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Australian Industrial Relations Commission Amendment Rules 2000 (No. 1)

Statutory Rules 2000 No. *L*

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I, GEOFFREY MICHAEL GIUDICE, President of the Australian Industrial Relations Commission, having consulted with the members of the Commission, make the following Rules under the *Workplace Relations Act 1996*.

Dated *21 June* 2000

President

Registrar



Australian Industrial Relations Commission Amendment Rules 2000 (No. 1)¹

Statutory Rules 2000 No. 2²

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made under the

Workplace Relations Act 1996

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1 Name of Rules

These Rules are the *Australian Industrial Relations Commission Amendment Rules 2000 (No. 1)*.

2 Commencement

These Rules commence on 1 July 2000.

3 Amendment of *Australian Industrial Relations Commission Rules 1998*

Schedule 1 amends the *Australian Industrial Relations Commission Rules 1998*.

Schedule 1 Amendment

(rule 3)

[1] Schedule, Form R21

substitute

Form R21

(rule 38)

Australian Industrial Relations Commission NOTICE OF EMPLOYER'S APPEARANCE – TERMINATION OF EMPLOYMENT	<u>Commission use only</u> Date received
<i>Workplace Relations Act 1996 (Cth)</i> Section 170CE	
<i>Please place a tick or cross where necessary in the boxes below</i>	
Application details (as stated in Form R18)	
1 Applicant's full name Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/>	 (first name) (family name)
2 Commission Case/File Number	U
Employer details	
3 Employer named on application	
4 Has the applicant given the employer's correct name?	Yes <input type="checkbox"/> No <input type="checkbox"/> If no, correct name is

5 Address	postcode
6 Contact person	(first name) (family name) (phone) (fax) (mobile)
7 Employer details	<input type="checkbox"/> Company ACN/ABN _____ <input type="checkbox"/> Partnership <input type="checkbox"/> Sole trader <input type="checkbox"/> Government Authority <input type="checkbox"/> Other (specify)
8 Was the employer named in 3 or 4 above the employer of the applicant at the time of termination?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, give name and address of employer at time of termination
9 Was the applicant employed under an award or agreement (including an Australian Workplace Agreement) immediately prior to the termination?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, was it Federal or State? Federal <input type="checkbox"/> or State <input type="checkbox"/> If State, which State?

Representation details	
10 Is anyone representing the employer?	Yes <input type="checkbox"/> go to 11 No <input type="checkbox"/> go to 14
11 Name of solicitor, legal firm, employer organisation or other representative	
12 Contact details of solicitor, legal firm, employer organisation or other representative	(first name) (family name) (phone) (fax) (mobile)
13 Address of solicitor, legal firm, employer organisation or other representative	postcode
Address for notices	
14 Where does the employer want notices sent?	Address in 5 <input type="checkbox"/> or address in 13 <input type="checkbox"/> <i>(choose one only)</i>

Reasons for termination	
15 Brief summary of reason(s) given for termination	<i>(write here or attach document)</i>
Late lodgment objection (if applicable)	
<p>16 If the application was lodged in the Commission more than 21 days after the day on which the termination took effect, the Commission must decide whether to accept the application. The Commission may accept an application that is lodged out of time if the Commission considers that it would be unfair not to do so.</p> <p>If the application was lodged out of time, please indicate whether the employer intends to object to the Commission extending the time for lodgment.</p>	
<input type="checkbox"/>	I object to the Commission extending the time for lodgment and also object to conciliation before determination of the application to extend time; OR
<input type="checkbox"/>	I object to the Commission extending the time for lodgment but do <u>not</u> object to conciliation before determination of the application to extend time; OR
<input type="checkbox"/>	I do not object to the Commission extending the time for lodgment.

Jurisdictional objection (if applicable)	
17 If the employer believes the Commission does not have jurisdiction in the matter, please indicate whether the employer intends to object to the Commission hearing the application.	
<input type="checkbox"/>	I object, on jurisdictional grounds, to the Commission hearing the application and also object to conciliation before determination of the jurisdictional issue (documentation that you will rely on to substantiate your jurisdictional objection must accompany this Notice); OR
<input type="checkbox"/>	I object, on jurisdictional grounds, to the Commission hearing the application but do <u>not</u> object to conciliation before determination of the jurisdictional issue; OR
<input type="checkbox"/>	I do not object, on jurisdictional grounds, to the Commission hearing the application.
18 If the employer is objecting on jurisdictional grounds, please indicate the basis of the objection (section 170CC <i>Workplace Relations Act 1996</i> and regulations 30B and 30BB <i>Workplace Relations Regulations 1996</i>).	
<input type="checkbox"/>	The applicant was engaged under a contract of employment for a specified period of time.
<input type="checkbox"/>	The applicant was engaged under a contract of employment for a specified task.
<input type="checkbox"/>	The applicant was serving a period of probation or a qualifying period of employment, the duration or maximum duration of which was determined in advance and was three months or less, or otherwise reasonable given the nature and circumstances of the employment.
<input type="checkbox"/>	<p>The applicant was a casual employee engaged for a short period.</p> <p>A casual employee is taken to be engaged for a short period unless:</p> <p>(a) the employee is engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; and</p> <p>(b) the employee has, or but for a decision by the employer to terminate the employee's employment, would have had, a reasonable expectation of continuing employment by the employer.</p> <p>(Subregulation 30B (3) <i>Workplace Relations Regulations 1996</i>).</p>

<input type="checkbox"/>	The applicant was a trainee employed under a traineeship agreement or an approved traineeship for a specified period, or whose employment was for any other reason limited to the duration of the agreement.
<input type="checkbox"/>	The applicant was not employed under award conditions and whose annual remuneration immediately before termination exceeded a specified rate (\$69 200, July 1999).
<input type="checkbox"/>	The applicant is not covered by a federal award or agreement (<i>may only be a relevant objection in NSW, Qld, WA, SA, Tas</i>).
<input type="checkbox"/>	The employer is not a constitutional corporation (<i>may only be a relevant objection in WA, SA & Tas</i>).
<input type="checkbox"/>	Other jurisdictional grounds (<i>please specify</i>)
Declaration	
I declare that all the facts in this notice are correct and complete to the best of my knowledge and belief.	
<i>The employer must sign this notice unless a solicitor, legal firm, employer organisation or other representative has prepared the notice.</i>	(signature of employer)
	(date) / /
	(signature of solicitor, legal firm, employer organisation or other representative)
	(date) / /

PLEASE NOTE

This form must be lodged with the Commission within 7 days of receipt of the application (Form R18), and a copy must also be forwarded immediately by hand, post or fax to the applicant.

Notes

1. These Rules amend Statutory Rules 1998 No. 1, as amended by 1999 Nos. 1, 71 and 276.
2. Notified in the *Commonwealth of Australia Gazette* on 28 June 2000.
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