

EXPLANATORY STATEMENT

Statutory Rule 1989 No 46

Rules of the Australian Industrial Relations Commission

(Issued by the Authority of the Minister for  
Industrial Relations)

Section 48 of the Industrial Relations Act 1988 (the Act) authorises the making of rules of the Australian Industrial Relations Commission (the Commission). The Act commenced on 1 March 1989.

Sub-section 48(1) of the Act authorises the President of the Commission, after consultation with members of the Commission, to make rules, not inconsistent with the Act, with respect to:

- (a) the practice and procedure to be followed in the Commission; or
- (b) the conduct of business in the Commission;

and in particular:

- (c) the manner in which, and the time within which, applications, submissions and objections may be made to the Commission; and
- (d) the manner in which applications, submissions and objections may be dealt with by the Commission.

The President of the Commission has made rules to the following effect:

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| <u>Rule 1</u> | gives the citation of the Rules.  |
| <u>Rule 2</u> | sets out the date of commencement of the Rules.   |
| <u>Rule 3</u> | prescribes the form, custody and use of the seals of the Commission for the purposes of section 47 of the Act.  |
| <u>Rule 4</u> | provides for the use of forms contained in the Schedule to the Rules and the required degree of compliance with those forms.  |
| <u>Rule 5</u> | permits the Commission to waive compliance with the Rules.  |
| <u>Rule 6</u> | provides for the Commission to direct procedures where there are no procedures prescribed by the Act, Regulations, Rules or any other Act, or where a person is in doubt as to the manner or form or procedure. |
| <u>Rule 7</u> | requires the Commission to notify a Registrar where the Commission acts on its own motion under section   |

33 of the Act and requires a Registrar so notified to register the matter.

Rule 8 requires the Industrial Registrar to keep a copy of an instrument made under subsection 38(1) of the Act which provides that, where the Act confers a power or function on a designated Presidential Member, the President shall, by signed instrument, designate at least one Presidential Member to exercise the power or perform the function.

Rule 9 requires the Industrial Registrar to keep a copy of an instrument made by the President under section 40 of the Act which empowers the President, by signed instrument, to delegate to a Deputy President all or any of the President's powers under the Act.

Rule 10 sets out the procedures to be followed in relation to the making of an appeal to a Full Bench of the Commission under section 45 of the Act, including the documents to be lodged, time for making the appeal, service of documents and the giving of notice of the time and place of hearing.

Rule 11 sets out the procedures to be followed in relation to the reference of a matter by a Registrar to the President for decision in accordance with section 79 of the Act.

Rule 12 sets out the procedures to be followed in relation to the making of an appeal from a Registrar, under section 81 of the Act, including the documents to be lodged, time for making the appeal, service of documents and the giving of notice of the time and place fixed for hearing the appeal.

Rule 13 sets out the form of a notification under section 99 of the Act of an industrial dispute arising out of service of a log of claims, and the documents which must accompany such a notification.

Rule 14 prescribes the manner in which notification of an industrial dispute not arising out of service of a log of claims shall be given.

Rule 15 prescribes the manner in which a notification under section 118 of the Act (that is, concerning a demarcation dispute) shall be notified.

Rule 16 provides for the giving of notice of the time and place fixed for a hearing of an industrial dispute to ensure that all persons alleged to be parties to the dispute, whether arising out of a log of claims or otherwise, are notified. In addition the Minister is to be notified of the time and place

for hearing a dispute referred to a Full Bench under section 107 of the Act or for hearing a review by a Full Bench under section 109 of the Act of an award or order or a decision to certify an agreement.

- Rule 17 requires the Industrial Registrar to maintain a Register of Findings of Industrial Disputes containing specified particulars of all disputes and which is to be available for public inspection.
- Rule 18 provides for a copy of the President's decision on an application under section 107 of the Act for the reference of a matter to a Full Bench to be kept with the documents relating to the proceedings.
- Rule 19 provides for a copy of the President's decision to deal with a matter under section 108 of the Act to be kept with the documents relating to the proceedings.
- Rule 20 prescribes the procedures to be followed in relation to an application by the Minister under section 109 of the Act for a review by a Full Bench of an award or order or of a decision to certify an agreement.
- Rule 21 provides for the form and service of a summons to appear before the Commission issued under paragraph 111(1)(s) of the Act, and that such a summons shall be issued only with the approval of a member of the Commission.
- Rule 22 prescribes the form of an application under section 112 of the Act for a consent award and the documents to be lodged with the application.
- Rule 23 prescribes the form of an application under section 115 of the Act for the certification of an agreement and the documents to be lodged with the application.
- Rule 24 sets out the procedures to be followed in relation to an application under section 113 of the Act to set aside or vary an award, including the form to be used, service of documents and requirements as to notice of the time and place of hearing.
- Rule 25 sets out the procedures to be followed in relation to an application by the Minister under section 117 of the Act for review by a Full Bench of the operation of a certified agreement.
- Rule 26 prescribes the procedures to be followed in relation to an application for a declaration under sub-section 117(5) of the Act that a party is no longer bound by a certified agreement, including the form to be used, service of documents and requirements as to notice of the time and place of hearing.

- Rule 27 prescribes the content of an application under section 122 of the Act, that is, for an award granting preference in employment to members of a particular organisation.
- Rule 28 prescribes the contents of an application for an order under section 128 of the Act for a State industrial authority to be restrained from dealing with an industrial dispute or other matter within the jurisdiction of the Commission, and provides for the service of such an order on the relevant State industrial authority.
- Rule 29 prescribes the form of an application under section 136 of the Act for an order that a secret ballot be held to determine whether union members support proposed industrial action.
- Rule 30 requires the President to provide to the Industrial Registrar particulars of a dispute that has been referred by the President to a State industrial authority to be investigated and dealt with under section 174 of the Act and to advise the Industrial Registrar of the name of the relevant State industrial authority.
- Rule 31 prescribes the information that is to be contained in a notice given under section 181 of the Act that there is or is likely to be, a breach of a bans clause contained in an award and sets out requirements as to service of the notice.
- Rule 32 provides procedures for making an application under section 187 of the Act for the cancellation or suspension of an award or order of the Commission, and for notice of the time and place of the hearing to be given to the applicant and to the organisation to which the application relates.
- Rule 33 provides procedures for the settlement of draft awards and orders.
- Rule 34 requires that documents for the use of the Commission be lodged in the Industrial Registry and specifies the number of copies to be lodged and the size, colour and marking of such documents.
- Rule 35 requires that each document lodged in connection with any matter before the Commission be indorsed with the name and address of the party lodging it. The rule further provides that the address indorsed on the document shall be the address for service on that party.
- Rule 36 provides for the service of documents by parties, the means by which service shall be affected, and the time at which service by post shall be deemed to have been affected.

Rule 37 provides for the making by the Commission of such orders for substituted or other service as is thought just for the purpose of bringing the document to the notice of the person to be served.

Rule 38 lists the approved forms for the purposes of the Industrial Relations Regulations. The Regulations provide for the use of approved forms for various purposes. Regulation 2 defines an "approved form" as meaning "a form approved by the President for the purposes of the provision in which the expression is used".

Schedule contains the forms which, under rule 4, are required to be used where applicable, and also those forms which are "approved forms" for the purposes of the Regulations.