way of a finding in relation to a matter arising under the Registration and Accountability of Organisations Schedule; and
  - (b) an order made by a member of the Commission under that Schedule, other than an order made by consent of the parties to an industrial dispute; and
  - (c) a decision of a member of the Commission under that Schedule not to make an order; and
  - (d) a decision of a member of the Commission under paragraph 111(1)(g) of this Act; and
  - (e) a decision of a member of the Commission that the member has jurisdiction, or a refusal or failure of a member of the Commission to exercise jurisdiction, in a matter arising under the Registration and Accountability of Organisations Schedule.
- (2) A Full Bench must grant leave to appeal under subsection (1) if, in its opinion, the matter is of such importance that, in the public interest, leave should be granted.
- (3) An appeal under subsection (1) may be instituted by:
  - (a) a party to the proceeding; or
  - (b) a person bound by an order; or
  - (c) a person aggrieved by the decision.
- (4) Where an appeal has been instituted under this section, a Full Bench or Presidential Member may, on such terms and conditions as the Full Bench or Presidential Member considers appropriate, order that the operation of the whole or a part of the decision or act concerned be stayed pending the determination of the appeal or until further order of a Full Bench or Presidential Member.
- (5) A Full Bench may direct that 2 or more appeals be heard together, but an organisation or person who has a right to be heard in relation to one of the appeals may be heard in relation to a matter



raised in another of the appeals only with the leave of the Full Bench.

- (6) For the purposes of an appeal under this section, a Full Bench:
  - (a) may admit further evidence; and
  - (b) may direct a member of the Commission to provide a report in relation to a specified matter.
- (7) On the hearing of the appeal, the Full Bench may do one or more of the following:
  - (a) confirm, quash or vary the decision or act concerned;
  - (b) make an order or decision dealing with the subject-matter of the decision or act concerned;
  - (c) direct the member of the Commission whose decision or act is under appeal, or another member of the Commission, to take further action to deal with the subject-matter of the decision or act in accordance with the directions of the Full Bench;
  - (d) in the case of an appeal under paragraph (1)(d)—take any action (including making an order) that could have been taken if the decision under paragraph 111(1)(g) had not been made.
- (8) If, under paragraph (6)(b), a Full Bench directs a member of the Commission to provide a report, the member must, after making such investigation (if any) as is necessary, provide the report to the Full Bench.
- (9) Each provision of this Act and the Registration and Accountability of Organisations Schedule relating to the hearing or determination of a matter mentioned in subsection (1) of this section extends to the hearing or determination of an appeal under this section.

#### **44 Subsection 48(1)**

After “this Act”, insert “or the Registration and Accountability of Organisations Schedule”.

#### **45 Paragraph 63(1)(a)**

Repeal the paragraph.

#### **46 At the end of paragraph 63(1)(d)**

Add “or the Registration and Accountability of Organisations Schedule”.

**47 Subsection 63(2)**

Repeal the subsection.

**48 Subsection 66(1)**

After “Industrial Registry”, insert “under this Act and the Registration and Accountability of Organisations Schedule”.

**49 Paragraph 67(2)(a)**

After “this Act”, insert “, the Registration and Accountability of Organisations Schedule”.

**50 Paragraph 67(2)(b)**

After “this Act”, insert “or the Registration and Accountability of Organisations Schedule”.

**51 Paragraph 75(2)(a)**

After “this Act”, insert “, the Registration and Accountability of Organisations Schedule”.

**52 Paragraph 75(2)(b)**

After “this Act”, insert “or the Registration and Accountability of Organisations Schedule”.

**53 Paragraph 81(1)(a)**

After “this Act”, insert “, the Registration and Accountability of Organisations Schedule (to the extent permitted by that Schedule) or any other Act”.

**54 At the end of paragraph 81(1)(b)**

Add “, the Registration and Accountability of Organisations Schedule (to the extent permitted by that Schedule) or any other Act”.

**55 Subsection 82(1)**

After “Registrar” (second occurring), insert “under this Act or the Registration and Accountability of Organisations Schedule”.

**56 Paragraph 83BB(1)(i)**

After “this Act”, insert “, the Registration and Accountability of Organisations Schedule”.

**57 After subsection 88B(1)**

Insert:

- (1A) To the extent that the Commission is performing its functions under this Part in relation to matters arising under the Registration and Accountability of Organisations Schedule, the Commission must perform those functions in a way that furthers the objects of that Schedule.

**58 Paragraph 89(b)**

After “this”, insert “Act, the Registration and Accountability of Organisations Schedule”.

**59 At the end of section 90**

Add:

- (2) To the extent that the Commission is performing its functions in relation to matters arising under the Registration and Accountability of Organisations Schedule, the Commission must take into account the public interest, and for that purpose must have regard to:
- (a) the objects of that Schedule; and
  - (b) the state of the national economy and the likely effects on the national economy of any order that the Commission is considering, or is proposing to make, with special reference to likely effects on the level of employment and on inflation.

**60 At the end of section 98A**

Add “or the Registration and Accountability of Organisations Schedule”.

**61 At the end of subsection 99(1)**

Add:

Note: Some industrial disputes (including demarcation disputes) are dealt with under the Registration and Accountability of Organisations Schedule.

**62 At the end of subsection 100(1)**

Add:

Note: A demarcation dispute that is not resolved by conciliation is dealt with under the Registration and Accountability of Organisations Schedule.

**63 Subsection 103(2)**

After “this Act”, insert “or the Registration and Accountability of Organisations Schedule”.

**64 At the end of section 104**

Add:

- (6) In an arbitration proceeding under the Registration and Accountability of Organisations Schedule, unless all the parties agree, evidence must not be given, or statements made, that would disclose anything said or done in a conciliation proceeding under that Schedule (whether before a member of the Commission or at a conference arranged by a member of the Commission) in relation to matters in dispute that remain unsettled.

**65 Subsection 108(2)**

Omit “Subject to subsection (2A), the”, substitute “The”.

Note: This item removes an inoperative cross-reference.

**66 Subsection 109(1)**

After “Commission”, insert “(whether under this Act or otherwise)”.

**67 Subsection 109(4)**

Omit “Subsections”, substitute “Subject to subsection (4A) of this section, subsections”.

**68 After subsection 109(4)**

Insert:

- (4A) Subsections 45A(4) to (8) (inclusive) apply in relation to a review under this section in relation to a matter arising under the Registration and Accountability of Organisations Schedule in the same manner as they apply in relation to an appeal under section 45A.

**69 At the end of section 109**

Add:

- (8) Nothing in this section affects any right of appeal or any power of a Full Bench under section 45A, and an appeal under that section and a review under this section may, if the Full Bench considers appropriate, be dealt with together.

**70 After subsection 110(2)**

Insert:

- (2A) If the hearing or determination concerns an industrial dispute or other proceeding arising under the Registration and Accountability of Organisations Schedule, the procedure of the Commission in the hearing or determination is, subject to this Act, the Registration and Accountability of Organisations Schedule and the Rules of the Commission, within the discretion of the Commission.

**71 Before subsection 111(1)**

Insert:

- (1A) Subject to this Act, the Commission may do any of the things mentioned in subsection (1) in relation to an industrial dispute arising under this Act.
- (1B) Subject to the Registration and Accountability of Organisations Schedule, the Commission may do any of the things mentioned in subsection (1) in relation to an industrial dispute arising under that Schedule.

**72 Subsection 111(1)**

Omit “Subject to this Act, the Commission may, in relation to an industrial dispute:”, substitute “The Commission may:”.

**73 At the end of subsection 111(2)**

Add “(whether under this Act, the Registration and Accountability of Organisations Schedule or otherwise)”.

**74 At the end of section 111**

Add:

Note: Section 133 of the Registration and Accountability of Organisations Schedule gives the Commission particular powers in relation to representation rights of organisations of employees.

**75 Section 118A**

Repeal the section.

**76 Subsection 119(1)**

Omit “an industrial dispute”, substitute “a matter”.

**77 Subsection 119(1)**

Omit “the industrial dispute”, substitute “the matter”.

**78 Subsection 119(2)**

Omit “industrial dispute”, substitute “matter”.

**79 Subsection 119(3)**

Omit “industrial dispute” (wherever occurring), substitute “matter”.

**80 At the end of section 119**

Add:

(6) In this section:

***matter*** means:

- (a) an industrial dispute arising under this Act; or
- (b) a proceeding (including an industrial dispute) arising under the Registration and Accountability of Organisations Schedule.

**81 At the end of subsection 134(2)**

Add “or the Registration and Accountability of Organisations Schedule”.

**82 Subsection 134(3)**

After “this Act”, insert “or the Registration and Accountability of Organisations Schedule”.

**83 After section 170LK**

Insert:

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**170LKA Certificate as to requested representation or invitation**

- (1) If a Registrar is satisfied:
- (a) on application by an organisation of employees, that an employee has made a request in accordance with subsection 170LK(4) for the organisation to represent the employee in meeting and conferring with an employer about a proposed agreement; or
  - (b) on application by an employer, that, after making such a request, the requirement in subsection 170LK(5) for the employer to give a reasonable opportunity to the organisation to meet and confer about the proposed agreement, has, because of subsection 170LK(6), ceased to apply to the employer;
- the Registrar may issue a certificate to that effect.
- (2) The certificate must not identify any of the employees concerned. However, it must identify the organisation, the employer and the proposed agreement.
- (3) The certificate is, for all purposes of this Act, evidence that the employee or employees made the request or that the requirement has ceased to apply.

**84 Subsection 170MR(5)**

Omit “section 196”, substitute “section 159 of the Registration and Accountability of Organisations Schedule”.

**85 Before subsection 174(1)**

Insert:

- (1A) This section does not apply to a demarcation dispute.

Note: The heading to section 174 is altered by inserting “(other than demarcation dispute)” after “dispute”.

**86 After section 174**

Insert:

**174A Reference of demarcation dispute to State authority for determination**

- (1) The President may refer a demarcation dispute to a State authority to be investigated and dealt with under this Act:
  - (a) by conciliation; or
  - (b) by arbitration; or
  - (c) by conciliation and, if necessary, by arbitration.
- (2) The President may revoke the reference at any time before a determination is made by the State authority in settlement of the demarcation dispute.
- (3) In relation to the exercise of powers under subsection (1) or (2), the President may direct a member of the Commission to provide a report in relation to a specified matter.
- (4) After making such investigation (if any) as is necessary, the member must provide the report to the President.
- (5) For the purposes of investigating and dealing with the demarcation dispute, the State authority may exercise any powers of the Commission under this Act or the Registration and Accountability of Organisations Schedule that are exercisable by a Commissioner.
- (6) A determination made by the State authority in settlement of the demarcation dispute:
  - (a) is taken for the purposes of this Act (other than section 109) and the Registration and Accountability of Organisations Schedule to be an order made under the Registration and Accountability of Organisations Schedule by a member of the Commission, but section 45A of this Act applies in relation to the determination as if paragraph 45A(7)(c) were omitted; and
  - (b) is taken, for the purposes of sections 152 and 153 of this Act, not to be an order, award, decision or determination of a State industrial authority.
- (7) Section 149 applies in relation to a determination made by the State authority in settlement of the demarcation dispute as if a reference to the Commission were a reference to the State authority.



- (8) Sections 299, 302, 303, 354 and 355 of this Act and sections 355 and 356 of the Registration and Accountability of Organisations Schedule apply in relation to the exercise of powers under this section by the State authority as if a reference to:
- (a) a member of the Commission; or
  - (b) the Commission;
- were a reference to the State authority, and as if the State authority exercised those powers as a member of the Commission.
- (9) In exercising powers under this section, the State authority has the same protection and immunity as a member of the Commission has under section 41 in performing functions as a member of the Commission.
- (10) In this section:
- State authority* means:
- (a) a member of a State industrial authority nominated by the head of the State industrial authority; or
  - (b) if another office is prescribed in relation to the State industrial authority—the holder of the office.

#### **87 Subsection 176(1)**

After “Act”, insert “or the Registration and Accountability of Organisations Schedule”.

#### **88 Subsection 178(1)**

Omit “Subject to section 182, where”, substitute “Where”.

Note: This item removes an inoperative cross-reference.

#### **89 Subsection 178(1)**

After “Commission”, insert “(whether under this Act, the Registration and Accountability of Organisations Schedule or otherwise)”.

#### **90 Paragraph 187(4)(a)**

After “this Act”, insert “, the Registration and Accountability of Organisations Schedule”.

#### **91 Part IX (heading)**

Repeal the heading, substitute:

## Part IX—Entry and inspections by organisations

### 92 Divisions 1A to 11 of Part IX

Repeal the Divisions.

### 93 Division 11A of Part IX (heading)

Repeal the heading.

### 94 Division 12 of Part IX

Repeal the Division.

### 95 Part X

Repeal the Part.

### 96 Subsection 298B(1) (at the end of the definition of *industrial body*)

Add:

; or (c) a court or commission, however designated, exercising under an industrial law powers and functions corresponding to those conferred on the Commission by the Registration and Accountability of Organisations Schedule.

### 97 Subsection 298B(1) (definition of *industrial law*)

After “this Act”, insert “, the Registration and Accountability of Organisations Schedule”.

### 98 At the end of subsection 298F(1)

Add:

; or (c) any proceedings under the Registration and Accountability of Organisations Schedule; or  
(d) any other activity for which the Registration and Accountability of Organisations Schedule provides.

Note: The heading to section 298F is replaced by the heading “**Matters arising under this Act or the Registration and Accountability of Organisations Schedule**”.

### 99 Sections 310, 313, 314, 315 and 316

Repeal the sections.

### 100 Subsection 317(5) (definition of *ballot*)

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Repeal the definition, substitute:

*ballot* means a ballot ordered under section 135 or 136.

**101 Sections 318, 319, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 337 and 340**

Repeal the sections.

**102 Heading to Part XII**

Repeal the heading, substitute:

**Part XII—Costs**

**103 Division 1 of Part XII**

Repeal the Division.

**104 Paragraph 359(2)(e)**

Repeal the paragraph.

**105 Subsection 414(2)**

Repeal the subsection.

**106 Subsection 415(1)**

Repeal the subsection, substitute.

- (1) The jurisdiction of the Court under this Act is to be exercised by a Full Court in relation to matters in which a writ of mandamus or prohibition or an injunction is sought against:

- (a) a Presidential member; or
- (b) officers of the Commonwealth at least one of whom is a Presidential member.

**107 Section 421**

Repeal the section.

**108 Subsection 469(1)**

After “Act”, insert “or the Registration and Accountability of Organisations Schedule”.

**109 After subsection 469(2)**

Insert:

- (2A) Subject to this Act, the Registration and Accountability of Organisations Schedule and any other Act, a party to a proceeding before the Court in a matter arising under the Registration and Accountability of Organisations Schedule may be represented only as provided by this section.

**110 At the end of paragraph 469(8)(b)**

Add “or the Registration and Accountability of Organisations Schedule”.

**111 Section 470**

After “Act”, insert “or the Registration and Accountability of Organisations Schedule”.

**112 At the end of subsection 471(1)**

Add “or the Registration and Accountability of Organisations Schedule”.

**113 Schedules 3 and 4**

Repeal the Schedules.

## **Part 2—Transitional and saving provisions**

### **114 Transitional and saving provisions**

- (1) An application made under section 291A of the *Workplace Relations Act 1996* but not determined before the commencement of this item is taken to have been made under section 170LKA of that Act as in force after that commencement.
- (2) A certificate in force under section 291A of the *Workplace Relations Act 1996* as in force immediately before the commencement of this item continues in force on and after that commencement as if it had been issued under section 170LKA of that Act as in force after that commencement.

## Schedule 3—Amendment of other Acts

### *Builders Labourers' Federation (Cancellation of Registration—Consequential Provisions) Act 1986*

#### **2 Section 3 (subparagraph (b)(i) of the definition of *non-registered association*)**

Omit “Workplace Relations Act”, substitute “Registration and Accountability of Organisations Schedule”.

#### **3 Section 3**

Insert:

*Registration and Accountability of Organisations Schedule*  
means Schedule 1B to the *Workplace Relations Act 1996*.

#### **3A Section 3 (at the end of the definition of *Workplace Relations Act*)**

Add “(other than Schedule 1B to that Act)”.

#### **4 Paragraph 4(3A)(a)**

Omit “Industrial Relations Act” (wherever occurring), substitute “Workplace Relations Act”.

#### **5 Paragraph 4(3A)(b)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

#### **6 Paragraph 4(3A)(b)**

Repeal the paragraph, substitute:

- (b) make an objection under section 56 of the Registration and Accountability of Organisations Schedule, or under regulations made under that Schedule in relation to a proceeding under that Schedule, and be heard in relation to that objection.

#### **8 Subsection 4(4)**

Omit “Industrial Relations Act” (first occurring), substitute “Workplace Relations Act”.

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**9 Subsection 4(4)**

After “Workplace Relations Act” (first occurring), insert “or the Registration and Accountability of Organisations Schedule”.

**10 Subparagraph 4(4)(a)(ii)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**11 Paragraph 4(4)(b)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**12 Subsection 4(5)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**13 Subsection 4(5)**

After “Workplace Relations Act”, insert “or the Registration and Accountability of Organisations Schedule”.

**14 Subsection 4(5)**

Omit “that Act”, substitute “the Registration and Accountability of Organisations Schedule”.

**15 Subsection 4(6)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**16 Subsection 5(1)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**17 Subsection 5(1)**

Omit “Division 1 of Part IX of the Workplace Relations Act”, substitute “Part 2 of Chapter 2 of the Registration and Accountability of Organisations Schedule”.

**18 Section 5**

Omit “that Division” (wherever occurring), substitute “that Part”.

**19 Subparagraph 5(1)(b)(ii)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**20 Subparagraph 5(1)(b)(ii)**

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After “Workplace Relations Act”, insert “or the Registration and Accountability of Organisations Schedule”.

**21 Paragraph 5(1)(c)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**22 Paragraph 5(1)(c)**

Omit “Workplace Relations Act”, substitute “Registration and Accountability of Organisations Schedule”.

**22A Paragraph 5(1)(c)**

Omit “under that Act”, substitute “under that Schedule”.

**23 Paragraph 5(1)(c)**

Omit “Division 1 of Part IX of that Act”, substitute “Part 2 of Chapter 2 of that Schedule”.

**24 Subsections 6(1) and (2)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**25 Subsection 7(2)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**26 Subsection 7(2)**

Omit “Workplace Relations Act”, substitute “Registration and Accountability of Organisations Schedule”.

**27 Subsection 7(3)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**28 Subsection 7(3)**

Omit “Workplace Relations Act”, substitute “Registration and Accountability of Organisations Schedule”.

**29 Subsection 7(3)**

Omit “section 234”, substitute “section 235”.

Note: This item corrects an incorrect cross-reference.

**30 Subsection 7(3)**

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Omit “section 235 of that Act”, substitute “section 36 of that Schedule”.

**31 Subsection 7(4)**

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

**32 Subsection 7(4)**

Omit “Workplace Relations Act”, substitute “Registration and Accountability of Organisations Schedule”.

***Commonwealth Authorities and Companies Act 1997***

**33 Paragraph 7(2)(c)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Commonwealth Electoral Act 1918***

**34 Section 5 (definition of *electoral matters*)**

Omit “the *Conciliation and Arbitration Act 1904* or”.

**36 Subsection 287(1) (definition of *registered industrial organisation*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Crimes Act 1914***

**37 Section 85ZL (subparagraph (c)(ii) of the definition of *Commonwealth authority*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Criminal Code Act 1995***

**38 The Dictionary in the *Criminal Code* (subparagraph (a)(vi) of the definition of *Commonwealth authority*)**

Repeal the subparagraph, substitute:

- (vi) Part 2 of Chapter 2 of the *Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002*; or

**39 The Dictionary in the *Criminal Code* (subparagraph (n)(vi) of the definition of *Commonwealth public official*)**

Repeal the subparagraph, substitute:

- (vi) Part 2 of Chapter 2 of the *Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002*; or

**40 The Dictionary in the *Criminal Code* (subparagraph (r)(vi) of the definition of *Commonwealth public official*)**

Repeal the subparagraph, substitute:

- (vi) Part 2 of Chapter 2 of the *Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002*; or

***Disability Discrimination Act 1992***

**41 Subsection 4(1) (definition of *registered organisation*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

Note: The heading to section 20 is altered by omitting “the *Workplace Relations Act 1996*” and substituting “Schedule 1B to the *Workplace Relations Act 1996*”.

***Employment, Workplace Relations and Small Business Legislation Amendment (Application of Criminal Code) Act 2001***

**42 Subsections 2(12) and (13)**

Repeal the subsections.

**43 Schedule 1 (heading relating to the *Workplace Relations (Registered Organisations) Act 2001*)**

Repeal the heading.

**44 Items 205 to 243 of Schedule 1**

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Repeal the items.

**45 Schedule 1 (heading relating to the *Workplace Relations (Registered Organisations) (Consequential Provisions) Act 2001*)**

Repeal the heading.

**46 Item 244 of Schedule 1**

Repeal the item.

***Equal Opportunity for Women in the Workplace Act 1999***

**47 Subsection 3(1) (paragraph (a) of the definition of *trade union*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Human Rights and Equal Opportunity Commission Act 1986***

**50 Subsection 3(1) (paragraph (a) of the definition of *trade union*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Income Tax Assessment Act 1936***

**51 Subsection 27A(1) (paragraph (c) of the definition of *registered organization*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Insurance Act 1973***

**52 Subsection 3(1) (paragraph (e) of the definition of *insurance business*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Life Insurance Act 1995***

**54 Paragraph 11(3)(b)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***National Crime Authority Act 1984***

**56 Schedule 1 (item referring to the *Workplace Relations Act 1996*)**

Repeal the item, substitute:

*Workplace Relations Act 1996*, section 355, and section 356 of Schedule 1B

***Navigation Act 1912***

**58 Paragraph 138(2)(b)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Occupational Health and Safety (Commonwealth Employment) Act 1991***

**59 Subsection 5(1) (paragraph (a) of the definition of *registered union*)**

Omit “the *Industrial Relations Act 1988*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Petroleum (Submerged Lands) Act 1967***

**60 Clause 2 of Schedule 7 (paragraph (a) of the definition of *registered union*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

***Sex Discrimination Act 1984***

**61 Subsection 4(1) (definition of *registered organization*)**

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Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

Note: The heading to section 19 is altered by omitting “the *Workplace Relations Act 1996*” and substituting “**Schedule 1B to the *Workplace Relations Act 1996***”.

### ***Superannuation Act 1976***

#### **62 Subsection 51(2BB) (paragraph (a) of the definition of *approved organisation*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

### ***Superannuation Industry (Supervision) Act 1993***

#### **63 Subsection 10(1) (paragraph (c) of the definition of *registered organisation*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

### ***United States Naval Communication Station (Civilian Employees) Act 1968***

#### **64 Paragraph 4(b)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

## **Schedule 4—Amendments about entry to premises**

### ***Workplace Relations Act 1996***

#### **1 Subsection 285C(1)**

Omit “A”, substitute “Subject to subsections (2) and (3), a”.

#### **2 At the end of section 285C**

Add:

- (3) The person may not enter premises if all of the following conditions are satisfied:
  - (a) no more than 20 employees are employed to work at the premises;
  - (b) all the employees at the premises are employed by an employer who is the holder of a conscientious objection certificate in force under section 267, that has been endorsed by the Registrar as provided in subsection (4);
  - (c) none of the employees employed at the premises is a member of an organisation.
- (4) Subject to subsection (5), a Registrar may, on the application of an employer, endorse a certificate issued to that employer under section 267 if the Registrar is satisfied that the employer is a practising member of a religious society or order whose doctrines or beliefs preclude membership of an organisation or body other than the religious society or order of which the employer is a member.
- (5) A Registrar must not endorse a certificate under subsection (4) unless satisfied that, at the time application is made for endorsement, all of the employees employed by the applicant have agreed that the applicant’s certificate should be endorsed.
- (6) An application under subsection (4) may be made at the time of an application under section 267 or at any later time.
- (7) The endorsement of a Registrar under subsection (4) remains in force for the period that the certificate remains in force.

Note: A certificate issued under section 267 remains in force for the period (not exceeding 12 months) specified in the certificate, but may be renewed. A Registrar's endorsement under subsection (4) does not remain in force when a certificate is renewed, but a new application for endorsement may be made.

**3 Paragraph 285C(3)(b)**

Omit "section 267", substitute "section 180 of the Registration and Accountability of Organisations Schedule".

**4 Subsection 285C(4)**

Omit "section 267", substitute "section 180 of the Registration and Accountability of Organisations Schedule".

**5 Subsection 285C(6)**

Omit "section 267", substitute "section 180 of the Registration and Accountability of Organisations Schedule".

**6 Subsection 285C(7) (note)**

Omit "section 267", substitute "section 180 of the Registration and Accountability of Organisations Schedule".

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*[Minister's second reading speech made in—  
House of Representatives on 21 March 2002  
Senate on 15 October 2002]*

(97/02)