

Australian Industrial Relations Commission Amendment Rules 1999 (No. 2) 1999 No. 71

EXPLANATORY STATEMENT

STATUTORY RULES 1999 NO. 71

Amendment of the Australian Industrial Relations Commission Rules

(Issued by the Authority of the President of the Australian Industrial Relations Commission)

Authority

Section 48 of the *Workplace Relations Act 1996* (the Act) authorises the making of the rules of the Australian Industrial Relations Commission (the Commission).

Under subsection 48(1) of the Act the President of the Commission by signed instrument, after consultation with members of the Commission, may 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.

Moreover, subsection 4(1) of the Act states:

" 'prescribed' includes prescribed by Rules of the Commission made under section 48;"

Purpose

A number of amendments are necessary to reflect the disallowance of Workplace Relations Amendment Regulations 1998 (No 2) and (No 3) and the making of the Workplace Relations Amendment Regulations 1999 (No 1). Other amendments are of minor technical nature.

Details

The President of the Commission, after consultation with members of the Commission, has made amendments to the Rules to the following effect:

Rule 1 is a formal provision stating the name of these Rules.

Rule 2 provides that these Rules commence on Gazettal.

Rule 3 is a formal provision, providing that the Australian Industrial Relations Commission Rules are amended as set out in these Rules.

Schedule 1

Item 1 clarifies the existing requirement in subrule 11 (1)(b) to indicate that only relevant extracts of the transcript are required to be lodged together with a notice of appeal.

Item 2 clarifies the existing requirement in subrule 11 (1)(c) to indicate that only each exhibit that relates to the grounds of appeal are required to be lodged together with a notice of appeal.

Item 3 is a technical provision inserting the word "and" at the end of subparagraph 49 (1)(b)(ii).

Item 4 is a technical provision requiring an applicant for certification of an agreement under section 170LK of the Act to lodge with the Registry enough additional copies of the agreement to enable the Registry to provide (in the event of certification) a copy to the employer and any employee acting on his or her own behalf and on behalf of other employees.

Item 5 reflects the \$50.00 fee payable for lodgment of an application for relief in, respect of termination of employment (Forms R1 8, R1 9 and R20) arising from the Workplace Relations Amendment Regulations 1999 (No 1).

Item 6, in conjunction with Item 9, removes "the employer is - not a constitutional corporation" ground from

the list of possible bases of objection on jurisdictional grounds within Form R21 (Notice of Employer's

Appearance) in respect of termination of employment in New South Wales and Queensland, This base has

been removed as a result of the Industrial Relations Amendment (Federal Award Employees) Act 1998

(NSW) and the Workplace Relations Act 1997 (Queensland).

Item 7 clarifies the existing "fixed term contract" jurisdictional ground within Form R21 (Notice of Employer's Appearance) upon which an employer may object to an application in respect of termination of employment.

Item 8 removes from Form R21 (Notice of Employer's Appearance) the reference to those jurisdictional grounds upon which an employer may object to an application in respect of termination of employment resulting from the disallowance of Workplace Relations Amendment Regulations 1998 (No 2).

Item 9 removes "the employer is not a constitutional corporation" ground from the list of possible bases of objection on jurisdictional grounds within Form, R21 (Notice of Employer's Appearance) in respect of termination of employment in New South Wales and Queensland. This base has been removed as a result of the Industrial Relations Amendment (Federal Award Employees) Act 1998 (NSW) and the Workplace Relations Act 1997 (Queensland).

Item 10 clarifies the requirement on applicants in Form R28 for certification under sections 170LJ and 170LL of an agreement that applies only to the whole of a single business.

Item 11 is a technical provision amending Form R28 requiring applicants for certification of an agreement under sections 170LJ and 170LL to provide contact details for receipt-of hearing details concerning the application.

Item 12 is a technical provision amending Form R30 to reflect the requirements of Rule 49 in respect of the documentation which is necessary to be lodged by applicants for certification of an agreement under section 170LK.

Item 13 clarifies the requirement on applicants in Form R30 for certification under section 170LK of an agreement that applies only to the whole of a single business.

Item 14 is a technical provision amending Form R30 requiring applicants for certification of an agreement under section 170LK to provide contact details for receipt of hearing details concerning the application.

Item 15 clarifies the requirement on applicants in Form R32 for certification under section 170LS of an

agreement that applies only to the whole of a single business.

Item 16 is a technical provision amending Form R32 requiring applicants for certification of an agreement

under section 170LS to provide contact details for receipt of hearing details concerning the application.

Item 17 is a technical provision correcting a typographical error in Forms R63 and R64.