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Australian Industrial Relations Commission Amendment Rules 2001 (No. 1)¹

Statutory Rules 2001 No. ²

39

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 / 2001

23 February

/
President

G. M. GIUDICE

1 Name of Rules

These Rules are the *Australian Industrial Relations Commission Amendment Rules 2001 (No. 1)*.

2 Commencement

These Rules commence on gazettal.

3 Amendment of *Australian Industrial Relations Commission Rules 1998*

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

Schedule 1 Amendments
(rule 3)

[1] Rule 65

substitute

65 Variation of common rules

- (1) For subsection 142 (4) of the Act, a notice of objection to a variation of a common rule must be in accordance with Form 60A.
- (2) For subsection 142 (8) of the Act, the prescribed period is 28 days.

[2] Schedule, Form R5*substitute***Form R5 Information sheet for employers
served with a log of claims by a
union**

(rule 16)

Workplace Relations Act 1996

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Union demands on employers are frequently made by a letter demanding agreement, within a specified time, to matters set out in a log of claims. If the demands are not agreed to, the union will normally notify the Australian Industrial Relations Commission (the *Commission*) that an alleged industrial dispute exists between it and the employers.

The Commission, on being notified, will list the alleged industrial dispute for hearing. At the hearing the Commission will normally decide whether there is an industrial dispute and if so, who the parties to it are and what the matters in dispute are. Employers (who the union asserts were sent the log of claims) will be advised of the time and place of the hearing.

You are not obliged to attend the hearing. However, if you do not attend or are not represented, the hearing will normally go ahead in your absence and decisions may be made by the Commission. Whether you should attend or be represented at the hearing is a matter about which you may wish to take advice from your industrial relations, legal or other advisers.

If the Commission finds that an industrial dispute exists between a union and employers, the union may seek the making of an award or agreement in settlement (or part settlement) of the dispute.

This information sheet is required by the rules of the Commission to be provided for the information of employers served with demands by unions. It is not intended to be comprehensive. The law that applies to the matters referred to in this information sheet is the *Commonwealth Workplace Relations Act 1996*. Employers seeking further information or wanting advice should consult their advisers. Many employers are members of industry or employer associations who may be able to provide appropriate advice.

[3] Schedule, Form R21, item 18

omit

The applicant was not employed under award conditions and whose annual remuneration immediately before termination exceeded a specified rate (\$69 200, July 1999).

insert

The applicant was not employed under award conditions and the applicant's annual remuneration immediately before termination exceeded a specified rate (\$71 200, July 2000).

[4] Schedule, Form R21, item 18

omit

The applicant is not covered by a federal award or agreement (may only be a relevant objection in NSW, Qld, WA, SA, Tas).

insert

The applicant is not covered by a federal award or agreement (may only be a relevant objection in NSW, Qld, WA, SA, Tas). This basis of objection is only applicable if the application is based on the ground that the termination was harsh, unjust or unreasonable.

[5] Schedule, Form R21, item 18*omit*

The employer is not a constitutional corporation (*may only be a relevant objection in WA, SA, Tas*).

insert

The employer is not a constitutional corporation (*may only be a relevant objection in WA, SA, Tas*). *This basis of objection is only applicable if the application is based on the ground that the termination was harsh, unjust or unreasonable.*

[6] Schedule, Form R24*substitute***Form R24 170CF Issue of Certificate**

(rule 44)

Workplace Relations Act 1996

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

(U No)

[Member]

[Place and date]

CERTIFICATE

In accordance with subsection 170CF (2) of the *Workplace Relations Act 1996*, the Commission certifies that all reasonable attempts to settle the matter by conciliation have been, or are likely to be, unsuccessful so far as concerns*

[Insert reference to the particular subsection(s) of the Act which identify the ground or grounds where conciliation is, or is likely to be, unsuccessful].

An assessment of the merits has been indicated to the parties in the following terms:

[Set out terms of assessment]

* an application under section 170CE of the Act can be based on the ground or grounds:

- that the termination was harsh, unjust or unreasonable
- of an alleged contravention of section 170CK of the Act
- of an alleged contravention of section 170CL of the Act
- of an alleged contravention of section 170CM of the Act
- of an alleged contravention of section 170CN of the Act

(The Commission recommends that the applicant not pursue *[Insert ground or grounds it is recommended not be pursued]*)

BY THE COMMISSION:

[Signature of member]

Member's Title

Note The applicant has seven days from the date of this certificate within which to lodge a notice of election.

[7] Schedule, Form R56

substitute

Form R56 Notice of application for common rule declaration

(rule 16)

Workplace Relations Act 1996

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

IN the matter of:

[title of award and case number]

Notice is given that *[name of applicant]* has made application for a declaration that the terms hereinafter mentioned be a common rule:

* in the *[Territory]* for the *[industry]*

* for the whole or a specified class of public sector employment named hereunder.

[Set out particulars]

A copy of the award may be inspected free of charge at the Australian Industrial Registry at *[address]* or at the following places:

The application will be heard at *[place]* on *[date]* before *[name]*.

Any person or organisation seeking to be heard at the hearing of the application must, at least 3 days before the hearing date, file with the Australian Industrial Registry at *[address]*, or at the office of the Australian Industrial Registry in any capital city, a notice in accordance with Form R57; and shall, as soon as is practicable before the hearing, serve a copy of the notice on the applicant. Persons and organisations not so appearing or represented will be bound by any declaration made by the Commission in the matter which is applicable to them.

TERMS TO WHICH APPLICATION APPLIES

[Set out terms]

Dated

[Signature]
Registrar

* Omit whichever is inapplicable.

[8] Schedule, Form R57*substitute***Form R57 Notice of appearance in respect to
an application for common rule**

(rule 18)

Workplace Relations Act 1996

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

IN the matter of:

[title of award and case number]

And in the matter of an application to declare the award (or part thereof) a common rule of the *[specify Territory and industry or whole (or class) of public sector employment]*.

Take notice that *[name]* claims to be interested in, and desires to be heard on the hearing of, the application in the above matter.

Dated

[Signature of applicant]

[9] Schedule, Form R60

substitute

**Form R60 Notice of variation of common rule
award**

(rule 23)

Workplace Relations Act 1996

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

IN the matter of:

[title(s) and code number(s) of award(s) and case number(s)]

AND in the matter of the variation of the above award(s)

Notice is given

- (a) that the Commission has varied the term (or terms) of the above-mentioned award(s) referred to in the Schedule below; and
- (b) that the variation(s) will be a common rule of the *[specify Territory and industry or whole (or specified class) of public sector employment (as the case requires)]* as shown in the Schedule below; and
- (c) that any organisation or person interested and having an objection to the variation(s) binding that person or organisation and wanting to be heard in relation to the abovementioned variation is invited to lodge with the Commission a notice of that objection.

A copy of the award(s) may be inspected free of charge at the office of the Australian Industrial Registry at *[address]* or at the office of the Australian Industrial Registry in any capital city.

Schedule of terms to be varied

Print Number

Award Code & Var No	Clause No	Substance of variation	Date of Effect
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Dated

[Signature]
Registrar

Note The prescribed time for lodging an objection to a variation is 28 days after the publication of this notice.

[10] Schedule, after Form R60

insert

Form R60A Notice of objection to variation of a common rule

(rule 65)

Workplace Relations Act 1996

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

IN the matter of:

[insert title of award and case number]

AND in the matter of an application to vary the above award [or part thereof].

Notice is given by *[insert name of organisation or person interested]* of objection to the variation binding *[name of organisation or person interested]*.

The grounds on which this objection is made are as follows:
[Set out in numbered paragraphs the grounds of objection].

Dated

.....
Signature

Note The prescribed time for lodging an objection to a variation is 28 days after the publication of this notice.

Notes

1. These Rules amend Statutory Rules 1998 No. 1, as amended by 1999 Nos. 1, 71 and 276; 2000 No. 170.
2. Notified in the *Commonwealth of Australia Gazette* on 2001. 1 March