



# **Fair Work (Registered Organisations) Regulations 2009**

**Statutory Rules No. 82, 2003**

made under the

*Fair Work (Registered Organisations) Act 2009*

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## About this compilation

### This compilation

This is a compilation of the *Fair Work (Registered Organisations) Regulations 2009* that shows the text of the law as amended and in force on 10 January 2023 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary

### 1 Name of Regulations

These Regulations are the *Fair Work (Registered Organisations) Regulations 2009*.

**Note:** These Regulations were originally made as the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003*. They were amended substantially in 2009, as a consequence of the enactment of the *Fair Work Act 2009* and the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

### 3 Definitions

(1) In these Regulations:

**Act** means the *Fair Work (Registered Organisations) Act 2009*.

**authorised**, in relation to a person making, signing or lodging a document with the FWC or the Commissioner, means a person authorised in accordance with regulation 12.

**demarcation dispute** means a demarcation dispute within the meaning given by section 6 of the Act applied as if references in that definition to an organisation included a reference to a transitionally recognised association.

**designated civil penalty provision** means:

- (a) a civil penalty provision (see subsection 305(2) of the Act); or
- (b) a civil remedy provision within the meaning of the *Fair Work Act 2009*.

**designated offence** means an offence that is:

- (a) a prescribed offence (see section 212 of the Act); or
- (b) an offence that is subject to an infringement notice under section 1317DAN of the *Corporations Act 2001*.

**Fair Work Inspector** has the meaning given by section 12 of the Fair Work Act.

**Full Bench** has the meaning given by section 12 of the Fair Work Act.

**government authority** has the meaning given by subregulation 176M(3).

**industrial body** has the meaning given by section 12 of the Fair Work Act.

**prepaid envelope** means the envelope referred to as “another envelope” in:

- (a) paragraph (a) of the definition of **postal ballot** in section 6 of Schedule 1 to the Act; and
- (b) paragraphs 65(6)(b), 102(3)(b) and 188(b) of Schedule 1 to the Act.

**Procedural Rules** means rules made by the President of the FWC under section 609 of the Fair Work Act.

## Regulation 5

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Note: Several words and expressions used in these Regulations have the meaning given by the Act. For example:

- Fair Work Act
- FWC
- transitionally recognised association
- State-registered association

- (2) A reference to a form by number is a reference to the form of that number in Schedule 3.

### 5 Declaration envelope—prescribed form

- (1) For the definition of **declaration envelope** in section 6 of the Act, a declaration envelope provided to a voter by a person conducting an election or ballot must comply with the following form:
- (a) the declaration envelope must be a smaller envelope that fits inside a prepaid envelope without needing to be folded;
  - (b) the declaration envelope must contain on it a removable flap or label with the following details printed on it:
    - (i) the name and postal address of the voter;
    - (ii) the declaration mentioned in subregulation (2);
    - (iii) a place for the signature of the voter.
- (2) The declaration must state that the voter:
- (a) is the voter named on the envelope; and
  - (b) has voted on the ballot paper contained in the envelope; and
  - (c) has not voted before in this ballot.
- (3) To preserve the secrecy of the vote, the person conducting the election or ballot must remove the flap or label mentioned in paragraph (1)(b) from the declaration envelope before removing the ballot paper from the envelope.

### 6 Postal ballot—prescribed form of prepaid envelope

For paragraph (a) of the definition of **postal ballot** in section 6 of the Act, and for paragraphs 65(6)(b), 102(3)(b) and 188(b) of the Act the envelope referred to as ‘another envelope’ must comply with the following form:

- (a) the envelope must be an outer envelope that the person conducting the election is satisfied is large enough to have a declaration envelope placed in it for return to that person;
- (b) the return address of the person conducting the election must be printed on the envelope.

### 7 Employing authorities

For the definition of **employing authority** in section 6 of the Act, an employing authority that is prescribed for the definition of **employing authority** in subsection 795(6) of the Fair Work Act is prescribed.

**8 State industrial authorities**

For paragraph (c) of the definition of *State industrial authority* in section 6 of the Act, a State board, court, tribunal, body or official that is prescribed for paragraph (c) of the definition of *prescribed state industrial authority* in section 12 of the Fair Work Act is prescribed.

**8A Prescribing federal counterpart**

- (1) For subsection 9A(1) of the Act, an organisation mentioned in column 3 of an item in Schedule 1A is prescribed as the federal counterpart of an association of employers or employees registered under a State or Territory industrial law mentioned in column 2 of the item.

Note: Subsection 9A(2) of the Act sets out the circumstances in which an organisation is a federal counterpart of an association of employers or employees registered under a State or Territory industrial law, if subsection 9A(1) does not apply to the association.

- (2) To avoid doubt, the validity or operation of an item in Schedule 1A is not affected merely because:
- (a) the name of an organisation or association changes for a reason that is not associated with a change in eligibility rules or coverage; or
  - (b) an error or misdescription is made in the name of an organisation or association.

**9 Declarations—prescribed officers**

For subsections 52(1), 104(1), 192(1) and 198(7), paragraph 233(1)(a) and subsection 236(1) of the Act, a prescribed officer of an organisation or branch is an officer of the organisation or branch, other than the secretary, who is authorised under the rules of the organisation or branch to make, sign or certify the declaration mentioned in the subsection or paragraph.

**10 Prescribed State (Ch 11, Pt 7)**

For Part 7 of Chapter 11 of the Act, South Australia is a prescribed State.

**11 Prescribed State Act (Ch 11, Pt 7)**

For Part 7 of Chapter 11 of the Act, the *Fair Work Act 1994* (SA) is a prescribed State Act.

## **Part 2—Documents**

### **Division 1—Preliminary**

#### **12 Authorisation to make, sign or lodge documents**

- (1) An officer of an association, organisation, branch, constituent part or reporting unit is authorised to make, sign or lodge any document (however described) under the Act or these Regulations if the officer is authorised to do so:
  - (a) by the association, organisation, branch, constituent part or reporting unit;  
or
  - (b) by the rules of the association, organisation, branch, constituent part or reporting unit.
- (2) A person is authorised to make, sign or lodge a document under the Act or these Regulations on behalf of another person if the person has the written authority of the other person.
- (3) An officer or person is authorised to make, sign or lodge a document under the Act or these Regulations on behalf of a company that is not an organisation if the officer or person is authorised under the seal of the company to do so.
- (4) A person is authorised to make, sign or lodge a document under the Act or these Regulations on behalf of a committee of management if the person is authorised to do so by the committee.



## **Division 2—Lodgement of documents with FWC etc.**

### **13 Lodgment of documents with FWC**

- (1) Any document required under the Act or these Regulations to be lodged with the FWC may be lodged by:
  - (a) leaving it with the General Manager; or
  - (b) properly addressing, prepaying and posting the document; or
  - (c) electronic means prescribed by the Procedural Rules; or
  - (d) any means authorised in writing by the FWC.
- (2) An application or notice lodged with the FWC must:
  - (a) if lodged by an organisation—be under the common seal of the organisation or be signed by a person authorised to sign the application or notice; or
  - (b) if lodged by an association or branch—be signed by a person authorised to sign the application or notice; or
  - (c) if lodged by a committee of management—be signed by a member of the committee of management; or
  - (d) if jointly lodged—be signed in accordance with this subregulation by each party to the lodgment; or
  - (e) if lodged by an individual—be signed by the individual.

### **14 Content of notices of objections lodged with FWC**

A notice of objection lodged with the FWC must:

- (a) state the name and address of the organisation, association or person lodging the notice of objection (the **objector**); and
- (b) state the grounds of objection; and
- (c) set out the particulars of each ground of objection; and
- (d) briefly state the facts the objector relies on for each ground of objection.

### **15 Service of documents**

- (1) Every document lodged with the FWC must be endorsed with:
  - (a) the name of the party lodging the document; and
  - (b) an address that may be used as an address for service.
- (2) A document lodged by an association, organisation or person with an electronic mailing address may be endorsed with an electronic address for service.
- (3) A document may be served electronically on an association, organisation or person with an electronic address for service.

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### **16 Publication of documents**

- (1) A person who is required under the Act or these Regulations to publish notice of a matter in a specified manner may publish an additional notice of the matter by other reasonable means.
- (2) If the Act or these Regulations require the FWC or the General Manager to publish any application or notice in the *Gazette* or a newspaper, the application or notice must also be published on FWC's web site.
- (3) A notice published by the FWC or the General Manager in the *Gazette*, in a newspaper or on FWC's web site must include the postal address and electronic mailing address of the FWC or General Manager for lodgment and service of documents.
- (4) An application published by the FWC or the General Manager in the *Gazette*, in a newspaper or on FWC's web site must be accompanied by a note advising that a copy of the application, and copies of any documents relating to the application, can be obtained from the General Manager on the request of:
  - (a) any organisation, association, branch, constituent part or reporting unit; or
  - (b) a member of one of those bodies.
- (5) The General Manager must supply a copy of an application to the organisation, association, branch, constituent part, reporting unit or member as soon as practicable after receiving a request under subregulation (4).
- (6) Unless the Act or these Regulations provide otherwise, a document that is required by this regulation to be published on a web site must be published on the web site no later than the day the document is required to be published by other means.

## **Division 3—Lodgement of documents with the Commissioner etc.**

### **16A Lodgement of documents with the Commissioner**

- (1) Any document required under the Act or these Regulations to be lodged with the Commissioner may be lodged by:
  - (a) leaving it with the Commissioner; or
  - (b) properly addressing, prepaying and posting the document; or
  - (c) any electronic or other means authorised in writing by the Commissioner.
- (2) An application or notice lodged with the Commissioner must:
  - (a) if lodged by an organisation—be under the common seal of the organisation or be signed by a person authorised to sign the application or notice; or
  - (b) if lodged by an association or branch—be signed by a person authorised to sign the application or notice; or
  - (c) if lodged by a committee of management—be signed by a member of the committee of management; or
  - (d) if jointly lodged—be signed in accordance with this subregulation by each party to the lodgement; or
  - (e) if lodged by an individual—be signed by the individual.

### **16B Content of notices of objections lodged with the Commissioner**

A notice of objection lodged with the Commissioner must:

- (a) state the name and address of the organisation, association or person lodging the notice of objection (the **objector**); and
- (b) state the grounds of objection; and
- (c) set out the particulars of each ground of objection; and
- (d) briefly state the facts the objector relies on for each ground of objection.

### **16C Service of documents**

- (1) Every document lodged with the Commissioner must be endorsed with:
  - (a) the name of the party lodging the document; and
  - (b) an address that may be used as an address for service.
- (2) A document lodged by an association, organisation or person with an electronic address may be endorsed with an electronic address for service.
- (3) A document may be served electronically on an association, organisation or person with an electronic address for service.

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**16D Publication of documents**

- (1) A person who is required under the Act or these Regulations to publish notice of a matter in a specified manner may publish an additional notice of the matter by other reasonable means.
- (2) If the Act or these Regulations require the Commissioner to publish any application or notice in the Gazette or a newspaper, the application or notice must also be published on the Commissioner's website.
- (3) A notice published by the Commissioner in the Gazette, in a newspaper or on Commissioner's website must include the postal address and electronic address of the Commissioner for lodgement and service of documents.
- (4) An application published by the Commissioner in the Gazette, in a newspaper or on the Commissioner's website must be accompanied by a note advising that a copy of the application, and copies of any documents relating to the application, can be obtained from the Commissioner on the request of:
  - (a) any organisation, association, branch, constituent part or reporting unit; or
  - (b) a member of one of those bodies.
- (5) The Commissioner must supply a copy of an application to the organisation, association, branch, constituent part, reporting unit or member as soon as practicable after receiving a request under subregulation (4).
- (6) Unless the Act or these Regulations provide otherwise, a document that is required by this regulation to be published on a website must be published on the website no later than the day the document is required to be published by other means.

## **Division 4—Other matters relating to documents**

### **17 Sending documents**

If the General Manager, the Commissioner or the AEC is required or permitted, under the Act or these Regulations, to send (by any means) a document (however described) to an association, organisation, branch, reporting unit or constituent part, unless the Act, these Regulations or the rules of the association, organisation, branch, reporting unit or constituent part provide otherwise, the document may be sent by:

- (a) giving an electronic copy of the document to the association, organisation, branch, reporting unit or constituent part on a disk or other storage device;  
or
- (b) sending an electronic copy of the document to the electronic mailing address of the association, organisation, branch, reporting unit or constituent part.

### **18 Supply of copies of documents**

- (1) The General Manager, the Commissioner, the AEC or an association, organisation, branch, reporting unit or constituent part may supply a copy of a document (however described) to a person by any method, and in any form, agreed with the person.

Examples

- 1 By giving a hard copy of the document to the person.
- 2 By giving an electronic copy of the document to the person on a disk or other storage device.
- 3 By sending an electronic copy of the document to the person's electronic mailing address.
- 4 By publishing a copy of the document on a web site on the Internet accessible by the person.

- (2) Unless the Act or these Regulations provide otherwise, the General Manager, the Commissioner, AEC, organisation, branch, reporting unit or constituent part may, before supplying a person with a copy of a document in a particular form under subregulation (1), charge the person an amount to cover the reasonable cost of supplying the copy in that form.
- (3) A person may agree under subregulation (1) to receive copies of all or any documents by a particular method or in a particular form.

### **19 Supply of copies of rules (s 347)**

- (1) A request under section 347 of the Act:
  - (a) may be made electronically; and
  - (b) must be made in accordance with the rules of the organisation or branch.

**Part 2** Documents

**Division 4** Other matters relating to documents

**Regulation 20**

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- (2) An organisation or branch must respond to a request within 28 days after receiving the request.
- (3) For paragraph 347(4)(d) of the Act, the prescribed fee is \$20 or the cost of providing the copy, whichever is less.
- (4) For paragraph 347(4)(e) of the Act, the prescribed fee is \$5 or the cost of providing the copy, whichever is less.

**20 Inspection of documents**

- (1) A person may, after giving reasonable notice, inspect at the FWC:
  - (a) a document lodged with the FWC under the Act; or
  - (b) a document lodged with the FWC under these Regulations.
- (1A) A person may, after giving reasonable notice, inspect at the Commissioner's premises:
  - (a) a document lodged with the Commissioner under the Act (other than a document lodged under section 236, 237 or 272 or Part 4A of Chapter 11 of the Act); or
  - (b) a document lodged with the Commissioner under these Regulations.
- (2) The person may, on application, obtain an office copy or a certified copy of a document that the person has inspected.

## **Part 3—Registration and cancellation of registration (Ch 2)**

### **Division 1—Registration (Ch 2, Pt 2)**

#### **21 Application for registration (s 18)**

- (1) An application by an association under section 18 of the Act for registration as an organisation must:
  - (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) contain a declaration, made by an officer of the association authorised to make the declaration, verifying the facts stated in the application and in any document lodged with the application; and
  - (c) be lodged with the FWC; and
  - (d) be lodged with the following documents:
    - (i) a list of the members of the association, showing the name and postal address of each member;
    - (ii) a list of the offices in the association and in each branch of the association;
    - (iii) a list of the names, postal addresses and occupations of the persons holding the offices;
    - (iv) a list of the branches of the association, showing for each branch its name and the location of its office;
    - (v) the rules of the association and the rules of each of its branches;
    - (vi) a copy of a resolution in favour of the registration of the association as an organisation passed in accordance with the rules of the association by a majority of the members of the association present at a general meeting of the association or by an absolute majority of the committee of management of the association.
- (2) An association applying for registration may lodge with the FWC an additional statement supporting the application.

#### **22 Notification of application for registration (s 18)**

As soon as practicable after receiving an application for registration, the General Manager must publish a notice in the *Gazette* stating that an application for registration has been received.

#### **23 Objection to registration (s 18)**

- (1) Any interested organisation, association or person (the **objector**) may, no later than 35 days after a notice under regulation 22 is published in the *Gazette*, lodge with the FWC a notice of objection to the registration of the association.
- (2) The notice of objection must:

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- (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) be lodged with the FWC; and
  - (c) comply with the requirements of regulation 14.
- (3) The FWC may allow an objector to amend a notice of objection if:
  - (a) a further application is made; and
  - (b) the objector satisfies the FWC that the objector has further grounds for objection arising from the application mentioned in paragraph (a).
- (4) Within 7 days after a notice of objection is lodged with the FWC, the objector must serve a copy of the notice of objection on the association.
- (5) An association:
  - (a) may, no later than 14 days after service on it under subregulation (4) of a copy of the notice of objection, lodge with the FWC, in answer to the objection, a written statement signed by an officer of the association authorised to sign the statement; and
  - (b) must, no later than 7 days after lodging a written statement under paragraph (a), serve a copy of that statement on the objector.

## 24 Hearing of application for registration (s 18)

- (1) The FWC, in dealing with an application for registration, must not:
  - (a) refuse to grant the application without giving the applicant an opportunity to be heard; or
  - (b) grant the application without giving an objector who has complied with regulation 23 an opportunity to be heard.
- (2) The FWC, in order to give the applicant and the objector mentioned in paragraph (1)(b) (the **objector**) an opportunity to be heard, must:
  - (a) fix a time and place for a hearing; and
  - (b) notify the applicant and the objector of the time and place fixed for the hearing.
- (3) At the hearing, the FWC may give directions relating to the manner in which the hearing is to proceed and may:
  - (a) determine the matter without further delay; or
  - (b) adjourn the proceedings to a later day; or
  - (c) with the agreement of the applicant and the objector, determine the matter on a later day without a further hearing.

## 25 Withdrawal of application for registration (s 18)

- (1) An association seeking to withdraw an application for registration may, at any time before the application is determined by the FWC, lodge with the FWC:
  - (a) a notice of withdrawal; and



- (b) a resolution in favour of withdrawing an application for registration passed in accordance with the rules of the association by a majority of the members present at a general meeting of the association or by an absolute majority of the committee of management of the association.
- (2) A notice of withdrawal must:
  - (a) contain a declaration made by an officer of the association authorised to make the declaration verifying the facts stated in the notice of withdrawal, and any documents lodged with the application; and
  - (b) be lodged with the FWC.
- (3) The General Manager must publish the notice of withdrawal in the *Gazette* as soon as practicable after the notice is lodged.

## **26 Applicants for Federal Court order (s 23(2)(b))**

For paragraph 23(2)(b) of the Act, the following persons are prescribed:

- (aa) the Commissioner;
- (a) an officer of an association or organisation of which the person mentioned in paragraph 23(2)(a) of the Act is a member;
- (b) a Fair Work Inspector.

## **27 Application to change name of association or to alter its rules (s 25)**

An application by an association under section 25 of the Act to change its name or alter its rules must, unless the FWC otherwise directs, be:

- (a) in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
- (b) lodged with the FWC.

## **28 Alteration of rules—lodgment of copies (s 25)**

An association that has altered its rules in accordance with leave granted by the FWC under subsection 25(1) of the Act must:

- (a) within 35 days after altering its rules, lodge with the FWC:
  - (i) 2 copies of the alterations; and
  - (ii) a declaration, signed by an officer of the association authorised to sign the declaration, verifying the alterations; and
- (b) within 7 days after lodging the copies of the alterations with the FWC, serve a copy of the alterations on any objector who has lodged a notice of objection under regulation 23.

## **29 Registration of associations—prescribed particulars (s 26(1))**

For subsection 26(1) of the Act, the following particulars are prescribed:

- (a) the name of the association applying for registration;
- (b) the eligibility rules of the association;

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- (c) if the association is registered in relation to a particular industry—a description of the industry;
- (d) if the association is an enterprise association—the name of the enterprise.

### **30 Prescribed form of certificate of registration (s 26(4))**

For subsection 26(4) of the Act, the prescribed form for a certificate of registration is Form 1.

### **31 Issue of copy and replacement certificates (s 26(6))**

- (1) Before the General Manager may exercise his or her powers under subsection 26(6) of the Act, the General Manager must be satisfied the certificate of registration issued under subsection 26(4) of the Act to an organisation has been defaced, lost or destroyed.
- (2) If the certificate of registration has been defaced, the organisation must surrender the certificate to the General Manager before the General Manager may issue the organisation with a copy of, or a certificate replacing, the certificate of registration.
- (3) A certificate issued under subsection 26(6) of the Act replacing a certificate of registration must be in a form approved by the General Manager.
- (4) If, after a replacement certificate has been issued under subsection 26(6) of the Act, the organisation finds the certificate that was thought to have been lost or destroyed, the organisation must surrender the certificate that was thought to have been lost or destroyed to the General Manager.

### **32 Extract from register**

- (1) The General Manager, on the application of an organisation, must supply the organisation with an extract of entry from the register kept under subsection 13(1) of the Act in relation to that organisation.
- (2) An application under subregulation (1) must be:
  - (a) in a form approved by the General Manager; and
  - (b) lodged with the FWC.
- (3) An extract of entry from the register in relation to an organisation must:
  - (a) be in a form approved by the General Manager; and
  - (b) be certified by a Registrar to be an accurate record of the register; and
  - (c) contain the following particulars:
    - (i) the date of registration of the organisation;
    - (ii) the name of the organisation when it was registered;
    - (iii) the date of cancellation of the registration (if applicable);
    - (iv) the name of the organisation when its registration was cancelled (if applicable);
    - (v) the current name of the organisation;

- (vi) any other particular the General Manager mentioned in paragraph (b) considers appropriate.

## Division 2—Cancellation of registration (Ch 2, Pt 3)

### 33 Cancellation of registration (Schedule 1, s 30(1)(a))

An organisation may apply under paragraph 30(1)(a) of the Act for the cancellation of its registration if approval has been given to the organisation to apply for the cancellation of its registration by a majority of the members voting at a ballot of the members taken:

- (a) in accordance with any rules that apply; or
- (b) if no rules apply—in accordance with:
  - (i) any rules of the organisation providing for the election of any of its officers by a direct voting system; or
  - (ii) if subparagraph (i) does not apply—procedures approved by the FWC.

### 34 Application for cancellation of registration (s 30(1)(a))

- (1) An application by an organisation under paragraph 30(1)(a) of the Act for the cancellation of its registration must:
  - (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) set out full particulars of the circumstances that entitle the organisation to make the application; and
  - (c) contain a declaration signed by an officer of the organisation authorised to sign the declaration verifying the facts in the application; and
  - (d) be lodged with the FWC.
- (2) An organisation that has a web site must publish on its web site a notice that it has lodged the application mentioned in subregulation (1).
- (3) The FWC, on receipt of an application mentioned in subregulation (1), must publish a notice of the receipt of the application in the *Gazette*.
- (4) Within 35 days after publication of the notice mentioned in subregulation (3), an interested person (the **objector**) may lodge with the FWC a notice of objection to the application for cancellation of registration.
- (5) A notice of objection must:
  - (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) be lodged with the FWC; and
  - (c) comply with the requirements of regulation 14.
- (6) An objector must, within 7 days after lodging a notice of objection under subregulation (4), serve copies of the notice of objection on the organisation applying to cancel its registration.
- (7) The FWC must:

- (a) fix a time and place for hearing the application and any objection to the application; and
  - (b) notify the organisation and any objector of the time and place fixed for the hearing.
- (8) The FWC must not:
  - (a) refuse to grant an application for cancellation of registration without giving the applicant an opportunity to be heard; or
  - (b) grant the application without giving any objector an opportunity to be heard.

### **35 Application for cancellation of registration (s 30(1)(b))**

- (1) An application under paragraph 30(1)(b) of the Act for the cancellation of the registration of an organisation must:
  - (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) state the grounds for the application; and
  - (c) briefly state the facts the applicant relies on to support the application; and
  - (d) contain a declaration signed by the applicant or a person authorised by the applicant verifying the facts stated in the application; and
  - (e) be lodged with the FWC.
- (2) The applicant must, within 7 days after lodging an application for the cancellation of the registration of an organisation, serve a copy of the application on the organisation.
- (3) If an application is made for the cancellation of the registration of an organisation on one of the grounds mentioned in paragraph 30(1)(b) of the Act, the FWC must, with a view to satisfying itself whether the registration of the organisation is liable to cancellation on that ground, give the organisation an opportunity to make written submissions to the FWC and, if the organisation wishes to be heard, to be heard in support of any of those submissions.

### **36 Cancellation of registration of defunct organisation (s 30(1)(c))**

- (1) For paragraph 30(1)(c) of the Act, the FWC must, with a view to satisfying itself that an organisation is defunct, comply with the following subregulations.
- (2) The FWC must make appropriate inquiries by letters sent by post to:
  - (a) the organisation at its office; and
  - (b) the members of the committee of management of the organisation as last known to the FWC at their postal addresses as last known to the FWC.
- (3) If, after inquiries made under subregulation (2), the FWC fails to satisfy itself whether the organisation is defunct, the FWC must publish in the *Gazette* a notice stating that:
  - (a) subject to consideration of any objections lodged in accordance with the notice, the registration of the organisation will, at the end of one month

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after the date of publication of the notice, be cancelled on the ground that the organisation is defunct; and

- (b) a person who wishes to show cause why the registration of the organisation should not be cancelled on that ground may, within one month after the date of publication of the notice, lodge with the FWC a notice of objection.

- (4) A notice of objection must:

- (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) be lodged with the FWC; and
  - (c) comply with the requirements of regulation 14.

- (5) If a person has lodged a notice of objection under paragraph (3)(b), the FWC must give the person an opportunity to appear before it and to be heard in support of the objection.

## **Part 4—Amalgamation and withdrawal from amalgamation (Ch 3)**

### **Division 1—Amalgamation of organisations (Ch 3, Pt 2)**

#### **37 Definitions**

- (1) In this Division:

*applicant*, for a proposed amalgamation, means an organisation or association that is a party to an application under section 44 of the Act in relation to the proposed amalgamation.

*ballot* means a ballot mentioned in Part 2 of Chapter 3 of the Act.

*closing day*, for a ballot, means the day fixed as the closing day of the ballot under subsection 58(1) of the Act.

*commencing day*, for a ballot, means the day fixed as the commencing day of the ballot under subsection 58(1) of the Act.

*inquiry* means an inquiry by the Federal Court under section 69 of the Act into alleged irregularities in relation to a ballot.

*Judge* means a Judge of the Federal Court sitting in chambers.

*multiple ballot paper* means a ballot paper that, under subsection 65(3) of the Act, is to be used for 2 or more ballots.

*scrutineer* means a person appointed or allowed to be a scrutineer under subregulation 68(1) or (3).

- (2) An expression used in this Division and in Part 2 of Chapter 3 of the Act has the same meaning in this Division as in that Part.
- (3) A reference in this Division to a document (however described) being signed by an authorised officer of a body is a reference to the document being signed by an officer of the body authorised in accordance with regulation 12 to sign the document.
- (4) A reference in this Division to a ballot paper includes a reference to a multiple ballot paper.

#### **38 Federations (s 38(1))**

- (1) An application under subsection 38(1) of the Act for recognition as a federation must be lodged with a copy of:
- (a) the proposed rules of the proposed federation; or
  - (b) the agreement relating to the powers and functions of the proposed federation.

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- (2) For paragraph 38(2)(b) of the Act, the following particulars are prescribed:
  - (a) the name of the proposed federation;
  - (b) the names of its constituent organisations;
  - (c) its postal address or address for service;
  - (d) the names of its proposed officers.
- (3) For subsection 38(3) of the Act, the period of 3 years is prescribed.
- (4) For subsection 38(4) of the Act, the following details are prescribed:
  - (a) the federation's name;
  - (b) the names of its constituent organisations.
- (5) If a federation varies its composition under subsection 38(7) of the Act, the General Manager must enter particulars of the variation in the register kept under subsection 13(1) of the Act.
- (6) For paragraph 38(8)(b) of the Act, the period of 3 years is prescribed.
- (7) For paragraph 38(8)(c) of the Act, the following persons are prescribed:
  - (a) the Minister;
  - (b) a person or organisation interested in making an application under that paragraph.
- (8) If, after a federation is registered under section 38 of the Act, there is a change to:
  - (a) any particular of a kind mentioned in subregulation (2); or
  - (b) the federation's rules; or
  - (c) the agreement relating to the federation's powers and functions;the federation must, within 28 days after the change, give a statement to the General Manager setting out full particulars of the change.

Note: This subregulation is a civil penalty provision (see regulation 168).

### **39 Application for a community of interest declaration (s 43(1))**

An application under subsection 43(1) of the Act for a declaration must:

- (a) be in writing; and
- (b) state the grounds for making the application; and
- (c) nominate one of the applicants as the applicant authorised to receive, on behalf of the applicants, service of:
  - (i) documents relating to the application or to the proposed amalgamation; and
  - (ii) documents relating to each proposed alternative amalgamation; and
- (d) be lodged with the FWC.

### **40 Application for approval for submission of amalgamation to ballot (s 44(1))**

- (1) An application under subsection 44(1) of the Act must:
    - (a) be in writing; and
-



- (b) state the grounds for making the application; and
  - (c) nominate one of the applicants as the applicant authorised to receive, on behalf of the applicants, service of documents relating to:
    - (i) the application or the proposed amalgamation; and
    - (ii) each proposed alternative amalgamation; and
  - (d) be lodged with the FWC; and
  - (e) be lodged with a copy, signed by an authorised officer of the applicant whose committee of management passed it, of each resolution under subsection 42(1) of the Act relating to the proposed amalgamation.
- (2) Service of a document mentioned in paragraph (1)(c) on the applicant nominated for that paragraph is taken to be service on each of the applicants.
- (3) If the proposed amalgamation, or any alternative provision of the proposed amalgamation, involves the registration of an association as an organisation, the application must be lodged with copies, each of which is signed by an authorised officer of each organisation lodging it, of documents relating to the association that are documents of a kind mentioned in subparagraph 21(1)(d)(i), (ii), (iii) or (iv).

#### **41 Application for exemption from ballot (s 46(1))**

An application for exemption from ballot under subsection 46(1) of the Act must:

- (a) be in writing; and
- (b) state the grounds for making the application.

#### **42 Application for ballot not conducted under section 65 of the Act (s 47(1))**

An application under subsection 47(1) of the Act must:

- (a) be of the kind mentioned in that subsection; and
- (b) comply with paragraph 64(b) of the Act.

#### **43 Withdrawal of applications lodged under section 43, 44, 46 or 47 of the Act**

- (1) A party to an application under subsection 43(1) or 44(1) of the Act may lodge with the FWC a notice of withdrawal of the application.
- (2) The parties to an application under subsection 43(1) or 44(1) of the Act may jointly lodge with the FWC a notice of withdrawal of the application.
- (3) A party to an application under subsection 46(1) or 47(1) of the Act may lodge with the FWC a notice of withdrawal of the application.
- (4) Each party to the lodgment of a notice of withdrawal must lodge with the notice a statement, signed by an authorised officer of that party, that the committee of management of that party has passed a resolution approving the proposed withdrawal.

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- (5) The General Manager must take steps to ensure that a notice lodged under subregulation (1) is brought to the attention of the organisations, associations and persons likely to be affected by the withdrawal.

### **44 Submissions at amalgamation hearings—prescribed matters (s 54(3))**

For subsection 54(3) of the Act, the following matters are prescribed:

- (a) any proposed alteration to the name of an existing organisation concerned in the proposed amalgamation;
- (b) any proposed alterations of the eligibility rules of an existing organisation concerned in the proposed amalgamation.

### **45 Public notification of refusal to approve the submission of an amalgamation to ballot (s 55(2))**

- (1) If, under subsection 55(2) of the Act, the FWC refuses to approve the submission of an amalgamation to ballot, the General Manager must publish a notice of the refusal:
  - (a) in at least one newspaper; and
  - (b) no later than 14 days after the refusal.
- (2) The General Manager must be of the opinion that the notice mentioned in subregulation (1) is likely to come to the attention of persons likely to be affected by the proposed amalgamation.
- (3) The notice must state:
  - (a) the grounds mentioned in regulation 48; and
  - (b) that an objection must be lodged by the time prescribed under regulation 49.

### **46 Manner of making objections (s 56)**

- (1) For section 56 of the Act, an objection is made by lodging a notice of objection with the FWC.
- (2) A notice of objection must:
  - (a) be lodged within the time prescribed by regulation 49; and
  - (b) comply with the requirements of regulation 14.

### **47 Prescribed persons who may make an objection (s 56(3))**

For subsection 56(3) of the Act, any person or organisation interested in a proposed amalgamation is a prescribed person in relation to an objection to the proposed amalgamation.

### **48 Prescribed grounds for an objection (s 56(3))**

For subsection 56(3) of the Act, each of the following grounds is a prescribed ground for an objection to a proposed amalgamation:

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- (a) if the proposed amalgamation involves the registration of an association as an organisation—the association does not meet (or, if the amalgamation takes effect, will not meet) the requirements for registration under Part 2 of Chapter 2 of the Act;
- (b) if the proposed amalgamation involves a change in the name of an organisation—the proposed new name of the organisation is the same as that of another organisation or is so similar to the name of another organisation that it is likely to cause confusion;
- (c) if the proposed amalgamation involves a widening of the eligibility rules of an existing organisation—there is another organisation to which persons who:
  - (i) are potential members of the amalgamating organisations; and
  - (ii) would be ineligible to join any of the amalgamating organisations if the rules of those organisations were not widened;might more conveniently belong and would more effectively represent those members.

#### **49 Prescribed time for lodging an objection (s 57(1))**

For subsection 57(1) of the Act, the prescribed time for making an objection under section 56 of the Act is:

- (a) a time fixed by the FWC; or
- (b) any additional time allowed by the FWC; or
- (c) if no time is fixed by the FWC, 28 days after the date of publication (or, if there is more than one date of publication, the first date of publication) of a notice under regulation 45 relating to the relevant proposed amalgamation.

#### **50 Service of notice of objection (s 56)**

A person or organisation lodging a notice of objection under regulation 46 must serve a copy of the notice of objection, within 7 days of the lodgment, on the applicant nominated for paragraph 40(1)(c).

#### **51 Statement in reply to an objection (s 56)**

- (1) All applicants served with a copy of a notice of objection under regulation 50 may jointly lodge with the FWC a statement that:
  - (a) is signed by authorised officers of each applicant organisation or association; and
  - (b) sets out the facts relied on in answer to the objection.
- (2) A statement mentioned in subregulation (1) must be lodged no later than 14 days after the applicants are served with the copy of the notice of objection.
- (3) A copy of the statement must be served on each party to the notice of objection within 7 days after the lodgment of the statement.

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### **52 Hearing of objections (s 56)**

- (1) The FWC, in dealing with the application for a proposed amalgamation, must:
  - (a) fix a time and place for the hearing of any objection made under section 56 of the Act in relation to the application; and
  - (b) serve notice of the time and place fixed for the hearing on:
    - (i) the applicants; and
    - (ii) each objector whose objection is to be heard at the hearing.
- (2) For paragraph (1)(a), the FWC may fix separate hearings for different objections if the FWC thinks it appropriate.
- (3) The FWC, in fixing a time under subregulation (1), must have regard to regulations 50 and 51.
- (4) At the hearing of an objection, the FWC may, if it thinks fit, allow oral evidence to be given.

### **53 Applicants to be heard before an application may be refused (s 57(2))**

Before deciding to refuse to approve, under subsection 57(2) of the Act, the submission of an amalgamation to ballot, the FWC must give the applicants for the approval the opportunity to be heard.

### **54 General Manager to supply copies of documents to AEC (s 50)**

If an organisation has applied for approval for the submission of an amalgamation to ballot, the General Manager must, as soon as practicable, supply the AEC with copies of:

- (a) the scheme for the amalgamation lodged with the application under section 44 of the Act; and
- (b) the written outline of the scheme of amalgamation lodged with the application under that section; and
- (c) each statement lodged under section 48 or 60 of the Act in relation to the proposed amalgamation; and
- (d) each amendment of, or document lodged in substitution for, a document mentioned in paragraph (a), (b) or (c).

### **55 Form and publication of notice of ballot (s 58)**

- (1) If the FWC has fixed, under section 58 of the Act, the commencing day and closing day of a ballot, the electoral official conducting the ballot must give notice of the fixing of the days to the members entitled to vote at the ballot.
- (2) The electoral official may give a notice under subregulation (1) by post, by newspaper advertisement or by any other reasonable means the electoral official thinks necessary to ensure that the notice is brought to the attention of the members entitled to vote at the ballot.

## **56 Preparation of roll of voters (s 59)**

The roll of voters for a ballot of the members of an organisation must:

- (a) be prepared at the direction of the electoral official conducting the ballot; and
- (b) set out opposite the name of each person on the roll the postal address of the person; and
- (c) be closed no later than 14 days before the commencing day of the ballot.

## **57 Inspection of roll of voters (s 59)**

- (1) An electoral official conducting a ballot of the members of an organisation must make the roll available for inspection and copying during ordinary business hours at the place where the official carries out his or her duties in relation to the ballot, in the period starting the day after the day when the roll was closed under paragraph 56(c) and ending 30 days after the declaration of the result of the ballot.
- (2) The electoral official must make the roll available for inspection and copying by:
  - (a) a member of the organisation; and
  - (b) any other person authorised by the electoral official.
- (3) The roll may be kept, and copies may be supplied, electronically.
- (4) If a copy of a roll, or a copy of part of a roll, is made or supplied under this regulation, a person must not use information in the roll for a purpose other than:
  - (a) a purpose in connection with the ballot; or
  - (b) to monitor the accuracy of the information contained in the roll.

Penalty: 10 penalty units.

## **58 Scheme for amalgamation—electoral official to supply copies of documents on request (s 65(8))**

If the AEC has received one or more documents under paragraph 54(a) or (b) and a member entitled to vote at the ballot makes a written or oral request to the electoral official conducting the ballot for a copy of any of those documents, the electoral official must, as soon as practicable after receiving the request from the member, supply the member with a copy or copies of any document requested without charge.

## **59 Ballot not conducted under section 65 of the Act—electoral official to fix commencement and closing times, and give information and material to persons entitled to vote**

- (1) If the FWC approves, under section 64 of the Act, a proposal, an electoral official must:
  - (a) fix the places, and the times of commencement and closing, of the meetings of members for the ballot on the proposal; and

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- (b) include in the notice given under regulation 55 in relation to the ballot details of:
    - (i) the places and times fixed under paragraph (a); and
    - (ii) the procedure for obtaining and exercising an absentee vote in relation to the ballot; and
  - (c) post to each member entitled to vote at the ballot, addressed to the postal address of the member shown on the roll of voters:
    - (i) a copy of the latest version (incorporating all subsequent alterations or amendments) of the written outline of the relevant scheme for amalgamation lodged under paragraph 44(2)(b) of the Act; and
    - (ii) copies of the latest version (incorporating all subsequent amendments) of each statement lodged under subsection 48(1) or 60(2) of the Act; and
    - (iii) notification of the entitlement of the member to obtain a copy of the relevant scheme for amalgamation lodged under paragraph 44(2)(a) of the Act or, if appropriate, of that scheme as amended or substituted, together with particulars of where and how the copy of the scheme may be obtained.
- (2) Documents required to be sent under subregulation (1) must be sent in sufficient time for them to be delivered, in the ordinary course of post, at least 7 days before the relevant commencing day.

### **60 Ballot papers—forms (s 65)**

- (1) A ballot paper for use in a ballot of the members of an organisation in relation to a proposed amalgamation must be in the appropriate form mentioned in subregulation (2) or (3).
- (2) For a ballot in relation to a proposed amalgamation that does not contain an alternative provision:
  - (a) an organisation may elect to use a ballot paper in a form specified as appropriate for this paragraph; or
  - (b) if an election is not made, the organisation must use a form specified as appropriate for this paragraph.
- (3) For a ballot in relation to a proposed amalgamation that contains an alternative provision:
  - (a) an organisation may elect to use a ballot paper in a form specified as appropriate for this paragraph; or
  - (b) if an election is not made, the organisation must use a form specified as appropriate for this paragraph.
- (4) For subregulations (2) and (3), *specified* means:
  - (a) specified in the Procedural Rules; or
  - (b) otherwise specifically approved by the President.
- (5) An election under subregulation (2) or (3) must be approved by the committee of management of the organisation.

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- (6) A notice of an election under subregulation (2) or (3), and a statement, signed by an authorised officer of the organisation, that the committee of management of the organisation has approved the election, must be lodged with the FWC:
- (a) at the time the relevant application under section 44 of the Act in respect of the proposed amalgamation is lodged; or
  - (b) within such further time as the FWC allows.
- (7) The electoral official conducting a ballot may provide with the ballot paper:
- (a) directions to be followed by a member entitled to vote in the ballot so that the vote complies with these Regulations; and
  - (b) other directions that the electoral official reasonably believes may assist in ensuring an irregularity does not occur in the conduct of the ballot; and
  - (c) notes to assist a member entitled to vote in the ballot by informing him or her of matters relating to conduct of the ballot.

### **61 Issuing of ballot papers—attendance voting (s 64)**

For a ballot of the kind mentioned in section 64 of the Act, an electoral official must issue to each member entitled to vote at the ballot a ballot paper or multiple ballot paper (whichever applies) bearing:

- (a) the initials of the electoral official; or
- (b) a facsimile of those initials.

### **62 Duplicate ballot papers—attendance voting (s 64)**

If a voter at a ballot of the kind mentioned in section 64 of the Act satisfies the presiding electoral official, before depositing the ballot paper or multiple ballot paper in the ballot box, that the voter has accidentally spoilt the paper, the official must:

- (a) mark 'spoilt' on the paper and initial the marking; and
- (b) keep the paper; and
- (c) issue a fresh ballot paper or multiple ballot paper (whichever applies) to the voter.

### **63 Dispatch of ballot papers (s 65(8))**

For a ballot of a kind mentioned in section 65 of the Act, an electoral official must, as soon as practicable, but no earlier than 2 days before the commencing day of the ballot, post to each member entitled to vote at the ballot a sealed envelope, addressed to the postal address of the member shown on the roll of voters, containing:

- (a) one ballot paper or multiple ballot paper (whichever applies) for the ballot:
  - (i) bearing the initials of the electoral official or a facsimile of those initials; and
  - (ii) stating the time, on the closing day of the ballot, by which the vote must be received; and

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- (b) any document the Act or these Regulations requires to be posted with the ballot paper; and
- (c) any other material the electoral official considers to be relevant to the ballot; and
- (d) a declaration envelope in which the voter must place his or her ballot paper; and
- (e) a prepaid envelope, addressed to the AEC, that may be posted without cost to the voter; and
- (f) details of the place where the voter may obtain a copy of:
  - (i) the relevant scheme for amalgamation lodged under paragraph 44(2)(a) of the Act; or
  - (ii) if appropriate, the scheme as altered or amended, or a subsequent scheme.

### **64 Duplicate ballot paper etc—postal voting (s 64(b)(vi) and 65(8))**

- (1) If, on the written application of a member entitled to vote in a ballot, an electoral official is satisfied that:
  - (a) a ballot paper or multiple ballot paper; or
  - (b) another document required to be posted with a ballot paper or ballot papers;that was posted to the member under regulation 63, or for subparagraph 64(b)(vi) of the Act:
  - (c) has not been received by the member; or
  - (d) has been lost or destroyed; or
  - (e) in the case of a ballot paper or multiple ballot paper, has been spoilt;the electoral official must immediately issue a duplicate of the relevant document to the member.
- (2) An application under subregulation (1) must:
  - (a) be received by the electoral official on or before the closing day of the ballot; and
  - (b) state the grounds for making the application; and
  - (c) if practicable, be accompanied by evidence that verifies, or tends to verify, those grounds; and
  - (d) contain a declaration to the effect that the member has not voted at the ballot; and
  - (e) in a case mentioned in paragraph (1)(e), be accompanied by that paper.
- (3) An electoral official to whom a spoilt paper is returned under paragraph (2)(e) must deal with the paper in accordance with paragraphs 62(a) and (b).

### **65 Manner of voting (s 65(8))**

After recording his or her vote, a voter must:

- (a) comply with any direction under subregulation 60(7); and



- (b) place the ballot paper in the declaration envelope, complete the declaration and seal the declaration envelope; and
- (c) place the declaration envelope in the prepaid envelope and seal the prepaid envelope; and
- (d) send the prepaid envelope to the AEC to reach the AEC no later than the time on the closing day of the ballot noted on the ballot paper.

## **66 Custody of ballot papers (s 64 and 65(8))**

- (1) The electoral official conducting a ballot or ballots of the members of an organisation must keep the ballot papers and other material relating to the ballot or ballots in safe custody until a scrutiny is conducted in accordance with regulation 67.
- (2) If, after the closing day of a ballot or ballots of the kind mentioned in section 65 of the Act, the electoral official receives envelopes purporting to contain ballot papers for the ballot or ballots, he or she must keep them in safe custody.

## **67 Scrutiny (s 64 and 65(8))**

- (1) The electoral official conducting a ballot must determine the result of the ballot by conducting a scrutiny in accordance with this regulation.
- (2) As soon as practicable after the close of a ballot, the electoral official must:
  - (a) admit the valid votes and reject the informal votes; and
  - (b) count the valid votes, and record the number:
    - (i) in favour of the proposal; and
    - (ii) against the proposal; and
  - (c) count the informal votes.
- (3) In the case of a scheme for amalgamation that contains a proposed alternative provision, if the electoral official is satisfied the result of the ballot on that provision is required to be known for the purposes of the Act he or she must:
  - (a) admit the valid votes, and reject the informal votes, on that provision; and
  - (b) count the valid votes, and record the number:
    - (i) in favour of that provision; and
    - (ii) against that provision; and
  - (c) count the informal votes on that provision.
- (4) A vote is informal only if:
  - (a) the ballot paper does not bear:
    - (i) the initials of an electoral official; or
    - (ii) a facsimile of those initials; or
  - (b) the ballot paper is marked in a way that permits the voter to be identified; or
  - (c) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or

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- (d) a person returning material mentioned in paragraph 63(c) with the ballot paper does not comply with a direction given under subregulation 60(7).
- (5) However, a vote is not informal because of paragraph (4)(a) if the electoral official is satisfied the ballot paper in question is authentic.
- (6) If the electoral official conducting the ballot is informed by a scrutineer that the scrutineer objects to a ballot paper being admitted as formal or rejected as informal, the official must:
  - (a) decide whether the ballot paper is to be admitted as formal or rejected as informal; and
  - (b) endorse that decision on the ballot paper and initial the endorsement.
- (7) If the electoral official conducting the ballot is informed by a scrutineer to the effect that, in the scrutineer's opinion, an error has been made in the conduct of the scrutiny, the electoral official must decide whether an error has been made and, if appropriate, direct what action is to be taken to correct or mitigate the error.

### **68 Scrutineers (s 64 and 65(8))**

- (1) In relation to a ballot of the members of an organisation on a proposed amalgamation, the committee of management of the organisation may appoint members as scrutineers to safeguard the interests of the members who approve of the amalgamation.
- (2) An appointment under subregulation (1) must be made by an instrument signed on behalf of the committee of management by an authorised officer of the organisation.
- (3) If members of an organisation (the *opposing members*) have lodged, under subsection 60(2) of the Act, a written statement in opposition to the proposed amalgamation or any proposed alternative amalgamation, the electoral official conducting a ballot of the members of the organisation in relation to the amalgamation must allow members of the organisation who appear to the official to represent the opposing members to be scrutineers for the ballot to safeguard the interests of members who disapprove of the amalgamation.
- (4) Subject to subregulations (5), (6) and (7):
  - (a) a scrutineer may be present:
    - (i) at the issue of ballot papers under regulation 61; and
    - (ii) at the preparation and dispatch of ballot material under regulations 59 and 63; and
    - (iii) at the receipt and placement of ballot material in safe custody under regulation 66; and
    - (iv) at the scrutiny of ballot material under regulation 67; and
  - (b) at the scrutiny mentioned in subparagraph (a)(iv):
    - (i) if the scrutineer objects to a decision that a ballot paper is formal or informal; or

- (ii) if the scrutineer considers that an error has been made in the conduct of the scrutiny;

the scrutineer may inform the electoral official conducting the ballot accordingly.

- (5) At any time during the period of scrutiny:
    - (a) the number of scrutineers appointed under subregulation (1) and in attendance at the scrutiny; and
    - (b) the number of scrutineers mentioned in subregulation (3) and in attendance at the scrutiny;
 must not, in either case, exceed the number of electoral officials engaged on the scrutiny at that time.
  - (6) If a member appointed under subregulation (1) fails to produce the member's instrument of appointment for inspection by the electoral official conducting the ballot when requested by the official to do so, the official may refuse to allow the member to attend or act as a scrutineer.
  - (7) If a person:
    - (a) is not entitled to be present, or to remain present, at the scrutiny; or
    - (b) interrupts the scrutiny of a ballot, except to perform a function mentioned in paragraph (4)(b);
 the electoral official conducting the ballot may direct the person to leave the place where the scrutiny is being conducted.
  - (8) A person must comply with a direction given to him or her under subregulation (7).
- Note: This subregulation is a civil penalty provision (see regulation 168).
- (9) The AEC must advise the General Manager and the Commissioner of a possible contravention of subregulation (8) not later than 21 days after the AEC has become aware of the possible contravention.

## **69 Post-ballot report by AEC (s 68(2))**

- (1) For subsection 68(2) of the Act, the following matters are prescribed for inclusion in the report:
  - (a) the total number of persons on the roll of voters;
  - (b) the total number of ballot papers issued;
  - (c) the total number of envelopes posted in accordance with regulation 63 or for subparagraph 64(b)(vi) of the Act that were returned undelivered by the closing date of the ballot to the AEC (if applicable);
  - (d) the total number of ballot papers received by the electoral official by the closing day of the ballot;
  - (e) the total number of votes in favour of the question set out on the ballot paper;
  - (f) the total number of votes not in favour of the question set out on the ballot paper;

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- (g) the total number of informal ballot papers;
  - (h) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
  - (i) any matters in relation to the roll of voters including those matters contained in subsection 68(3) of the Act;
  - (j) the number of written allegations (if any) of irregularities made to the AEC during the ballot;
  - (k) action taken by the AEC in relation to those allegations;
  - (l) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
- (a) give the report under subsection 68(1) of the Act within 14 days after the closing day of the ballot fixed under subsection 58(1) of the Act; and
  - (b) publish the report on its web site as soon as practicable, but no later than 21 days after the closing day of the ballot.
- (3) An organisation that has a web site must, as soon as practicable after receiving a report mentioned in paragraph (2)(a), publish on its web site a notice of the availability of the report.
- (4) A notice published under subregulation (3) must remain on the web site until the end of the period in which an application may be made under section 69 of the Act.
- (5) Subregulation (1) does not apply in relation to a ballot that was conducted under subsection 65(2) of the Act if, because of subsection 65(4) of the Act, the electoral official conducting the ballot did not count the votes in the ballot.

## 70 Declaration of ballot (s 69)

The ballot is declared on the day the report mentioned in subsection 68(1) of the Act is given.

## 71 Preservation of ballot papers

The AEC must keep all ballot papers and documents relating to a ballot:

- (a) until the end of the period in which an application may be made under section 69 of the Act; or
- (b) if an application of the kind referred to in paragraph (a) has been made—until the application is disposed of.

## 72 Request by member for information about ballot

- (1) A person who is entitled to vote in a ballot may, for the purpose of determining whether there has been an irregularity in relation to the ballot, request the electoral official conducting the ballot to give the person specified information not available in the report given under subsection 68(1) of the Act.

- (2) The electoral official must comply with a request under subregulation (1) if the information requested is available to the electoral official.

### **73 Application for inquiry into ballot irregularity (s 69(1))**

- (1) An application to the Federal Court under subsection 69(1) of the Act for an inquiry must be:
- (a) in the form set out in the Federal Court Rules; and
  - (b) made by:
    - (i) a member of the organisation whose members were eligible to vote in the ballot; or
    - (ii) a person acting on behalf of a member mentioned in subparagraph (i); or
    - (iii) the Electoral Commissioner; and
  - (c) lodged in the Federal Court together with any document that the Federal Court Rules require to be lodged with the application.
- (2) For this Division, an inquiry is taken to have been instituted when an application mentioned in subregulation (1) is lodged.

### **74 Hearing of inquiry into ballot irregularity (s 69(3))**

If an inquiry is instituted, the Federal Court or a Judge may give any directions the Federal Court or Judge thinks necessary to ensure that all persons who are or may be entitled to appear, or to be represented, at the inquiry are notified of the time and place fixed for the hearing of the inquiry.

### **75 Inspection of documents for inquiry (s 69(3))**

- (1) If an inquiry is instituted, the Federal Court or a Judge may authorise any person to inspect rolls of voters, ballot papers or other documents that have been used in connection with, or are relevant to, the ballot.
- (2) A person must not hinder or obstruct a person carrying out an inspection authorised under subregulation (1).

Penalty:

- (a) for an individual—5 penalty units; or
- (b) for a body corporate—10 penalty units.

### **76 Inquiry into ballot irregularity—procedure at hearing (s 69(3))**

- (1) The Federal Court may allow any person to appear or to be represented at an inquiry, and that person is taken to be a party to the proceedings.
- (2) The Federal Court may determine the procedure for the conduct of an inquiry.

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- (3) The Federal Court is not bound, in conducting the inquiry, to act in a formal manner or to apply any rules of evidence, but may inform itself of any matter in any manner it thinks fit.

**77 Inquiry into ballot irregularity—orders if ballot not completed (s 69(3))**

- (1) At any time after an inquiry is instituted and before the Federal Court finds whether there has been an irregularity that may affect, or may have affected, the result of an uncompleted ballot, the Federal Court, if it thinks fit, may:
- (a) order that no further steps be taken in the conduct of the ballot; and
  - (b) make any order incidental or supplementary to an order under paragraph (a); and
  - (c) vary or discharge an order under paragraph (a) or (b).
- (2) An order under subregulation (1) continues in force until the conclusion of the inquiry, unless the order:
- (a) is expressed to expire at some other time; or
  - (b) is discharged before the conclusion of the inquiry.
- (3) A person must comply with an order of the Federal Court under subregulation (1).

Penalty:

- (a) for an individual—5 penalty units; or
- (b) for a body corporate—10 penalty units.

**78 Public notification of amalgamation day (s 73(2))**

- (1) If the FWC has fixed a day under subsection 73(2) of the Act as the day on which an amalgamation is to take effect, the General Manager must publish a notice of the fixing of the day:
- (a) in at least one newspaper; and
  - (b) no later than 14 days after the FWC has fixed a day.
- (2) The General Manager must be of the opinion that the notice is likely to come to the attention of interested persons including the members of the organisations, and any associations, to be amalgamated.
- (3) A notice published under paragraph (1)(a) is taken to be a notice published by the FWC for subsection 73(2) of the Act.

**79 Registration of amalgamated organisations (s 73(3)(a))**

For paragraph 73(3)(a) of the Act, the following particulars in relation to a proposed amalgamated organisation are prescribed:

- (a) the name of the proposed organisation;
- (b) the eligibility rules of the proposed organisation;
- (c) if the proposed organisation is registered in relation to a particular industry—a description of the industry.

**Division 2—Withdrawal from amalgamations (Ch 3, Pt 3)****80 Definitions**

- (1) In this Division:

*assisting official* has the meaning given by regulation 94A.

*closing day*, for a ballot, means the day fixed as the closing day of the ballot under regulation 84.

*commencing day*, for a ballot, means the day fixed as the commencing day of the ballot under regulation 84.

*inquiry* means an enquiry under section 108 of the Act into alleged irregularities in relation to a ballot.

*scrutineer* means a person appointed as a scrutineer under regulation 97.

- (2) An expression used in this Division and in Part 3 of Chapter 3 of the Act has the same meaning in this Division as in that Part of that Chapter of the Act.

**81 Application for ballot—number of constituent members (s 94(3)(a))**

For paragraph 94(3)(a) of the Act, the prescribed number of constituent members is the lesser of the following:

- (a) the number equal to 5% of the constituent members on the day when the application is lodged;
- (b) 2 000.

**82 Application for ballot—prescribed form (s 94(4))**

An application for a ballot under section 94 of the Act must:

- (a) be in accordance with Form 2; and
- (b) contain the information prescribed in that form; and
- (c) nominate a person to be the representative constituent member for the ballot to receive documents on behalf of the applicant and for any other purpose specified in this Division.

**83 Outline of proposed withdrawal—matters to be addressed (s 95(1)(c))**

For the purposes of paragraph 95(1)(c) of the Act, the written outline must, as far as practicable, address the following matters:

- (a) details of the circumstances in which the constituent part became part of the amalgamated organisation, including the name, immediately before de-registration, of any organisation de-registered in connection with the formation of the amalgamated organisation that the constituent part was or was part of;

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- (b) the eligibility rules of the amalgamated organisation immediately before the application for a ballot is made;
- (c) if an organisation that the constituent part was, or was part of, was de-registered in connection with the formation of the amalgamated organisation—the eligibility rules of the de-registered organisation immediately before de-registration;
- (d) the eligibility rules of the amalgamated organisation immediately before the constituent part became part of the amalgamated organisation;
- (e) particulars of the assets and liabilities of the amalgamated organisation;
- (f) if an organisation that the constituent part was, or was part of, was de-registered in connection with the formation of the amalgamated organisation:
  - (i) particulars of the assets and liabilities of the de-registered organisation immediately before de-registration; and
  - (ii) any change in the net value of those assets or liabilities that has occurred since the amalgamation;
- (g) particulars of any rules, arrangements, practices or understandings referred to in paragraph 109(2)(ba) of the Act;
- (h) any other matters the applicant considers may be relevant to the making of orders under paragraph 109(1)(b) of the Act (orders necessary to apportion the assets and liabilities of the amalgamated organisation between the amalgamated organisation and the constituent part).

## **84 Commencing day and closing day (s 100)**

- (1) If:
  - (a) the FWC, under section 100 of the Act, orders that a vote be taken by secret ballot; and
  - (b) the FWC does not fix a day as the commencing day of the ballot;the commencing day is:
  - (c) the thirty-fifth day after the FWC makes the order; or
  - (d) if that day is a Saturday, Sunday or public holiday—the next working day.
- (2) If:
  - (a) the FWC, under section 100 of the Act, orders that a vote be taken by secret ballot; and
  - (b) the FWC does not fix a day as the closing day of the ballot;the closing day is:
  - (c) the twenty-first day after the commencing day; or
  - (d) if that day is a Saturday, Sunday or public holiday—the next working day.

## **85 General Manager to supply copies of question (s 102(1) and (1C))**

- (1) If an application is made for approval for a withdrawal from the amalgamated organisation to be put to ballot, the General Manager must, as soon as practicable, give the AEC a copy of the question proposed to be put to ballot.



- (2) Subregulation (1) applies in relation to a ballot conducted by the AEC.
- (3) If, in making an order under section 100 of the Act that a ballot be held, the FWC allows the ballot to be conducted by a designated official, the General Manager must, as soon as practicable after the order is made, give the designated official a copy of the question proposed to be put to ballot.

Note: In certain circumstances the FWC may allow the ballot to be conducted by an officer of the constituent part instead of the AEC. The officer is a *designated official* (see subsections 93(1) and 102(1A) of the Act).

## **86 Form and publication of notice of ballot (s 102(1) and (1C))**

- (1) As soon as practicable after the FWC orders a vote to be taken, the electoral official or designated official conducting the ballot must give notice of the commencing day of a ballot and notice of the closing day of a ballot to persons entitled to vote at the ballot.
- (2) The official may give a notice under subregulation (1) by post, by newspaper advertisement or by any other reasonable means that the official thinks necessary to ensure that the notice comes to the attention of the persons entitled to vote at the ballot.

## **87 Conduct of ballot—electoral official (s 102(1))**

- (1) An electoral official conducting a ballot may take action and give any direction he or she reasonably considers to be necessary to ensure that no unlawful disclosure or other irregularity occurs in relation to the ballot.
- (2) A person must comply with a direction given to him or her under subregulation (1).

Note: This subregulation is a civil penalty provision (see regulation 168).

- (3) The AEC must advise the General Manager and the Commissioner of a possible contravention of subregulation (2) not later than 21 days after the AEC has become aware of the possible contravention.

## **87A Conduct of ballot—designated official (s 102(1C))**

- (1) The designated official conducting a ballot may take action and give any direction necessary to ensure that no unlawful disclosure or other irregularity occurs in relation to the ballot if:
  - (a) the person in relation to whom the designated official takes the action, or the person to whom the designated official gives the direction, is a member of the amalgamated organisation; and
  - (b) the designated official is satisfied that the action or direction is reasonably directed to removing or reducing the threat of unlawful disclosure or other irregularity occurring in relation to the ballot.
- (2) A person must comply with a direction given to the person under subregulation (1).

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Note: This subregulation is a civil penalty provision (see regulation 168).

- (3) The designated official must advise the General Manager and the Commissioner of a possible contravention of subregulation (2) not later than 21 days after the designated official has become aware of the possible contravention.

### **88 Roll of voters for ballot—preparation (s 102(1) and (1C))**

- (1) The roll of voters for a ballot is the roll of persons who, on the day specified in subregulation (2), are constituent members of the constituent part of the amalgamated organisation who are, in accordance with section 101 of the Act, eligible to vote in the ballot.
- (2) For subregulation (1) the day specified is the earlier of the following:
  - (a) the day when the FWC orders a vote to be taken;
  - (b) the day 35 days before the commencing day of the ballot.
- (3) The roll of voters must:
  - (a) be prepared at the direction of the electoral official or designated official conducting the ballot; and
  - (b) set out opposite the name of each person on the roll the postal address of the person; and
  - (c) be closed no later than 14 days before the commencing day of the ballot.

### **89 Roll of voters for ballot—inspection (s 102(1) and (1C))**

- (1) An electoral official or designated official conducting a ballot must make the roll available for inspection during ordinary business hours at the place where the official carries out his or her duties in relation to the ballot, in the period starting the day after the day when the roll was closed under paragraph 88(3)(c) and ending 30 days after the declaration of the result of the ballot.
- (2) The official must make the roll available for inspection by:
  - (a) a member of the amalgamated organisation; and
  - (b) any other person authorised by the official.
- (2A) Despite paragraph 88(3)(b), the roll made available to a person mentioned in paragraph (2)(a) or (b) of this regulation, other than to a member of the constituent part who is entitled to vote at the ballot, must contain only the name of each person on the roll.
- (2B) Only an electoral official, designated official or assisting official may copy the roll.
- (3) The roll may be kept, and copies may be supplied, electronically.
- (4) If a copy of a roll, or a copy of part of a roll, is made or supplied under this regulation, a person must not use information in the roll for a purpose other than:
  - (a) a purpose in connection with the ballot; or
  - (b) to monitor the accuracy of the information contained in the roll.

Penalty: 10 penalty units.

- (5) If a person (the **first person**) obtains information about another person from a roll under this Division, the first person must not:
- (a) use the information to contact or send material to the other person, unless the first person is expressly authorised by the Act or this Division to contact or send material to the other person; or
  - (b) disclose the information knowing that the information is likely to be used to contact or send material to the other person.

Note: This subregulation is a civil penalty provision (see regulation 168).

- (6) The AEC, or the designated official conducting the ballot, must advise the General Manager and the Commissioner of a possible contravention of subregulation (5) not later than 21 days after the AEC or designated official has become aware of the possible contravention.

## **90 Electoral official or designated official to supply copies of question (s 102(1) and (1C))**

If:

- (a) the AEC or designated official has received a copy of a question to be put to a ballot; and
- (b) a person entitled to vote at the ballot makes a written or oral request to the electoral official or designated official conducting the ballot for a copy of the question;

the official must, as soon as practicable, supply a copy to the person without charge.

## **90A Ballot paper (s 102(1) and (1C))**

Ballot papers for use in a ballot must be in accordance with Form 3.

## **91 Postal ballot—dispatch of ballot papers and other material (s 102(1) and (1C))**

(1A) This regulation applies in relation to a postal ballot.

- (1) The electoral official or designated official conducting the ballot must, as soon as practicable but no earlier than 7 days before the commencing day of the ballot, post to each person entitled to vote in the ballot a sealed envelope, addressed to the postal address of the person shown on the roll of voters, containing:
- (a) a ballot paper for the ballot:
    - (i) bearing the initials of the official or a facsimile of those initials; and
    - (ii) stating the time, on the closing day of the ballot, by which the vote must be received; and
  - (b) any other material the official reasonably considers to be relevant to the ballot; and

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- (c) a declaration envelope in which the voter must place his or her ballot paper; and
- (d) a prepaid envelope, addressed to the AEC or the designated official, that may be posted without cost to the voter; and
- (e) any document that the Act or these Regulations require to be posted with the ballot paper.

Note: Ballot papers sent to constituent members for a postal ballot must be accompanied by the material specified in subsection 102(2) of the Act.

- (2) The electoral official or designated official conducting the ballot may post with the ballot paper:
  - (a) directions to help a person voting in the ballot comply with these Regulations; and
  - (b) other directions the official reasonably believes may assist in ensuring that an irregularity does not occur in relation to the ballot; and
  - (c) information about the conduct of the ballot.

### **93 Postal ballot—duplicate ballot paper (s 102(1) and (1C))**

(1A) This regulation applies in relation to a postal ballot.

- (1) If, on the written application of a person, an electoral official, or the designated official conducting the ballot, is satisfied that:
  - (a) a ballot paper; or
  - (b) another document required to be posted with a ballot paper;that was posted to the person under regulation 91:
  - (c) has not been received by the person; or
  - (d) has been lost or destroyed; or
  - (e) in the case of a ballot paper, has been spoilt;the official must, as soon as practicable, give a duplicate of the relevant document to the person.
- (2) An application under subregulation (1) must:
  - (a) be sent to an electoral official, or to the designated official, so that it is received by the official on or before the closing day of the ballot; and
  - (b) state the grounds for making the application; and
  - (c) if practicable, be accompanied by evidence that verifies, or tends to verify, those grounds; and
  - (d) contain a signed declaration that the person has not voted in the ballot; and
  - (e) if the application relates to a ballot paper that has been spoilt, be accompanied by the ballot paper.
- (3) If the ballot paper mentioned in paragraph (2)(e) accompanies an application under subregulation (1), the official must:
  - (a) mark 'spoilt' on the ballot paper; and
  - (b) initial the ballot paper where marked; and
  - (c) keep the ballot paper.

**94 Postal ballot—manner of voting (s 102(1) and (1C))**

(1A) This regulation applies in relation to a postal ballot.

- (1) A person voting in the ballot must record his or her vote on the ballot paper as follows:
  - (a) if the person approves the withdrawal of the constituent part from the amalgamated organisation—by writing legibly ‘YES’ in the space provided opposite the question printed on the ballot paper;
  - (b) if the person does not approve the withdrawal of the constituent part from the amalgamated organisation—by writing legibly ‘NO’ in the space provided opposite the question printed on the ballot paper.
- (2) After recording his or her vote, a person must:
  - (a) comply with any direction under paragraph 91(2)(a) or (b); and
  - (b) place the ballot paper in the declaration envelope, complete the declaration and seal the declaration envelope; and
  - (c) place the declaration envelope in the prepaid envelope and seal the prepaid envelope; and
  - (d) send the prepaid envelope to the AEC, or to the designated official conducting the ballot, to reach the AEC or designated official no later than the time specified on the ballot paper as the time on the closing day of the ballot by which the vote must be received.

**94A Assisting official (s 102(1C))**

- (1) The designated official conducting a ballot may, in writing, authorise an officer or member of the constituent part (the *assisting official*) to assist the designated official in conducting the ballot.
- (2) Copies of the authorisation must be displayed at:
  - (a) the places fixed for an attendance ballot under paragraph 94C(3)(a); and
  - (b) the places where a scrutiny is conducted under regulation 96.
- (3) In assisting the designated official in conducting the ballot, an assisting official must comply with any directions of the designated official.

**94B Attendance ballot—dispatch of material (s 102(1), (1C) and (4))**

- (1) This regulation applies in relation to an attendance ballot.
- (2) The electoral official or designated official conducting the ballot must, as soon as practicable after the FWC makes the order under section 100 of the Act for the ballot, post to each person entitled to vote at the ballot a sealed envelope, addressed to the postal address of the person shown on the roll of voters, containing the material specified in paragraphs 102(2)(a) to (ca) of the Act.
- (3) The electoral official or designated official conducting the ballot may post, with the material mentioned in subregulation (2):

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- (a) directions to help a person voting in the ballot comply with these Regulations; and
  - (b) other directions the official reasonably believes may assist in ensuring that an irregularity does not occur in relation to the ballot; and
  - (c) information about the conduct of the ballot.
- (4) Material required to be sent under subregulation (2) must be sent in sufficient time for it to be delivered, in the ordinary course of post, at least 7 days before the relevant commencing day.

### **94C Attendance ballot—conduct of ballot (s 102(1), (1C) and (4))**

- (1) This regulation applies in relation to an attendance ballot.
- (2) Members of the constituent part who are entitled to vote at the ballot may exercise an absentee vote in relation to the ballot.
- (3) The electoral official or designated official conducting the ballot must:
  - (a) fix the places, and the times of opening and closing, for the ballot; and
  - (b) include in the material posted under regulation 94B in relation to the ballot details of:
    - (i) the places and times fixed under paragraph (a); and
    - (ii) the procedure for obtaining and exercising an absentee vote in relation to the ballot; and
  - (c) make copies of the material posted under regulation 94B in relation to the ballot available at the places fixed under paragraph (a).

**Note:** The electoral official or designated official, or an assisting official, must keep the ballot material in safe custody until a scrutiny is conducted: see regulation 95.

### **94D Attendance ballot—issuing of ballot papers (s 102(1) and (1C))**

- (1) This regulation applies in relation to an attendance ballot.
- (2) An electoral official or designated official conducting the ballot, or an assisting official, must issue to each member entitled to vote at the ballot a ballot paper bearing:
  - (a) the initials of the electoral official or designated official; or
  - (b) a facsimile of those initials.

**Note:** The electoral official or designated official, or an assisting official, must keep the ballot papers in safe custody until a scrutiny is conducted: see regulation 95.

### **94E Attendance ballot—duplicate ballot papers (s 102(1) and (1C))**

- (1) This regulation applies in relation to an attendance ballot.
- (2) If a person entitled to vote at the ballot satisfies the presiding electoral official, or the designated official conducting the ballot or an assisting official, before depositing the ballot paper in the ballot box, that the person has accidentally spoilt the paper, the official must:

- (a) mark “spoilt” on the paper and initial the marking; and
- (b) keep the paper; and
- (c) issue a fresh ballot paper to the person.

**94F Attendance ballot—duplicate ballot paper etc. for absentee voting (s 102(1) and (1C))**

- (1) This regulation applies in relation to an attendance ballot.
- (2) If, on the written application of a person, an electoral official, or the designated official conducting the ballot, is satisfied that:
  - (a) a ballot paper; or
  - (b) another document required to be posted with a ballot paper;
 

that was posted to the person for the purposes of exercising an absentee vote in relation to the ballot in accordance with subregulation 94C(2):
  - (c) has not been received by the person; or
  - (d) has been lost or destroyed; or
  - (e) in the case of a ballot paper, has been spoilt;
 

the official must, as soon as practicable, give a duplicate of the relevant document to the person.
- (3) An application under subregulation (2) must:
  - (a) be sent to an electoral official, or the designated official, so that it is received by the official on or before the closing day of the ballot; and
  - (b) state the grounds for making the application; and
  - (c) if practicable, be accompanied by evidence that verifies, or tends to verify, those grounds; and
  - (d) contain a signed declaration that the person has not voted at the ballot; and
  - (e) if the application relates to a ballot paper that has been spoilt, be accompanied by the ballot paper.
- (4) An official to whom a spoilt paper is returned under paragraph (3)(e) must deal with the paper in accordance with paragraphs 94E(2)(a) and (b).

**95 Custody of ballot papers (s 102(1) and (1C))**

An electoral official or designated official conducting a ballot, or an assisting official, must keep the ballot papers and other material relating to the ballot in safe custody until a scrutiny is conducted in accordance with regulation 96.

**96 Scrutiny of ballot (s 102(1) and (1C))**

- (1) The electoral official or designated official conducting a ballot must determine the result of the ballot by conducting a scrutiny in accordance with this regulation.
- (1A) The designated official may be assisted in conducting the scrutiny by one or more assisting officials.

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- (2) As soon as practicable after the close of a ballot, the official must:
  - (a) admit the valid votes and reject the informal votes; and
  - (b) count the valid votes and record the number:
    - (i) in favour of the question set out on the ballot paper; and
    - (ii) not in favour of the question set out on the ballot paper; and
  - (c) count the informal votes.
- (3) A vote is informal only if:
  - (a) the ballot paper does not bear:
    - (i) the initials of an electoral official, or the designated official; or
    - (ii) a facsimile of those initials; or
  - (b) the ballot paper is marked in a way that permits the voter to be identified; or
  - (c) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or
  - (d) for a postal ballot—the ballot paper does not comply with a direction given under paragraph 91(2)(a) or (b); or
  - (e) for an attendance ballot—the ballot paper does not comply with a direction under paragraph 94B(3)(a) or (b).
- (4) However, a vote is not informal because of paragraph (3)(a) if the official is satisfied the ballot paper in question is authentic.
- (5) If the official conducting the ballot is informed by a scrutineer that the scrutineer objects to a ballot paper being admitted as formal or rejected as informal the official must:
  - (a) decide whether the ballot is to be admitted as formal or rejected as informal; and
  - (b) endorse the decision on the ballot paper; and
  - (c) initial the endorsement.
- (6) If the official conducting the ballot is informed by a scrutineer that, in the scrutineer's opinion, an error has been made in the conduct of the scrutiny, the official must decide whether an error has been made and, if appropriate, direct what action is to be taken to correct or mitigate the error.

## **97 Scrutineers (s 102(1) and (1C))**

- (1) The committee of management of the constituent part to which a ballot relates, or the representative constituent member, may appoint members of the constituent part as scrutineers for the ballot.
- (2) An appointment under subregulation (1) must be made by an instrument signed:
  - (a) on behalf of the committee of management by an officer of the constituent part authorised to sign the instrument; or
  - (b) by the representative constituent member.



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- (3) The committee of management of an amalgamated organisation may appoint members of the amalgamated organisation as scrutineers for a ballot to represent the interests of the amalgamated organisation.
- (4) An appointment under subregulation (3) must be made by an instrument signed on behalf of the committee of management by an officer authorised by the rules of the organisation or by the committee of management of the amalgamated organisation.
- (5) Subject to subregulations (6), (7) and (9), a scrutineer may be present at:
- (a) the preparation and dispatch of ballot material under regulation 91 or 94B; and
  - (aa) the preparation and dispatch of duplicate ballot papers under regulation 93 or 94F; and
  - (ab) the issue of ballot papers under regulation 94D; and
  - (ac) the issue of fresh ballot papers under regulation 94E; and
  - (b) the receipt and placement of ballot material in safe custody under regulation 95; and
  - (c) the scrutiny of ballot material under regulation 96.
- (6) If a scrutineer fails to produce his or her instrument of appointment for inspection at the request of the electoral official or designated official conducting the ballot, the official may refuse to allow the person to be present.
- (7) At any time during the scrutiny of ballot material:
- (a) the number of scrutineers appointed under subregulation (1) in attendance at the scrutiny; and
  - (b) the number of scrutineers appointed under subregulation (3) in attendance at the scrutiny;
- must not exceed the number of electoral officials, or the sum of the designated official and the number of assisting officials, engaged in the scrutiny at that time.
- (8) At the scrutiny of ballot material, if the scrutineer:
- (a) objects to a decision that a ballot paper is formal or informal; or
  - (b) believes an error has been made in the conduct of the scrutiny;
- he or she may inform the electoral official or designated official conducting the ballot of the objection or belief.
- (9) If a person:
- (a) is not entitled to be present, or to remain present, at the scrutiny; or
  - (b) interrupts the scrutiny of a ballot, except for a purpose mentioned in paragraph (8)(a) or (b);
- the official conducting the ballot may direct the person to leave the place where the scrutiny is being conducted.
- (10) A person must comply with a direction given to him or her under subregulation (9).

Note: This subregulation is a civil penalty provision (see regulation 168).

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- (11) The AEC, or the designated official conducting the ballot, must advise the General Manager and the Commissioner of a possible contravention of subregulation (10) not later than 21 days after the AEC or designated official has become aware of the possible contravention.

### **98 Post-ballot report by AEC or designated official (s 107)**

- (1) For subsection 107(3) of the Act, the following matters are prescribed for inclusion in the report:
- (a) the certificate mentioned in subsection 106(1) of the Act;
  - (b) for a postal ballot—the total number of envelopes posted in accordance with regulation 91 that were returned undelivered by the closing date of the ballot to the AEC or designated official (if applicable);
  - (ba) for an attendance ballot—the total number of envelopes posted in accordance with regulation 94B that were returned undelivered by the closing date of the ballot to the AEC or designated official (if applicable);
  - (bb) for an attendance ballot—the total number of ballots posted to one or more persons for the purposes of exercising an absentee vote in relation to the ballot in accordance with subregulation 94C(2) that were returned undelivered by the closing date of the ballot to the AEC or designated official (if applicable);
  - (c) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
  - (d) any matters in relation to the roll of voters including those matters contained in subsection 107(4) of the Act;
  - (e) the number of written allegations (if any) of irregularities made to the AEC or designated official during the ballot;
  - (f) action taken by the AEC or designated official in relation to those allegations;
  - (g) any other irregularities identified by the AEC or designated official and action taken by the AEC or designated official in relation to those other irregularities.
- (2) If the ballot was conducted by the AEC, the AEC must:
- (a) give the report under subsection 107(1) of the Act within 14 days after the closing day of the ballot; and
  - (b) publish the report on its web site as soon as practicable, but no later than 21 days after the closing day of the ballot.
- (2A) If the ballot was conducted by a designated official:
- (a) the designated official must give the report under subsection 107(1) of the Act within 14 days after the closing day of the ballot; and
  - (b) the amalgamated organisation from which the constituent part withdrew or sought to withdraw must publish the report as soon as practicable, but no later than 21 days after the closing day of the ballot:
    - (i) on the amalgamated organisation's website; or

- (ii) if the amalgamated organisation does not have a website—in a manner that is reasonably accessible to the organisation's members.
- (3) The amalgamated organisation from which the constituent part withdrew or sought to withdraw must, as soon as practicable after receiving a report mentioned in paragraph (2)(a) or (2A)(a), publish a notice of the availability of the report:
  - (i) on the amalgamated organisation's website; or
  - (ii) if the amalgamated organisation does not have a website—in a manner that is reasonably accessible to the organisation's members.
- (4) A notice published under subregulation (3) must remain on the web site until the end of the period in which an application may be made under section 108 of the Act.

### **99 Declaration of ballot (s 108)**

The result of a ballot under this Division is declared on the day a certificate mentioned in subsection 106(1) is signed.

### **100 Preservation of ballot papers (s 108(1))**

The AEC, or the designated official conducting the ballot, must keep all ballot papers and documents relating to a ballot:

- (a) until the end of the period in which an application may be made under section 108 of the Act; or
- (b) if an application of the kind referred to in paragraph (a) has been made—until the application is disposed of.

### **101 Request by member for information about ballot**

- (1) A person who is entitled to vote in a ballot may, for the purpose of determining whether there has been an irregularity in relation to the ballot, request the electoral official or designated official conducting the ballot to give the person specified information not available in the report given under subsection 107(1) of the Act.
- (2) The official must comply with a request under subregulation (1) if the information requested is available to him or her.

### **102 Application for inquiry into ballot irregularity (s 108(1))**

- (1) An application to the FWC under subsection 108(1) of the Act for an inquiry must be:
  - (a) in the form set out in the Procedural Rules; and
  - (b) made by:
    - (i) a member of the constituent part of the organisation whose members were eligible to vote in the ballot; or

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- (ii) a person acting on behalf of a member mentioned in subparagraph (i); or
    - (iii) for a ballot conducted by the AEC—the Electoral Commissioner; or
    - (iv) for a ballot conducted by a designated official—the designated official; and
  - (c) lodged with the FWC together with any document that the Procedural Rules require to be lodged with the application.
- (2) For this Division, an inquiry is taken to have been instituted when an application mentioned in subregulation (1) is lodged.

### **103 Inquiry into ballot irregularity (s 108(3))**

If an inquiry is instituted, the FWC may give any directions the FWC thinks necessary to ensure that all persons who are or may be entitled to appear, or to be represented, at the inquiry are notified of the time and place fixed for the hearing of the inquiry.

### **104 Inquiry into ballot irregularity—inspection of documents (s 108(3))**

- (1) If an inquiry has been instituted in relation to a ballot, the FWC may authorise any person to inspect rolls of voters, ballot papers or other documents that have been used in connection with, or are relevant to, the ballot.
- (2) A person must not hinder or obstruct a person carrying out an inspection authorised under subregulation (1).

Penalty:

- (a) for an individual—5 penalty units; or
- (b) for a body corporate—10 penalty units.

### **105 Inquiry into ballot irregularity—procedure at hearing (s 108(3))**

- (1) The FWC may allow any person to appear or be represented at an inquiry, and that person is taken to be a party to the proceedings.
- (2) The FWC may determine the procedure for the conduct of an inquiry.
- (3) The FWC is not bound, in conducting the inquiry, to act in a formal manner or to apply any rules of evidence, but may inform itself of any matter in any manner it thinks fit.

### **106 Inquiry into ballot irregularity—orders if ballot not completed (s 108(3))**

- (1) At any time after an inquiry has been instituted and before the FWC finds whether there has been an irregularity that may affect, or may have affected, the result of a ballot that is not completed, the FWC may:
  - (a) order that no further steps are to be taken in the conduct of the ballot; and
  - (b) make any order incidental or supplementary to an order under paragraph (a); and

- (c) vary or discharge an order under paragraph (a) or (b).
- (2) An order under subregulation (1) continues in force until the end of the inquiry, unless the order:
  - (a) is expressed to expire at some other time; or
  - (b) is discharged before the end of the inquiry.
- (3) A person must not contravene an order of the FWC under subregulation (1).

Penalty:

- (a) for an individual—5 penalty units; or
- (b) for a body corporate—10 penalty units.

### **107 Application for withdrawal day (s 109)**

- (1) In considering whether any orders should be made under paragraph 109(1)(c) of the Act in connection with giving effect to the withdrawal, the Federal Court must have regard to whether the proposed rules for the constituent part after the withdrawal day comply with the Act.
- (2) If the Federal Court has determined, under section 109 of the Act, the day when the withdrawal is to take effect, the Federal Court must publish a notice of the determination:
  - (a) in at least one newspaper; and
  - (b) no later than 14 days after the determination.
- (3) The Federal Court must be of the opinion the notice is likely to come to the attention of interested persons, including the members of the relevant amalgamated organisation.
- (4) For paragraph 109(3)(a) of the Act, the prescribed number of constituent members is the lesser of the following:
  - (a) 5% of the total number of constituent members;
  - (b) 2 000.
- (5) For subsection 109(5) of the Act, an application under subsection 109(1) of the Act, must:
  - (a) be in accordance with Form 4; and
  - (b) contain the information prescribed in the form; and
  - (c) be lodged in the Federal Court together with the final version of the written outline mentioned in section 95 of the Act and the statements of names, and rules and alterations of rules, mentioned in section 95A of the Act.

### **108 Registration of constituent part (s 110)**

For paragraph 110(b) of the the Act, the following particulars are prescribed:

- (a) the name of the organisation;
- (b) the eligibility rules of the organisation;

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- (c) if the organisation is registered in relation to a particular industry—a description of the industry;
- (d) if the organisation is an enterprise association—the name of the enterprise.

### **109 Supply of copies of determination (s 109(1)(a) and (b))**

The Registrar of the Federal Court must supply the General Manager with a copy of any order or determination the Federal Court makes under subsection 109(1) of the Act as soon as practicable after it makes the order or determination.

### **110 Enterprise agreements made before withdrawal**

- (1) This regulation is prescribed for the purposes of section 124 of the Act.
- (2) If, following the withdrawal of a constituent part from an amalgamated organisation:
  - (a) the amalgamated organisation and the constituent part (the ***newly registered organisation***) are both covered by an enterprise agreement by virtue of section 113 of the Act; and
  - (b) the amalgamated organisation is no longer entitled to represent the industrial interests of the employees covered by the agreement;then, on and from the day the registration takes effect, any rights under or relating to the agreement are exercisable only by the newly registered organisation.

**Note:** Under paragraph 109(1)(c) of the Act, the Federal Court must, on application, make orders it thinks fit in connection with giving effect to the withdrawal of a constituent part from an amalgamated organisation, which may include orders relating to the coverage of enterprise agreements.

### **111 Applicants for orders under subsection 131(2) of the Act—prescribed persons**

For paragraph 131(3)(b) of the Act, the following persons are prescribed:

- (aa) the Commissioner;
- (a) an officer of a branch or other part of the amalgamated organisation of which the person mentioned in subsection 131(2) of the Act is a member;
- (b) a Fair Work Inspector.

## **Division 3—Conduct of ballots by AEC**

### **112 Conduct of ballot (s 64 and 65)**

- (1) An electoral official conducting a ballot may take action and give any direction he or she reasonably considers to be necessary to ensure that no unlawful disclosure or other irregularity occurs in relation to the ballot.

- (2) A person must comply with a direction given to him or her under subregulation (1).

Note: This subregulation is a civil penalty provision (see regulation 168).

- (3) The AEC must advise the General Manager and the Commissioner of a possible contravention of subregulation (2) not later than 21 days after the AEC has become aware of the possible contravention.

### **113 Ballots conducted by AEC or designated official—no unauthorised action**

- (1) For any ballot conducted by the AEC or a designated official under Chapter 3 of the Act or under this Part, a person other than the person conducting the ballot must not do, or purport to do, any act in the conduct of the ballot other than as directed or authorised by the person conducting the ballot.

Note: This subregulation is a civil penalty provision (see regulation 168).

- (2) The AEC or designated official must advise the General Manager and the Commissioner of a possible contravention of subregulation (1) not later than 21 days after the AEC or designated official has become aware of the possible contravention.

### **114 No action for defamation in certain cases**

No action or proceeding, civil or criminal, for defamation lies:

- (a) against the Commonwealth or an electoral official conducting, on behalf of the AEC, a ballot under the Act or these Regulations, in relation to:
  - (i) the printing or issuing of a document or other material that is required or permitted under regulation 63, 91 or 94B to be contained in the sealed envelope mentioned in that regulation; or
  - (ii) the printing or issuing of a post ballot report given by the AEC under section 68 or 107 of the Act; or
- (aa) against a designated official conducting a ballot under the Act or these Regulations, in relation to:
  - (i) the printing or issuing of a document or other material that is required or permitted under regulation 91 or 94B to be contained in the sealed envelope mentioned in that regulation; or
  - (ii) the printing or issuing of a post ballot report given by the designated official under 107 of the Act; or

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- (b) if the report, document or other material mentioned in paragraph (a) or (aa) is printed by another person—against that person, in relation to the printing.



## **Part 4A—Representation orders (Ch 4)**

### **114A Representation rights of former State-registered association subject to demarcation order—transitional recognition without demarcation order and no previous order under Chapter 4 of the Act (section 138A)**

- (1) For subsection 138A(1) of the Act, this regulation explains the way in which Chapter 4 of the Act applies in relation to an organisation if:
  - (a) immediately before the reform commencement:
    - (i) it was a State-registered association; and
    - (ii) a State demarcation order was in force in relation to it; and
  - (b) it became a transitionally recognised association; and
  - (c) no demarcation order of a kind similar to the State demarcation order was made in relation to the organisation:
    - (i) while it was a transitionally recognised association; or
    - (ii) under section 133 of the Act.
- (2) Chapter 4 applies in relation to the organisation as if the Chapter:
  - (a) required the FWC to make an order to the same effect as the State demarcation order mentioned in subparagraph (1)(a)(ii); and
  - (b) permitted the FWC:
    - (i) to make orders under that Chapter about the representation rights of the association without the existence of a demarcation dispute; and
    - (ii) to disregard any requirement in that Chapter to have regard to:
      - (A) the existence of a demarcation dispute; or
      - (B) any matter relating to the existence of a demarcation dispute.
- (3) The order:
  - (a) may be made with changes from the text of the State demarcation order mentioned in subparagraph (1)(a)(ii) that the FWC considers necessary to reflect the language and content of the Fair Work Act and the Act; and
  - (b) must be the same in substance as the State demarcation order mentioned in subparagraph (1)(a)(ii); and
  - (c) may be subject to conditions or limitations.
- (4) For subregulation (2), sections 134, 135 and 138 of the Act are taken not to apply in relation to the organisation.

### **114B Representation rights of former State-registered associations subject to demarcation order—no transitional recognition and no previous order under Chapter 4 of the Act (section 138A)**

- (1) For subsection 138A(1) of the Act, this regulation explains the way in which Chapter 4 of the Act applies in relation to an organisation if:
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- (a) immediately before the reform commencement:
    - (i) it was a State-registered association; and
    - (ii) a State demarcation order was in force in relation to it; and
  - (b) it did not become a transitionally recognised association; and
  - (c) no demarcation order of a kind similar to the State demarcation order was made in relation to the organisation under section 133 of the Act.
- (2) Chapter 4 applies in relation to the organisation as if the Chapter:
- (a) required the FWC to make an order to the same effect as the State demarcation order mentioned in subparagraph (1)(a)(ii); and
  - (b) permitted the FWC:
    - (i) to make orders under that Chapter about the representation rights of the association without the existence of a demarcation dispute; and
    - (ii) to disregard any requirement in that Chapter to have regard to:
      - (A) the existence of a demarcation dispute; or
      - (B) any matter relating to the existence of a demarcation dispute.
- (3) The order:
- (a) may be made with changes from the text of the State demarcation order mentioned in subparagraph (1)(a)(ii) that the FWC considers necessary to reflect the language and content of the Fair Work Act and the Act; and
  - (b) must be the same in substance as the State demarcation order mentioned in subparagraph (1)(a)(ii); and
  - (c) may be subject to conditions or limitations.
- (4) For subregulation (2), sections 134, 135 and 138 of the Act are taken not to apply in relation to the organisation.

### **114C Representation rights of former State-registered associations subject to demarcation order—transitional recognition with demarcation order and no previous order under Chapter 4 of the Act (section 138A)**

- (1) For subsection 138A(1) of the Act, this regulation explains the way in which Chapter 4 of the Act applies in relation to an organisation if:
- (a) immediately before the reform commencement:
    - (i) it was a State-registered association; and
    - (ii) a State demarcation order was in force in relation to it; and
  - (b) it became a transitionally recognised association; and
  - (c) a demarcation order of a kind similar to the State demarcation order was made in relation to the organisation when it was a transitionally registered association; and
  - (d) no demarcation order of a kind similar to the State demarcation order was made in relation to the organisation under section 133 of the Act.
- (2) Chapter 4 applies in relation to the organisation as if the Chapter:
- (a) required the FWC to make an order to the same effect as the demarcation order mentioned in paragraph (1)(c); and
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- (b) permitted the FWC:
  - (i) to make orders under that Chapter about the representation rights of the association without the existence of a demarcation dispute; and
  - (ii) to disregard any requirement in that Chapter to have regard to:
    - (A) the existence of a demarcation dispute; or
    - (B) any matter relating to the existence of a demarcation dispute.
- (3) The order:
  - (a) may be made with changes from the text of the State demarcation order mentioned in subparagraph (1)(a)(ii) that the FWC considers necessary to reflect the language and content of the Fair Work Act and the Act; and
  - (b) must be the same in substance as the State demarcation order mentioned in subparagraph (1)(a)(ii); and
  - (c) may be subject to conditions or limitations.
- (4) For subregulation (2), sections 134, 135 and 138 of the Act are taken not to apply in relation to the organisation.

**114CA Application of regulations 114A to 114C**

Regulations 114A to 114C do not apply to an application for an order about the right to represent transferring employees.

**114D Representation rights of former State-registered association involved in proceedings regarding representation rights in a State or Territory immediately before the reform commencement (section 138A)**

- (1) For subsection 138A(1) of the Act, this regulation explains the way in which Chapter 4 of the Act applies in relation to an organisation if:
  - (a) immediately before the reform commencement:
    - (i) it was a State-registered association that was party to proceedings concerning representation rights under a State or Territory industrial law; and
    - (ii) no order regarding the representation rights of it and the other parties to the proceedings had been made by the court or tribunal hearing the proceedings; and
  - (b) the organisation is involved in proceedings before the FWC concerning the dispute which gave rise to the proceedings mentioned at subparagraph (a)(i).
- (2) Chapter 4 applies in relation to the organisation as if the Chapter required the FWC to have regard to any evidence that was given in the proceedings mentioned at subparagraph (1)(a)(i).

**Note:** The FWC may treat the evidence which was laid before the State tribunal as being before the FWC.

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**114E Right to represent transferring employees—former State-registered association subject to demarcation order—transitional recognition without demarcation order**

- (1) For subsection 138A(1) of the Act, this regulation explains the way in which Chapter 4 of the Act applies in relation to an organisation if:
  - (a) prior to being registered as an organisation:
    - (i) it was a State-registered association; and
    - (ii) a State demarcation order was in force in relation to it; and
  - (b) it became a transitionally recognised association; and
  - (c) no demarcation order of a kind similar to the State demarcation order was made in relation to the right of the organisation to represent the industrial interests of transferring employees under the Act, or under the Fair Work Act:
    - (i) while it was a transitionally recognised association; or
    - (ii) under section 133 of the Act.
- (2) Chapter 4 applies in relation to the organisation as if the Chapter permitted the FWC to make an order that was of the same effect as the State demarcation order mentioned in subparagraph (1)(a)(ii), in relation to the right of the organisation to represent the industrial interests of transferring employees under the Act, or under the Fair Work Act.
- (3) In considering whether to make an order, the FWC:
  - (a) must consider the wishes of transferring employees who would be affected by the order; and
  - (b) may consider the following:
    - (i) the terms of the State demarcation order;
    - (ii) the effect of the order on the operation of the employer of the transferring employees;
    - (iii) any agreement or understanding of which the FWC becomes aware that deals with the right of a transitionally recognised association or other organisation to represent the transferring employees;
    - (iv) the consequences of not making the order for the employer, the employees, the transferring employees, the transitionally recognised association or any organisation affected by the order;
    - (v) any other matter that the FWC considers relevant.
- (4) In considering whether to make an order, the FWC may disregard any requirement in Chapter 4 to have regard to:
  - (a) the existence of a demarcation dispute; or
  - (b) any matter relating to the existence of a demarcation dispute.
- (5) The order may be subject to conditions or limitations.

**114F Right to represent transferring employees—former State-registered association subject to demarcation order—transitional recognition with demarcation order**

- (1) For subsection 138A(1) of the Act, this regulation explains the way in which Chapter 4 of the Act applies in relation to an organisation if:
  - (a) prior to being registered as an organisation:
    - (i) it was a State-registered association; and
    - (ii) a State demarcation order was in force in relation to it; and
  - (b) it became a transitionally recognised association; and
  - (c) a demarcation order of a kind similar to the State demarcation order was made in relation to the right of the organisation to represent the industrial interests of transferring employees under the Act, or under the Fair Work Act, when it was a transitionally recognised association; and
  - (d) no demarcation order of a kind similar to the State demarcation order was made in relation to the organisation under section 133 of the Act.
- (2) Chapter 4 applies in relation to the organisation as if the Chapter permitted the FWC to make an order that was of the same effect as the demarcation order mentioned in paragraph (1)(c).
- (3) In considering whether to make an order, the FWC:
  - (a) must have regard to the wishes of transferring employees who would be affected by the order; and
  - (b) may have regard to the following:
    - (i) the terms of the State demarcation order;
    - (ii) the effect of the order on the operation of the employer of the transferring employees;
    - (iii) any agreement or understanding of which the FWC becomes aware that deals with the right of a transitionally recognised association or other organisation to represent the transferring employees;
    - (iv) the consequences of not making the order for the employer, the employees, the transferring employees, the transitionally recognised association or any organisation affected by the order;
    - (v) any other matter that the FWC considers relevant.
- (4) In considering whether to make an order, the FWC may disregard any requirement in Chapter 4 to have regard to:
  - (a) the existence of a demarcation dispute; or
  - (b) any matter relating to the existence of a demarcation dispute.
- (5) The order may be subject to conditions or limitations.

## Part 5—Rules of organisations (Ch 5)

### Division 1—Rules of organisations

#### 115 Application for exemption from requirement for postal ballot (s 144(2))

- (1) An application for an exemption from subsection 144(1) of the Act must:
  - (a) be in writing; and
  - (b) state the grounds for seeking the exemption; and
  - (c) be lodged with the FWC.
- (2) An application by an organisation under paragraph 144(6)(a) of the Act for revocation of an exemption must:
  - (a) be in writing; and
  - (b) state the grounds for seeking the revocation; and
  - (c) be lodged with the FWC.
- (3) An organisation that has a web site must publish on its web site a notice that it has lodged an application mentioned in subregulation (1) or (2).
- (4) A notice published under subregulation (3) must remain on the web site until:
  - (a) the application mentioned in subregulation (1) or (2) is rejected by the General Manager; or
  - (b) the General Manager revokes an exemption under subsection 144(6) of the Act, relating to the application mentioned in subregulation (1) or (2).
- (5) An organisation that does not have a web site must publish a notice that it has lodged the application mentioned in subregulation (1) or (2) in a manner that is reasonably accessible to the organisation's members.

#### Examples

- 1 Publishing the notice in a public notice in a newspaper.
- 2 Publishing the notice in the organisation's official union journal.

#### 116 Prescriptions for purposes of paragraph 144(6)(b) and subsection 144(7) of the Act

- (1) For paragraph 144(6)(b) of the Act, the General Manager must, to give an organisation an opportunity to show cause why an exemption should not be revoked:
  - (a) fix a time and place at which the organisation may show cause; and
  - (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) containing particulars of the time and place fixed under paragraph (a); and
    - (ii) stating the reasons for the proposed revocation; and

- (iii) notifying the organisation of its right to be heard, and to make submissions under subregulation (2), to show cause why an exemption should not be revoked.
- (2) An organisation may, to show cause under subregulation (1), make submissions to the General Manager by either, or both, of the following:
  - (a) lodging with the FWC, not less than 2 days before the day fixed for the hearing, written submissions in relation to the matter;
  - (b) appearing at the hearing and making oral submissions to the General Manager.
- (3) For subsection 144(7) of the Act, the General Manager must, to give an organisation an opportunity to be heard in relation to a proposal by the General Manager to determine certain alterations of the rules of the organisation under subsection 144(7) of the Act:
  - (a) fix a time and place at which the organisation may be heard in relation to the proposed determination; and
  - (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) containing particulars of the time and place fixed under paragraph (a); and
    - (ii) stating that, in relation to the revocation of an exemption granted to an organisation on a ground mentioned in paragraph 144(6)(b) of the Act, the General Manager proposes to determine that certain alterations of the rules of the organisation are necessary to bring them into conformity with subsection 144(1) of the Act; and
    - (iii) notifying the organisation of its right to be heard and to make submissions, under subregulation (4), in relation to the proposed determination.
- (4) For the hearing mentioned in subregulation (3), the organisation may make submissions to the General Manager by either, or both, of the following:
  - (a) lodging with the FWC, not less than 2 days before the day fixed for the hearing, written submissions in relation to the determination;
  - (b) appearing at the hearing and making oral submissions to the General Manager.

**117 Membership agreements—prescribed form (s 151(1))**

For subsection 151(1) of the Act, the prescribed form is Form 5.

**118 Assets and liabilities agreements—prescribed form (s 152(2))**

For subsection 152(2) of the Act, the prescribed form is Form 6.

**119 Hearing in relation to alterations of rules (s 156(1))**

- (1) For subsection 156(1) of the Act, the General Manager must, to give an organisation an opportunity to be heard on a matter:
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- (a) fix a time and place for a hearing on the matter; and
  - (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) stating the time and place fixed for the hearing on the matter; and
    - (ii) stating how the rules of the organisation do not, in the General Manager's opinion, make provision for a matter as required by the Act or these Regulations; and
    - (iii) notifying the organisation of its right to be heard on the matter and to make submissions, under subregulation (2), in relation to the matter.
- (2) For the hearing on the matter mentioned in subregulation (1), the organisation may make submissions in relation to the matter to the General Manager by either, or both, of the following:
  - (a) lodging with the FWC, not less than 2 days before the day fixed for the hearing, written submissions in relation to the matter;
  - (b) appearing at the hearing and making oral submissions to the General Manager.

**120 Hearing in relation to alteration of rules—breach of undertaking (s 157(2))**

- (1) For subsection 157(2) of the Act, the FWC must, to give the organisations mentioned in that subsection an opportunity to be heard on a matter:
  - (a) fix a time and place for a hearing on the matter; and
  - (b) give each organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) identifying the breach of undertaking and the resulting overlap between the eligibility rules of the 2 organisations; and
    - (ii) stating the time and place fixed for the hearing; and
    - (iii) notifying the organisation of its right to be heard on the matter and to make submissions, under subregulation (2), in relation to the matter.
- (2) Each organisation may make submissions in relation to the matter to the FWC by either, or both, of the following:
  - (a) lodging with the FWC, not less than 2 days before the day fixed for the hearing, written submissions in relation to the matter;
  - (b) appearing at the hearing and making oral submissions to the FWC.
- (3) At the hearing, the FWC may direct the manner in which the hearing is to proceed and, after hearing both organisations, may:
  - (a) determine the matter without further delay; or
  - (b) adjourn the proceedings to a later day; or
  - (c) with the agreement of both organisations, determine the matter on a later day without further hearing.



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**121 Application for consent to change of name or alteration of eligibility rules of an organisation (s 158(1))**

- (1) An organisation may apply to the FWC for the consent of the FWC under subsection 158(1) of the Act to:
  - (a) change the name of the organisation; or
  - (b) alter the eligibility rules of the organisation.
- (2) An application under subregulation (1) must:
  - (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) set out:
    - (i) if the application is for consent to change the name of the organisation—the proposed name and the reason for the proposal; or
    - (ii) if the application is for consent to alter the eligibility rules of the organisation—the proposed alteration, the reason for the proposal and the effect of the proposal, in sufficient particularity to allow the proposal to be properly considered; and
  - (c) contain a declaration:
    - (i) that the change or alteration was made in accordance with the rules of the organisation; and
    - (ii) stating the action taken under those rules to make the change or alteration; and
    - (iii) verifying the facts stated in the application; and
  - (d) be lodged with the FWC; and
  - (e) if the application is for consent to alter the eligibility rules of the organisation—be lodged with a copy of the rules that are proposed to be altered.
- (3) If an application under subregulation (1) is not in accordance with this regulation, the General Manager must tell the applicant how the application or statement does not comply with the regulation.
- (4) An organisation that has a web site must publish on its web site a notice that it has lodged the application mentioned in subregulation (1).

**122 Notification of application for consent to change of name or alteration of eligibility rules (s 158)**

As soon as practicable after receiving an application under subregulation 121(1), the General Manager must publish a notice in the *Gazette* stating that the application has been received.

**123 Withdrawal of application for consent to change name (s 158)**

- (1) An organisation seeking to withdraw an application made by the organisation under subregulation 121(1) may, at any time before the application is determined by the FWC, lodge with the FWC a notice of withdrawal that:

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- (a) contains a written statement signed by an officer of the applicant organisation authorised to sign the statement; and
  - (b) sets out particulars establishing that the decision to withdraw the application was made in accordance with the rules of the organisation.
- (2) The General Manager must publish in the *Gazette* a notice of withdrawal lodged under this regulation.

### 124 Change of name or alteration of eligibility rules of organisation—objections (s 158)

- (1) Any interested organisation, association or person (the **objector**) may, no later than 35 days after a notice of the receipt of an application under subregulation 121(1) (the **original application**) is published in the *Gazette*, lodge with the FWC a notice of objection to the change of name, or the alteration of the eligibility rules, to which the original application relates.
- (2) The notice of objection must:
  - (a) be lodged with the FWC; and
  - (b) comply with the requirements of regulation 14.
- (3) The FWC may allow an objector to amend a notice of objection if:
  - (a) a further application is made; and
  - (b) the objector satisfies the FWC that the objector has further grounds for objection arising from the application mentioned in paragraph (a).
- (4) Within 7 days after a notice of objection is lodged with the FWC, the objector must serve a copy of the notice on the organisation that lodged the original application.
- (5) An organisation:
  - (a) may, no later than 14 days after service on it under subregulation (4) of a copy of the notice of objection, lodge with the FWC, in answer to the objection, a written statement signed by an officer of the organisation authorised to sign the statement; and
  - (b) must, no later than 7 days after lodging a written statement under paragraph (a), serve a copy of the statement on the objector.

### 125 Change of name etc—hearing of application for consent (s 158)

- (1) The FWC, in dealing with an application under subregulation 121(1), must not:
  - (a) refuse to grant the application without giving the applicant an opportunity to be heard; or
  - (b) grant the application without giving any objector who has complied with regulation 124 an opportunity to be heard.
- (2) The FWC must, to give the applicant and an objector mentioned in paragraph (1)(b) (the **objector**) an opportunity to be heard:
  - (a) fix a time and place for a hearing; and

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- (b) notify the applicant and the objector of the time and place so fixed.
- (3) The FWC may, at the time and place fixed for the hearing, give directions relating to the manner in which the hearing is to proceed and may:
  - (a) determine the matter without further delay; or
  - (b) adjourn the proceedings to a later day; or
  - (c) with the agreement of the applicant and the objector, determine the matter on a later day without a further hearing.

**125A Matter prescribed for alteration of eligibility rules (s 158A)**

- (1) For paragraph 158A(1)(e) of the Act, the matter that is prescribed is that the association of employers or employees actively represents the class or classes of employers or employees to which the extension of eligibility rules will apply.
- (2) An employer association is taken to actively represent a class of employers only if:
  - (a) the association is engaged in at least one of the following activities in relation to the class of employers:
    - (i) recruitment activity;
    - (ii) representing employers in negotiations with employees;
    - (iii) representing employers in industrial bodies; and
  - (b) the class of employers is covered by the association's eligibility rules.
- (3) An employee association is taken to actively represent a class of employees only if:
  - (a) the association is engaged in at least one of the following activities in relation to the class of employees:
    - (i) organising and recruitment activity;
    - (ii) representing employees in negotiations with employers;
    - (iii) representing employees in industrial bodies;
    - (iv) obtaining and maintaining award conditions;
    - (v) collective bargaining; and
  - (b) the class of employees is covered by the association's eligibility rules.
- (4) Despite subregulation (3), an employee association is taken not to actively represent a class of employees if the association is subject to a representation order, a State demarcation order or a demarcation undertaking or agreement (however described) in relation to that class of employees, in favour of another organisation or association.

**125B Manner of application to alter eligibility rules (s 158A)**

- (1) If an organisation applies to alter the eligibility rules of the organisation under section 158A of the Act, the application must:
    - (a) be lodged with the FWC in the form set out in the Procedural Rules or otherwise approved by the President; and
    - (b) be accompanied by:
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- (i) a copy of the rules of the organisation; and
    - (ii) a copy of the rules of the association to which the organisation is the federal counterpart; and
  - (c) set out the alteration, the reasons for the alteration and the effect of the alteration in sufficient detail to enable the General Manager to satisfy himself or herself of the matters mentioned in:
    - (i) paragraphs 158A(1)(a) to (d) of the Act; and
    - (ii) regulation 125A; and
  - (d) include a declaration:
    - (i) that the alteration was made in accordance with the rules of the organisation; and
    - (ii) describing the action taken under the rules of the organisation to make the alteration; and
    - (iii) verifying the facts stated in the application.
- (2) For paragraph (1)(c), the alteration:
- (a) may include:
    - (i) the complete text of the eligibility rules of the association; or
    - (ii) as much of the text of the eligibility rules of the association as deals with the extended coverage; and
  - (b) must include a statement that the alteration of the eligibility rules does not apply outside the State or Territory for which the association is registered.
- (3) If the application is not in accordance with subregulation (1):
- (a) the General Manager must tell the organisation how the application does not comply with the subregulation; and
  - (b) the organisation may provide further information relating to the application.
- (4) An organisation that has a website must publish on the website a notice that it has lodged the application.

### **125C Notice of application to alter eligibility rules (s 158A)**

As soon as practicable after the application is lodged, the General Manager must publish a notice in the *Gazette* stating that the application has been received.

### **125D Withdrawal of application to alter eligibility rules (s 158A)**

An organisation seeking to withdraw the application may, at any time, before the application is determined, lodge with the FWC a notice of withdrawal that:

- (a) contains a written statement signed by an officer of the organisation authorised to sign the statement; and
- (b) sets out particulars establishing that the decision to withdraw the application was made in accordance with the rules of the organisation.

**125E Notice of withdrawal of application to alter eligibility rules (s 158A)**

As soon as practicable after a notice of withdrawal is lodged under regulation 125D, the General Manager must publish a notice in the *Gazette* stating that the application has been withdrawn.

**125F Objection to application to alter eligibility rules (s 158A)**

- (1) This regulation applies:
  - (a) if:
    - (i) the General Manager publishes a notice under regulation 125C about an application made by an employer organisation (the ***applicant organisation***); and
    - (ii) a national peak council of employers (the ***objecting party***) objects to the application being made on any of the grounds mentioned in paragraphs 158A(1)(a) to (d) of the Act and regulation 125A; or
  - (b) if:
    - (i) the General Manager publishes a notice under regulation 125C about an application made by an employee organisation (the ***applicant organisation***); and
    - (ii) the Australian Council of Trade Unions (the ***objecting party***) objects to the application being made on any of the grounds mentioned in paragraphs 158A(1)(a) to (d) of the Act and regulation 125A.
- (2) The objecting party may, within 28 days of the notice being published, lodge with the FWC a notice in accordance with regulation 14 objecting to the application.
- (3) The General Manager may allow the objecting party to amend the notice if:
  - (a) the applicant organisation amends the application; and
  - (b) the objecting party satisfies the General Manager that the objecting party has further grounds for objection arising from the amended application.
- (4) The objecting party must serve a copy of the notice on the applicant organisation within 7 days of lodging the notice with the FWC.
- (5) The applicant organisation may, within 14 days of being served with a copy of the notice under subregulation (4), lodge with the FWC a written statement that is:
  - (a) in answer to the notice; and
  - (b) signed by an officer of the applicant organisation who is authorised to sign the statement.
- (6) If the applicant organisation lodges a written statement under subregulation (5), the applicant organisation must serve a copy of the written statement on the objecting party within 7 days of lodging the statement.

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### **125G Hearing about application to alter eligibility rules (s 158A)**

- (1) This regulation applies to the General Manager if:
  - (a) he or she is dealing with an application by an organisation (the ***applicant organisation***) made under section 158A of the Act and in accordance with regulation 125B; and
  - (b) an objecting party under regulation 125F lodges an objection to the application.
- (2) The General Manager may do one or more of the following:
  - (a) deal with the application without holding a hearing;
  - (b) seek further information about the application from the applicant organisation and objecting party;
  - (c) hold a hearing about the application, only if the General Manager considers it appropriate to do so taking into account:
    - (i) the views of the applicant organisation and objecting party; and
    - (ii) whether a hearing would be the most effective and efficient way to resolve the objection.

### **125H Correction of eligibility rules—typographical, clerical or formal error**

- (1) The General Manager may correct the text of the eligibility rules of an organisation for the purpose of correcting a typographical, clerical or formal error.
- (2) The General Manager may correct the text of the eligibility rules only with the written consent of the organisation.
- (3) If the General Manager corrects the text of the eligibility rules, the General Manager must also:
  - (a) immediately enter, in the register kept under subsection 13(1) of the Act, particulars of the correction, and the date of effect of the correction; and
  - (b) as soon as practicable after the organisation produces its certificate of registration to the General Manager, amend the certificate accordingly and return it to the organisation.

### **126 Alteration of other rules of organisations (s 159(1))**

- (1) For subsection 159(1) of the Act, if an alteration of the rules (other than the eligibility rules) of an organisation is made, the organisation, within 35 days after the alteration is made, or within any additional period the General Manager allows, must:
  - (a) lodge with the FWC a notice setting out the particulars of the alteration; and
  - (b) if the organisation has a web site—publish on its web site a notice that the notice mentioned in paragraph (a) has been lodged.
- (2) The notice must contain a declaration, signed by an officer of the organisation authorised to sign the declaration, stating:

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- (a) that the alteration was made in accordance with the rules of the organisation; and
  - (b) the action taken under those rules to make the alteration; and
  - (c) that the particulars set out in the notice are true and correct to the best of the knowledge and belief of the signatory.
- (3) The General Manager may refuse to certify, under subsection 159(1) of the Act, an alteration of the rules unless this regulation is complied with.

## Division 2—Validity and performance of rules

### 127 Hearing in relation to rules contravening section 142 of the Act (s 163)

- (1) For subsection 163(7) of the Act, the appropriate authority must, to give an organisation an opportunity to be heard on a matter:
  - (a) fix a time and place for a hearing on the matter; and
  - (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) identifying the matter; and
    - (ii) stating the time and place fixed for the hearing on the matter; and
    - (iii) notifying the organisation of its right to appear before the appropriate authority and to make submissions, under subregulation (2), in relation to the matter.
- (2) For the hearing on the matter mentioned in subregulation (1), the organisation may make submissions in relation to the matter to the appropriate authority by either, or both, of the following:
  - (a) lodging with the FWC, not less than 2 days before the day fixed for the hearing on the matter, written submissions in relation to the matter;
  - (b) appearing at the hearing on the matter and making oral submissions to the appropriate authority.
- (3) In this regulation, ***appropriate authority*** has the same meaning as in subsection 163(12) of the Act.



## **Part 6—Membership of organisations (Ch 6)**

### **128 Conscientious objection—issue of certificates (s 180(1))**

- (1) An application under paragraph 180(1)(a) of the Act must:
  - (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) contain a declaration signed by the applicant supporting the statements made in the application; and
  - (c) be lodged with the FWC.
- (2) For subsection 180(1) of the Act, the prescribed form for a certificate issued by the General Manager is Form 7.

### **129 Conscientious objection—renewal of certificates (s 180(3))**

- (1) A person may apply to the General Manager to renew a certificate issued to him or her under subsection 180(1) of the Act.
- (2) An application under subregulation (1) must be made before the end of the period for which the certificate is in force.
- (3) An application under subregulation (1) must:
  - (a) be in the form set out in the Procedural Rules or in a form otherwise approved by the President; and
  - (b) contain a declaration signed by the applicant supporting the statements made in the application; and
  - (c) be lodged with the FWC.

### **130 Conscientious objection—revocation of certificates (s 180(4))**

For subsection 180(4) of the Act, the General Manager must, to give a person an opportunity to show cause why a certificate issued to the person under subsection 180(1) of the Act should not be revoked:

- (a) fix a time and place at which the person may appear before the General Manager to make an oral submission to show cause why the certificate should not be revoked; and
- (b) give the person, not less than 7 days before the time so fixed, a written notice:
  - (i) containing particulars of the time and place fixed under paragraph (a); and
  - (ii) stating the reasons for the proposed revocation; and
  - (iii) notifying the person of the person's entitlement to an opportunity to show cause why the certificate should not be revoked.

## Part 7—Democratic control (Ch 7)

### Division 1—Conduct of elections—preparation and inspection

#### 131 Preparation and inspection of voter rolls (s 182)

- (1) This regulation applies in relation to an election for an office in an organisation, other than to an election for which the Commissioner has, under section 186 of the Act, granted an exemption.
- (2) The roll of voters for the election must:
  - (a) be prepared at the direction of an electoral official; and
  - (b) set out opposite the name of each person on the roll the postal address of that person; and
  - (c) be closed within the time specified in the rules of the organisation.
- (3) The electoral official conducting the ballot must make the roll available for inspection and copying during ordinary business hours at the place where the official carries out his or her duties in relation to the election, in the period starting the day after the day when the roll was closed in accordance with paragraph (2)(c), and ending 30 days after the declaration of the result of the election.
- (4) The electoral official must make the roll available for inspection and copying by:
  - (a) a member of the organisation; and
  - (b) any other person authorised by the electoral official.
- (5) The roll may be kept, and copies may be supplied, electronically.
- (6) If a copy of a roll, or a copy of part of a roll, is made or supplied under this regulation, a person must not use information in the roll for a purpose other than:
  - (a) a purpose in connection with the election; or
  - (b) to monitor the accuracy of the information contained in the roll.

Penalty: 10 penalty units.

#### 132 Rules for purpose of sections 193, 197 and 198 of the Act

For sections 193, 197 and 198 of the Act, the rules of an organisation or branch are the rules in force on the day nominations for an election open.

#### 133 Application for organisation or branch to conduct its elections for office (s 183(1))

- (1) An application under subsection 183(1) of the Act must:
  - (a) be in writing; and
  - (b) state the grounds for seeking the exemption; and

- (c) contain a declaration signed by a member of the committee of management verifying the facts set out in the application; and
  - (d) be lodged with the Commissioner.
- (2) For paragraph 183(2)(b) of the Act, a member of an organisation or branch is notified of the making of a resolution if:
  - (a) the member is given a copy of the resolution; or
  - (b) a notice of the making of the resolution is published:
    - (i) if the organisation or branch publishes a journal that is circulated among its members—in the next journal; and
    - (ii) if the organisation or branch has a web site—on that web site within 14 days after the resolution is made.

### **134 Publication of notice for subsection 183(4) of the Act**

- (1) The Commissioner must publish a notice mentioned in subsection 183(4) of the Act:
  - (a) in at least one newspaper; and
  - (b) no later than 14 days after the application under subsection 183(1) of the Act is lodged with the Commissioner.
- (2) The Commissioner must be of the opinion that the notice published under subregulation (1) is likely to come to the attention of members of the relevant organisation or branch.

### **135 Objections to application to conduct elections for office (s 184(1))**

- (1) An objection under subsection 184(1) of the Act may be made by lodging a notice of objection with the FWC no later than 28 days after the publication of the notice mentioned in subregulation 134(1).
- (2) A notice of objection must comply with the requirements of regulation 14.
- (3) No later than 7 days after a notice of objection is lodged, the objector must serve a copy of the notice of objection on the applicant.
- (4) An applicant:
  - (a) may, within 14 days after service on it of a copy of a notice of objection under subregulation (3), lodge with the Commissioner in answer to the objection a written statement signed by a member of the committee of management making the application; and
  - (b) must, within 7 days after a written statement is so lodged, serve a copy of the statement on the objector.

### **136 Hearing of application to conduct elections for office (s 184(2))**

- (1) The Commissioner must:
  - (a) fix a time and place for hearing the application and any objection; and
  - (b) notify the applicant and any objector of the time and place so fixed.

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- (2) At the hearing, the Commissioner must:
  - (a) hear the applicant and any objector if they are present and wish to be heard; and
  - (b) decide the matter.
- (3) The Commissioner may permit the applicant and any objector to call oral evidence.

### **137 Revocation of exemption allowing an organisation or branch to conduct its elections for office (s 186(2))**

- (1) An application by the committee of management of an organisation or branch under subsection 186(2) of the Act for revocation of an exemption must:
  - (a) be in writing; and
  - (b) contain a written statement signed by a member of the committee of management stating that the committee of management has resolved to make the application; and
  - (c) be lodged with the Commissioner.
- (2) For paragraph 186(2)(b) of the Act, the Commissioner, to give an organisation or branch an opportunity to show cause why an exemption granted to the organisation or branch should not be revoked, must:
  - (a) fix a time and place at which the organisation or branch may show cause; and
  - (b) give the organisation or branch a written notice containing particulars of the time and place so fixed by the Commissioner together with a statement of his or her reasons for the proposed revocation.

### **138 Prescribed information for election (s 189(1))**

- (1) For subsection 189(1) of the Act, the following information is prescribed information for an election conducted for an office or for a position other than an office:
  - (a) the name of each office or position for which an election is required;
  - (b) the reason for the election is that:
    - (i) the term of the office or position has expired or is due to expire in the normal course of events; or
    - (ii) a casual vacancy in the office or position has occurred (or will occur imminently); or
    - (iii) a new office or position has been created; or
    - (iv) the office or position was not filled at the previous election;
  - (c) if more than one of the offices or positions for which an election is required has the same name, and the number of offices or positions can, under the rules of the relevant organisation or branch, be determined before the prescribed day—the number of those offices or positions;
  - (d) if the electorate comprises only members of a branch, section or other division of an organisation—the name of the branch, section or division;

- (e) the date and time of the beginning and end of the period in which nominations of candidates will be called for or may be made under the rules of the organisation or branch in relation to the election;
  - (f) the day provided for in the rules of the organisation as the day on which the roll of voters is to be closed;
  - (g) the kind of voting system to be used in the conduct of the election is:
    - (i) a direct voting system; or
    - (ii) a collegiate electoral system.
- (2) The prescribed information lodged by an organisation or branch under subsection 189(1) of the Act must contain a statement, signed by an officer of the organisation or branch who is authorised to sign the statement, that the information is lodged under subsection 189(1) of the Act.
- (3) For subsection 189(2) of the Act, the prescribed day is the day occurring 2 months before the first day when a person may, under the rules of the organisation or branch, become a candidate in an election.

### **139 Availability of post-election report (s 193)**

If a ballot is required for an election under Part 2 of Chapter 7 of the Act, the electoral official must advise each member who is eligible to vote in the election that a post-election report under section 197 of the Act can be obtained from the organisation or branch, or from the AEC, on the request of the member.

### **140 Declaration of result of election (s 193)**

- (1) Within 14 days after the closing day of an election, the AEC must issue a declaration stating the following:
- (a) the total number of persons on the roll of voters;
  - (b) the total number of ballot papers issued (if applicable);
  - (c) the total number of envelopes that were returned undelivered by the closing day of the ballot to the AEC (if applicable);
  - (d) the total number of ballot papers received by the electoral official by the closing day of the ballot (if applicable);
  - (e) the result of the election;
  - (f) the total number of informal ballot papers (if applicable).
- (2) In subregulation (1), **closing day**, for an election, means:
- (a) if a ballot is not required—the day on which nominations for the election close; or
  - (b) if a ballot is required—the closing day of the ballot.
- (3) Immediately after issuing a declaration under subregulation (1), the AEC must give a copy of the declaration to:
- (a) the Commissioner; and
  - (b) the organisation or branch for whom the election was conducted.

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**141 Post-election report by AEC (s 197(2))**

- (1) For subsection 197(2) of the Act, the following matters are prescribed for inclusion in the report (the *post-election report*) given under subsection 197(1) of the Act:
  - (a) the declaration mentioned in regulation 140;
  - (b) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
  - (c) any matters in relation to the roll of voters including those matters contained in subsection 197(3) of the Act;
  - (d) the number of written allegations (if any) of irregularities made to the AEC during the election;
  - (e) action taken by the AEC in relation to those allegations;
  - (f) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
  - (a) give the post-election report within 30 days after the closing day of the election; and
  - (b) publish a notice on its web site advising that a copy of the post-election report can be obtained from the AEC on the request of a member who was eligible to vote in the election.
- (3) The AEC must supply a copy of the post-election report to the member as soon as practicable, but no later than 7 days, after receiving a request under paragraph (2)(b).
- (4) An organisation or branch that has a web site must, as soon as practicable after receiving the post-election report, publish on its web site a notice that a copy of the report is available from the organisation or branch, or from the AEC, on the request of a member who was eligible to vote in the election.
- (5) A notice published under subregulation (4) must remain on the web site until the end of the period in which an application may be made under subregulation 143(1).
- (6) An organisation that does not have a web site must, as soon as practicable after receiving the post-election report, publish a notice that a copy of the report is available from the organisation or branch, or from the AEC, on the request of a member who was eligible to vote in the election.
- (7) The notice mentioned in subregulation (6) must be published in a manner that is reasonably accessible to the organisation's members.

Examples

- 1 Publishing the notice in a public notice in a newspaper.
- 2 Publishing the notice in the organisation's official union journal.

**142 Adverse report on rules (s 198)**

- (1) The AEC must advise the Commissioner of a possible contravention of subsection 198(1) of the Act not later than 21 days after the AEC has become aware of the possible contravention.
- (2) For paragraph 198(6)(c) of the Act, in addition to the matters specified in subsection 198(6) of the Act, an organisation or branch must meet the following requirements if the organisation or branch has a web site:
  - (a) the organisation or branch must publish a copy of the relevant extract of the report on its web site within 14 days after receiving the post-election report;
  - (b) the organisation or branch must publish the written response given under subsection 198(1) on its web site within 14 days after giving the response to the AEC.

**143 Application for inquiry into election (s 200)**

- (1) An application to the Federal Court under section 200 of the Act for an inquiry into an election may be made:
  - (a) at any time on or before the day when the result of the election is declared; or
  - (b) no later than 3 months after that day; or
  - (c) on a later day fixed by the Federal Court.
- (2) An application mentioned in subregulation (1) must be:
  - (a) in the form set out in the Federal Court Rules; and
  - (b) lodged in the Federal Court together with any document that the Federal Court Rules require to be lodged with the application.

**144 Prescribed form of identity card (s 203(2)(a))**

For paragraph 203(2)(a) of the Act, Form 8 is prescribed.

## **Division 2—Conduct of elections by AEC (Ch 7, Pt 2)**

### **145 Elections conducted by AEC—no unauthorised action**

- (1) For any election conducted by the AEC under Part 2 of Chapter 7 of the Act, a person other than the person conducting the election must not do, or purport to do, any act in the conduct of the election other than as directed or authorised by the person conducting the election.

Note: This subregulation is a civil penalty provision (see regulation 168).

- (2) The AEC must advise the Commissioner of a possible contravention of subregulation (1) not later than 21 days after the AEC has become aware of the possible contravention.

### **146 No action for defamation in certain cases**

No action or proceeding, civil or criminal, for defamation lies:

- (a) against the Commonwealth or an electoral official conducting, on behalf of the AEC, an election under the Act or these Regulations, in relation to:
  - (i) the printing or issuing of material by the electoral official being material prepared by or on behalf of a candidate in the election; or
  - (ii) the printing or issuing of a post-election report given by the AEC under section 197 of the Act; or
- (b) if the report or other material mentioned in paragraph (a) is printed by another person—against that person, in relation to the printing.



## **Part 8—Records and accounts (Ch 8)**

### **147 Prescribed records to be kept and lodged by organisations (s 230(1)(d))**

For paragraph 230(1)(d) of the Act, the following records are prescribed in relation to an organisation:

- (a) a record of the name of each branch of the organisation;
- (b) a record of the name of each branch that commenced operation in the previous 12 months;
- (c) a record of the name of each branch that ceased operation in the previous 12 months;
- (d) a record of the address of:
  - (i) the office of the organisation; and
  - (ii) the office of each branch of the organisation;
- (e) a record of each election that must, under the rules of the organisation, be held during each year commencing 1 January:
  - (i) for an office in the organisation; and
  - (ii) for an office in a branch of the organisation;
- (f) a record of the number of members on 31 December in the previous year;
- (g) if the organisation has entered into an agreement mentioned in subsection 151(1) of the Act—a record of the number of members of the organisation who were, on 31 December in the previous year, ineligible State members, in relation to the organisation, within the meaning of section 150 of the Act.

### **148 Prescribed day for keeping copy of register (s 231(2))**

- (1) For subsection 231(2) of the Act, the prescribed day for keeping a copy of the register, or a part of the register, is the day provided for in the rules of an organisation, in accordance with subparagraph 143(1)(e)(i) of the Act, as the day on which the roll of voters for a ballot for an election for office is to be closed.
- (2) If the AEC determines that a ballot for an election for office in an organisation is not required, the organisation is not required to keep a copy of the register, or a part of the register, as it stood on the prescribed day.

### **149 Prescribed time to lodge information (s 233(1))**

For subsection 233(1) of the Act, any time during the period of 3 months beginning on 1 January is prescribed.

### **150 Prescribed officer for lodging information (s 233 and 236(1))**

For section 233 and subsection 236(1) of the Act, an officer of an organisation, other than the secretary, who is required by the organisation or by the rules of the

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organisation to keep the records mentioned in subsection 230(1) of the Act is a prescribed officer of the organisation.

### **151 Prescribed period for notification of change to records (s 233(2))**

For subsection 233(2) of the Act, for the lodgment of notification of any change to the records, the period of 35 days, beginning on the day after the day when the change is made, is prescribed.

### **152 Notice to be published (s 241(1))**

- (1) A notice mentioned in subsection 241(1) of the Act must be:
  - (a) in writing; and
  - (b) published in at least one newspaper.
- (2) The Commissioner must be of the opinion that the notice mentioned in subregulation (1) is likely to come to the attention of persons likely to be affected by the proposed exemption.
- (3) A reference to a particular Australian Accounting Standard in subsection 241(1) of the Act includes a reference to a part of that standard.

### **153 Application for determination of reporting units (s 246(1)(a))**

- (1) For paragraph 246(1)(a) of the Act, an application must be lodged with the FWC, together with the following:
  - (a) a declaration signed by the secretary or an officer of the organisation authorised to make the declaration verifying the facts set out in the application and in the documents being lodged with the application;
  - (b) details of the existing reporting units;
  - (c) details of the proposed alternative division into reporting units;
  - (d) a copy of the resolutions in favour of the proposed division made by the respective committees of management of the organisation and of each branch affected by the proposed division;
  - (e) a statement of reasons supporting the proposed division which specifically addresses how the level of financial information that would be available to members affected would be adequate and relevant to them.
- (2) An organisation that has a web site must publish on its web site a notice that it has lodged the application mentioned in subregulation (1).
- (3) A notice published under subregulation (2) must remain on the web site until:
  - (a) the application mentioned in subregulation (1) is rejected by the General Manager; or
  - (b) the General Manager revokes a certificate under subsection 249(1) of the Act, relating to the application mentioned in subregulation (1).

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- (4) An organisation that does not have a web site must publish a notice that it has lodged the application mentioned in subregulation (1) in a manner that is reasonably accessible to the organisation's members.

**Examples**

- 1 Publishing the notice in a public notice in a newspaper.
- 2 Publishing the notice in the organisation's official union journal.

**154 Determination of reporting units (s 247)**

- (1) For paragraph 247(1)(c) of the Act, the General Manager must give notice to the reporting units of the General Manager's intention to issue a certificate under section 245 of the Act.
- (2) The notice mentioned in subregulation (1) must:
  - (a) be in writing; and
  - (b) state reasons for the intention; and
  - (c) advise that a reporting unit affected by the proposed alternative division has the opportunity to be heard under regulation 157.

**155 Application for revocation of certificate (s 249(4)(a))**

For paragraph 249(4)(a) of the Act, an application must be lodged with the FWC, together with the following:

- (a) a declaration signed by the secretary or an officer of the organisation authorised to sign the declaration verifying the facts set out in the application and in the documents being lodged with the application;
- (b) details of the existing reporting units;
- (c) a copy of any resolutions concerning the proposed division made by the respective committees of management of the organisation and of each branch affected by the proposed division;
- (d) a statement explaining how the level of financial information that would be available to members of a reporting unit under the proposed division would be adequate and relevant.

**156 Prescribed procedure for revoking certificate (s 249(6)(b) and (7))**

- (1) For paragraph 249(6)(b) and subsection 249(7) of the Act, the General Manager must give notice to the reporting units of the General Manager's intention to revoke a certificate issued under section 245 of the Act.
- (2) The notice must:
  - (a) be in writing; and
  - (b) state reasons for the intention; and
  - (c) advise that a reporting unit affected by the revocation has the opportunity to be heard under regulation 157.

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### 157 Opportunity to be heard (s 247 and 249)

- (1) For sections 247 and 249 of the Act, the General Manager must, for the purpose of giving an organisation and an affected reporting unit an opportunity to be heard on a matter:
  - (a) fix a time and place for a hearing on the matter; and
  - (b) give the organisation and each reporting unit, not less than 7 days before the time so fixed, a notice in writing:
    - (i) identifying the matter; and
    - (ii) specifying the time and place fixed for the hearing on the matter; and
    - (iii) notifying the organisation and any affected reporting unit of their right to appear before the General Manager and to make submissions, in accordance with subregulation (2), relating to the matter.
- (2) The organisation and each affected reporting unit may make submissions to the General Manager by either, or both, of the following:
  - (a) lodging with the FWC, not less than 2 days before the day fixed for the hearing on the matter, written submissions relating to the matter;
  - (b) appearing at the hearing on the matter and making oral submissions to the General Manager.

### 158 Keeping records (s 252(1)(a))

For paragraph 252(1)(a) of the Act, a record that contains information prescribed for subsection 272(1) of the Act is prescribed.

### 159 Prescribed information contained in operating report (s 254(2)(f))

For paragraph 254(2)(f) of the Act, the following information is prescribed:

- (a) the number of persons that were, at the end of the financial year to which the report relates, recorded in the register of members for section 230 of the Act and who are taken to be members of the reporting unit under section 244 of the Act;
- (b) the number of persons who were, at the end of the financial year to which the report relates, employees of the reporting unit, where the number of employees includes both full-time employees and part-time employees measured on a full-time equivalent basis;
- (c) the name of each person who has been a member of the committee of management of the reporting unit at any time during the reporting period, and the period for which he or she held such a position.

### 159A Application for registration as an auditor

For the purposes of paragraph 255A(2)(c) of the Act, an application for registration as an auditor made by a person who is not a registered company auditor must contain the following information:

- (a) if the person seeks to satisfy the requirements of subsection 255C(1) of the Act—details about how the person meets those requirements;

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- (b) if the person seeks to satisfy the requirements of subsection 255C(2) of the Act—details of the person’s other qualifications and experience that the person considers to be equivalent to the requirements of subsection 255C(1) of the Act;
- (c) if the person seeks to satisfy the requirements of subparagraph 255B(3)(b)(i) of the Act—details about how the person meets those requirements;
- (d) if the person seeks to satisfy the requirements of subparagraph 255B(3)(b)(ii) of the Act—details of the person’s practical experience as prescribed by regulation 159B;
- (e) in relation to any audit work the person has done during at least the previous 5 years—details of:
  - (i) the nature of the audit; and
  - (ii) the extent of the person’s involvement in the audit; and
  - (iii) the person’s level of responsibility for the audit;
- (f) details of any conviction of the person for a designated offence;
- (g) details of any order made in respect of a contravention by the person of a designated civil penalty provision;
- (h) if the person has been charged with a designated offence, or an application has been made for an order in respect of a contravention by the person of a designated civil penalty provision, and the matter has not been finally dealt with—details of the matter;
- (i) details of any order made under section 307A of the Act disqualifying the person from holding office in an organisation;
- (j) details of any other matter that may be relevant to the Commissioner’s assessment of whether the person is capable of performing the duties of an auditor and is a fit and proper person to be registered as an auditor;
- (k) the person’s place of residence.

**159B Practical experience in auditing**

For the purposes of subparagraph 255B(3)(b)(ii) of the Act, either of the following kinds of practical experience in auditing is prescribed:

- (a) during the 5 years immediately before the date of the person’s application to be registered, the person has undertaken at least 3,000 hours work in auditing companies or organisations, including at least 750 hours supervising audits of companies or organisations;
- (b) practical experience that the Commissioner considers equivalent to experience referred to in paragraph (a).

**159C Cancellation and suspension of registration of person as an auditor**

- (1) In accordance with subsection 255G(5) and paragraph 255N(2)(d) of the Act, this regulation makes further provision for and in relation to the suspension of the registration of a person as an auditor, and provision for and in relation to matters relating to the suspension and cancellation of the registration of a person as an auditor.

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- (2) The Commissioner may suspend for a specified period the registration of a person as an auditor if the Commissioner becomes aware that:
- (a) an investigation has begun into whether the person has committed a designated offence or contravened a designated civil penalty provision; or
  - (b) the person has been charged with a designated offence, or an application has been made for an order in respect of a contravention by the person of a designated civil penalty provision, and the matter has not been finally dealt with.

Note: Before making the decision, the Commissioner must give the person an opportunity to be heard (see subregulation (5)). After making the decision, the Commissioner must give notice in accordance with section 255J of the Act.

- (3) The Commissioner may cancel, or suspend for a specified period, the registration of a person as an auditor if the person has ceased to be resident in Australia.

Note: Before making the decision, the Commissioner must give the person an opportunity to be heard (see subregulation (5)). After making the decision, the Commissioner must give notice in accordance with section 255J of the Act.

- (4) The Commissioner may, in writing, request further information from any person for the purposes of making a decision under subregulation (2) or (3).
- (5) Before making a decision about a person under subregulation (2) or (3), the Commissioner must give the person an opportunity to appear at a hearing before the Commissioner and to make submissions and give evidence to the Commissioner in relation to the matter.

### 159D Register of auditors

- (1) In accordance with paragraph 255N(2)(b) of the Act, this regulation makes provision for and in relation to the keeping of a register of auditors.
- (2) The Commissioner must establish and keep a register of auditors.
- (3) The register must include the following details in relation to each person the Commissioner registers as an auditor:
- (a) the person's name;
  - (b) the registration number allocated to the person by the Commissioner;
  - (c) the day the Commissioner granted the person's application for registration as an auditor;
  - (d) the following elements of the address of the principal place where the person practises as an auditor:
    - (i) city or town;
    - (ii) State or Territory;
    - (iii) postcode;
    - (iv) country;
  - (e) if the person practises as an auditor under the name of a company or firm or under any other name or style other than the person's own name—the name of the company and its ACN, or the name of the firm, or the other name or style;

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- (f) if the person's registration is suspended—the date the suspension took effect and the date it will end;
  - (g) any other details the Commissioner considers appropriate in relation to registered auditors.
- (4) If a person's registration as an auditor is cancelled, the Commissioner must remove the details about the person from the register.
- (5) The Commissioner:
- (a) must publish the register on the Commissioner's website; and
  - (b) may publish the register, or otherwise make it publicly available, in any other way the Commissioner considers appropriate.

**160 Limit on length of written representations (s 263(5))**

For subsection 263(5) of the Act, written representations by the auditor may not exceed 2 000 words.

**161 Concise report (s 265(3)(a))**

- (1) For subsection 265(3) of the Act, a concise financial report must include:
- (a) the following financial statements presented as in the full report except for the omission of cross-references to notes to the financial statements in the full report:
    - (i) a profit and loss statement for the financial year;
    - (ii) a balance sheet for the end of the financial year;
    - (iii) a statement of cash flows for the financial year; and
  - (b) disclosure of information for the preceding financial year corresponding to the disclosures made for the current financial year; and
  - (c) discussion and analysis of the principal factors affecting the financial performance, financial position and financial and investing activities of the reporting unit to assist the understanding of members; and
  - (d) any reports or statements mentioned in paragraph 253(2)(c) of the Act; and
  - (e) in addition to the statement required by paragraph 265(3)(e) of the Act, a statement that the concise financial report has been derived from the full report and cannot be expected to provide as full an understanding of the financial performance, financial position and financial and investing activities of the reporting unit as the full report; and
  - (f) the notice mentioned in subsection 272(5) of the Act.
- (2) A concise report may include any other information consistent with the full report.

**162 Prescribed officer for issuing certificate (s 268(c))**

For paragraph 268(c) of the Act, a prescribed designated officer is:

- (a) the secretary; or

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- (b) an officer of the organisation other than the secretary who is authorised by the organisation or by the rules of the organisation to sign the certificate mentioned in that paragraph.

### 163 Prescribed State Act (s 269(1)(a))

- (1) For paragraph 269(1)(a) of the Act, the following are prescribed State Acts:
  - (a) *Fair Work Act 1994* (SA);
  - (b) *Industrial Relations Act 1979* (WA);
  - (c) *Industrial Relations Act 1984* (Tas);
  - (d) *Industrial Relations Act 1996* (NSW);
  - (e) *Industrial Relations Act 1999* (Qld).
- (2) For paragraph 269(2)(b) of the Act, the following legislation is prescribed State legislation:
  - (a) any Act mentioned in subregulation (1);
  - (b) any subordinate legislation made under any Act mentioned in subregulation (1).

### 164 Preparation of general purpose financial report (s 270)

- (1) For subsection 270(4) of the Act, a period of 4 months is prescribed.
- (2) For subsection 270(7) of the Act, a prescribed designated officer is:
  - (a) the secretary; or
  - (b) an officer of the reporting unit, other than the secretary, who is authorised by the rules of the reporting unit to sign the certificate mentioned in that subsection.

### 165 Prescribed circumstances (s 271(1))

For subsection 271(1) of the Act, the following circumstances are prescribed:

- (a) whether the reporting unit expends economic resources or incurs any financial obligations to conduct its activities;
- (b) whether another reporting unit of the organisation expends its own economic resources or incurs financial obligations so that the reporting unit may conduct its activities;
- (c) whether any person or body corporate or trust expends its own economic resources or incurs financial obligations so that the reporting unit may conduct its activities.

### 166 Information to be given to members (s 272(1) and (2))

- (1) An application under subsection 272(1) of the Act to a reporting unit of an organisation must be:
  - (a) in writing addressed to the secretary, or any other executive officer, of the organisation; and



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(b) delivered by hand at, or sent by prepaid post to, the office of the organisation.

(2) For subsection 272(1) of the Act, the following information about a reporting unit (in relation to the last financial year in respect of which a report was made under subsection 257(1) of the Act) is prescribed information:

- (a) for any compulsory levy raised by the reporting unit other than a levy for which the reporting unit has, during the financial year, operated a special fund or account:
  - (i) the purpose for which the levy was raised; and
  - (ii) the total amount received by the reporting unit; and
  - (iii) the total amount expended for that purpose;
- (b) for any collection by the reporting unit of voluntary contributions made by the members for the furtherance of a particular purpose, other than voluntary contributions for which the reporting unit has, during the financial year, operated a special fund or account:
  - (i) the purpose for which the contributions were collected; and
  - (ii) the total amount received by the reporting unit as voluntary contributions for the furtherance of that purpose; and
  - (iii) the total amount expended for that purpose;
- (c) for any donation or grant exceeding \$1 000 made to the reporting unit:
  - (i) the amount of the donation or grant; and
  - (ii) if the donation or grant was made for a specified purpose—the purpose so specified;
- (d) for any compulsory levy imposed on the reporting unit:
  - (i) the purpose for which the levy was imposed; and
  - (ii) the total amount paid by the reporting unit; and
  - (iii) the name and address of the entity (including another reporting unit of the organisation) imposing the levy;
- (e) for any donation or grant exceeding \$1 000 made by the reporting unit:
  - (i) the purpose for which the donation or grant was made; and
  - (ii) the amount of the donation or grant; and
  - (iii) if the donation or grant is not a prescribed donation or grant—the name and address of the person to whom the donation or grant was made;
- (f) for any amount exceeding \$1 000 (that is not an amount that must be disclosed in the general purpose financial report) received or paid by the reporting unit:
  - (i) the amount received or paid by the reporting unit; and
  - (ii) the name and address of the person from whom the amount was received or to whom the amount was paid; and
  - (iii) the purpose for which the amount was received or paid by the reporting unit;
- (g) for any amount exceeding \$1 000 (that is not an amount that must be disclosed in the general purpose financial report) paid by the reporting unit

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- to an officer or employee of the reporting unit whether a single transaction or multiple transactions for the reimbursement of out of pocket expenses;
- (h) for any amount exceeding \$1 000 (that is not an amount that must be disclosed in the general purpose financial report) paid by the reporting unit to an officer of the reporting unit whether a single transaction or multiple transactions for the reimbursement of remuneration foregone by the officer in relation to the usual occupation of the officer in the course of performing duties as an officer of the reporting unit;
  - (i) for any amount exceeding \$1 000 (that is not an amount that must be disclosed in the general purpose financial report) paid by the reporting unit on behalf of an officer or employee of the reporting unit whether a single transaction or multiple transactions for goods and services for the personal use of the officer or employee or in discharge of the personal financial obligations of the officer or employee;
  - (j) the amount paid as remuneration to the holder of any office in the reporting unit;
  - (k) for any loan exceeding \$1 000 made by the reporting unit:
    - (i) the amount of the loan; and
    - (ii) the purpose for which the loan was required; and
    - (iii) the security given for the loan; and
    - (iv) if the loan is not a prescribed loan—the name and address of the person to whom the loan was made and the arrangements made for the repayment of the loan;
  - (l) for any loan exceeding \$10 000 received by the reporting unit:
    - (i) the name and address of the person from whom the loan was received; and
    - (ii) the amount of the loan; and
    - (iii) the purpose for which the loan was required; and
    - (iv) the security given for the loan; and
    - (v) the arrangements made for the repayment of the loan;
  - (m) for any contingent liability of the reporting unit at the end of the financial year that has been determined and exceeds 5% of the net value of the assets of the reporting unit at the end of the financial year:
    - (i) a description of the liability; and
    - (ii) the amount for which the reporting unit is liable;
  - (n) for any fund or account operated by the reporting unit in relation to a compulsory levy raised by the reporting unit or in relation to voluntary contributions collected from the members of the reporting unit:
    - (i) the purpose for which the levy was raised or the voluntary contributions collected; and
    - (ii) the amount of the balance of the fund or account at the beginning of the financial year (if applicable); and
    - (iii) if any money was transferred to the fund or account from any other fund or account operated by the reporting unit and, if any money was so transferred, a description of each fund or account from which

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- money was so transferred and the amount transferred from each fund or account; and
- (iv) the total amount paid by the members of the reporting unit for the levy or as voluntary contributions; and
  - (v) the total amount of payments made out of the fund or account in furtherance of the purpose for which the levy was imposed or the voluntary contributions collected; and
  - (vi) if any payment was made out of the fund or account in furtherance of a purpose other than the purpose for which the levy was imposed or the voluntary contributions collected and, if any payment was so made, the amount of each payment and the purpose for which it was made; and
  - (vii) if any money was transferred from the fund or account to any other fund or account operated by the reporting unit or by the organisation of which the reporting unit is a part and, if any money was so transferred, a description of each fund or account to which the money was transferred and the amount transferred to each fund or account; and
  - (viii) in relation to:
    - (A) each payment whose particulars are given in accordance with subparagraph (vi); and
    - (B) each transfer whose particulars are given in accordance with subparagraph (vii);
 the designation within the reporting unit of the person who approved the payment or transfer and the date when the approval was given; and
  - (ix) the amount of the balance of the fund or account at the end of the financial year or, for a fund or account that the reporting unit ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets;
  - (o) for any fund (other than the general fund or a fund mentioned in paragraph (n)) the operation of which is required by the rules of the reporting unit:
    - (i) the purpose for which the fund was operated; and
    - (ii) the amount of the balance of the fund at the beginning of the financial year (if applicable); and
    - (iii) if any money was transferred to the fund from any other fund or any account operated by the reporting unit and, if any money was so transferred, a description of each fund or account from which money was so transferred and the amount transferred from each fund or account; and
    - (iv) the total amount of moneys, other than money mentioned in subparagraph (iii), paid into the fund; and
    - (v) the total amount of payments made out of the fund in furtherance of the purpose for which the fund was operated; and
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- (vi) if any payment was made out of the fund in furtherance of a purpose other than the purpose for which the fund was operated and, if any payment was so made, the amount of each payment and the purpose for which it was made; and
  - (vii) if any money was transferred from the fund to any other fund or any account operated by the reporting unit and, if any money was so transferred, a description of each fund or account to which the money was transferred and the amount transferred to each fund or account; and
  - (viii) in relation to:
    - (A) each payment whose particulars are given in accordance with subparagraph (vi); and
    - (B) each transfer whose particulars are given in accordance with subparagraph (vii);the designation within the reporting unit of the person who approved the payment or transfer and the date when the approval was given; and
  - (ix) the amount of the balance of the fund at the end of the financial year or, for a fund that the reporting unit ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets; and
  - (x) the amount paid for payroll deduction facilities provided by the employer of the member:
    - (A) who made an application under subsection 272(1) of the Act; or
    - (B) on whose behalf the application was made.
- (3) In subregulation (2):
- (a) a reference to a person includes a reference to any body whether corporate or unincorporate; and
  - (b) a reference to a prescribed donation or grant or to a prescribed loan is a reference to a donation or grant made, or a loan granted by an reporting unit to a member of the reporting unit on the certification of the officer of the reporting unit authorising the donation or grant, or the loan that the officer was satisfied, from investigations made by the officer, that the donation or grant, or the loan, was necessary to relieve the member or a dependant of the member from severe financial hardship.
- (4) For paragraph (2)(f), a member must:
- (a) specify the nature of any transaction for which the amount was received or paid; and
  - (b) provide any other information the member has to assist the reporting unit to identify in its financial records the information applied for under subsection 272(1) of the Act.
- (5) Any information that must be made available to a member of a reporting unit, or to the Commissioner, under subsection 272(3) of the Act:
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- (a) must be in writing signed by a designated officer as defined in section 243 of the Act; and
- (b) must:
  - (i) if the application was made by the Commissioner—be delivered by hand at, or sent by prepaid post to, the office of the Commissioner; or
  - (ii) if the application was made by a member of the reporting unit and specifies an address for the member—be sent by prepaid post to that address; or
  - (iii) in any other case—be left for collection at the office of the reporting unit.

**167 Evidence of membership of organisation to be supplied (s 272(1))**

If the Commissioner receives a request mentioned in subsection 272(4) of the Act purporting to be made by a member of a reporting unit, the Commissioner may require the person making the request to supply evidence that the person is a member of the reporting unit.

## **Part 8A—Conduct of officers and employees (Ch 9)**

### **167A Payments made to a related party**

For the purposes of subsection 293G(5B) of the Act, \$5,000 is prescribed.

### **167B Revocation of order for alternative disclosure arrangement**

For the purposes of paragraph 293H(6)(b) of the Act, the Commissioner must, to give an organisation an opportunity to show cause why an order made under subsection 293H(3) of the Act should not be revoked:

- (a) fix a time and place at which the organisation may appear before the Commissioner to make an oral submission to show cause why the order should not be revoked; and
- (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
  - (i) containing particulars of the time and place fixed under paragraph (a); and
  - (ii) stating the reasons for the proposed revocation; and
  - (iii) notifying the organisation of its entitlement to an opportunity to show cause why the order should not be revoked.

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## **Part 9—Civil consequences of contravening civil penalty provisions (Ch 10)**

### **168 Civil penalty provisions**

- (1) An application may be made to the Federal Court for orders under regulations 169 and 170 for conduct that contravenes a civil penalty provision.
- (2) The following provisions are the civil penalty provisions:
  - (a) subregulation 38(8) (statement of change);
  - (b) subregulation 68(8) (direction by electoral official);
  - (c) subregulation 87(2) (direction by electoral official);
  - (ca) subregulation 87A(2) (direction by designated official);
  - (cb) subregulation 89(5) (unauthorised use of information);
  - (d) subregulation 97(10) (direction by electoral official or designated official);
  - (e) subregulation 112(2) (direction by electoral official);
  - (f) subregulation 113(1) (unauthorised act during ballot);
  - (g) subregulation 145(1) (unauthorised act during election or ballot).

### **169 Pecuniary penalty orders that the Federal Court may make**

- (1) For conduct that contravenes a civil penalty provision in these Regulations, the Federal Court may make an order imposing on the person or organisation whose conduct contravened the civil penalty provision a pecuniary penalty of not more than:
  - (a) in the case of a body corporate—25 penalty units; or
  - (b) in any other case—5 penalty units.
- (2) A penalty payable under this regulation is a civil debt payable to the Commonwealth.
- (3) The Commonwealth may enforce the order as if it were an order made in civil proceedings against the person, reporting unit or organisation to recover a debt due by the person.
- (4) The debt arising from the order is taken to be a judgment debt.

### **170 Other orders**

- (1) The Federal Court may make such other orders as the Federal Court considers appropriate in all the circumstances of the case.
- (2) Without limiting subregulation (1), the orders may include injunctions (including interim injunctions), and any other orders, that the Federal Court thinks necessary to stop the conduct or remedy its effects.

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- (3) Orders may be made under this regulation whether or not orders are also made under regulation 169.

### **171 Who may apply for an order**

#### *Making applications*

- (1) Subject to subregulation (1A), the following persons may apply for an order under this Part:
- (a) the General Manager;
  - (b) a person authorised in writing by the General Manager under this paragraph;
  - (c) the Commissioner;
  - (d) a person authorised in writing by the Commissioner under this paragraph.
- (1A) If the civil penalty provision mentioned in paragraph 168(2)(ca), (d) or (f) relates to a direction or authorisation by a designated official, the following persons may apply for an order under this Part:
- (a) the General Manager;
  - (b) the Commissioner.

#### *Intervention by organisation*

- (2) An organisation may intervene in an application for a pecuniary penalty order or an order under regulation 170 in relation to the organisation.
- (3) The organisation is entitled to be heard on all matters other than whether the order should be made.

### **172 Civil proceedings after criminal proceedings**

The Federal Court must not make a pecuniary penalty order against a person or organisation for a contravention if the person has been convicted of an offence constituted by conduct that is substantially the same as the conduct constituting the contravention.

### **173 Criminal proceedings during civil proceedings**

- (1) Proceedings for a pecuniary penalty order against a person or organisation are stayed if:
- (a) criminal proceedings are started or have already been started against the person or organisation for an offence; and
  - (b) the offence is constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.
- (2) The proceedings for the order may be resumed if the person or organisation is not convicted of the offence.
- (3) Otherwise, the proceedings for the order are dismissed.



**174 Criminal proceedings after civil proceedings**

Criminal proceedings may be started against a person or organisation for conduct that is substantially the same as conduct constituting a contravention of a civil penalty provision regardless of whether an order under this Part has been made against the person or organisation.

**175 Evidence given in proceedings for penalty not admissible in criminal proceedings**

- (1) Evidence of information given or evidence of production of documents by an individual is not admissible in criminal proceedings against the individual if:
  - (a) the individual previously gave the evidence or produced the documents in proceedings for a pecuniary penalty order against the individual for a contravention of a civil penalty provision (whether or not the order was made); and
  - (b) the conduct alleged to constitute the offence is substantially the same as the conduct that was claimed to constitute the contravention.
- (2) However, this does not apply to a criminal proceeding in respect of the falsity of the evidence given by the individual in the proceedings for the pecuniary penalty order.

**176 Relief from liability for contravention of civil penalty provision**

- (1) In this regulation:

***eligible proceedings:***

  - (a) means proceedings for a contravention of a civil penalty provision; and
  - (b) does not include proceedings for an offence.
- (2) If:
  - (a) eligible proceedings are brought against a person or organisation; and
  - (b) in the proceedings it appears to the Federal Court that the person or organisation has, or may have, contravened a civil penalty provision but that:
    - (i) the person or organisation has acted honestly; and
    - (ii) having regard to all the circumstances of the case, the person or organisation ought fairly to be excused for the contravention;the Federal Court may relieve the person or organisation either wholly or partly from a liability to which the person or organisation would otherwise be subject, or that might otherwise be imposed on the person or organisation, because of the contravention.
- (3) If a person or organisation thinks that eligible proceedings will or may be begun against them, they may apply to the Federal Court for relief.

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- (4) On an application under subregulation (3), the Federal Court may grant relief under subregulation (2) as if the eligible proceedings had been begun in the Federal Court.

## Part 10—Miscellaneous (Ch 11)

### Division 1—Expenses incurred in complying with a notice to attend

#### 176A Application

- (1) This Division is made for the purposes of subsection 337AP(1) of the Act.
- (2) This Division sets out the allowances payable to a person (the *witness*) who is required by a notice given under subsection 335(2) of the Act to attend before:
  - (a) the Commissioner; or
  - (b) a person or body to whom the Commissioner has delegated the conduct of an investigation.

#### 176B Definitions

In this Division:

**public transport** means any form of passenger transport that is available for use by the public on payment of a fare.

**specified place** means the place specified in the notice given to the witness under subsection 335(2) of the Act where the witness is to attend.

**Taxation Office Determination** means the determination that sets out the amounts that the Commissioner of Taxation considers are reasonable for the purposes of the substantiation exception in Subdivision 900-B of the *Income Tax Assessment Act 1997* for domestic travel allowance expenses and reasonable overtime meal allowance expenses.

#### 176C Travelling allowance

- (1) The witness is entitled to a payment (the *travelling allowance*) towards meeting the expenses that the witness incurs in travelling between the witness's work or residence and the specified place.
- (2) The amount of the travelling allowance is as follows:
  - (a) if it is reasonable for the witness to travel by air—the amount that is payable for economy class air travel;
  - (b) if public transport is available—the amount that the witness actually and properly pays for the public transport;
  - (c) if public transport is not available and the witness travels using their private motor vehicle—the amount calculated at the rate of \$0.74 a kilometre travelled.
- (3) However, the maximum amount payable for the travelling allowance is \$2,000.

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- (4) When deciding whether or not public transport is available, regard must be had to whether a public transport system is operating by which the witness could conveniently:
  - (a) travel to the specified place in a reasonable time before the witness's required attendance; and
  - (b) return to the witness's work or residence in a reasonable time after the witness's attendance at the specified place.

### **176D Accommodation allowance**

- (1) The witness is entitled to a payment (the ***accommodation allowance***) towards meeting the expenses that the witness incurs for accommodation when the witness is necessarily absent overnight from the witness's residence to comply with a notice to attend given under subsection 335(2) of the Act.
- (2) The amount of the accommodation allowance is the amount calculated at the accommodation rate specified in the Taxation Office Determination for the lowest salary range.
- (3) The amount must be calculated having regard to:
  - (a) the time of the latest public transport by which the witness could conveniently travel to the specified place in a reasonable time before the witness's required attendance; and
  - (b) the time by which the witness could conveniently return to the witness's work or residence using the earliest public transport in a reasonable time after the witness's attendance at the specified place.

### **176E Attendance allowance**

- (1) The witness is entitled to a payment (the ***attendance allowance***) towards meeting any loss of earnings that the witness incurs when the witness is necessarily absent from the witness's work to comply with a notice to attend given under subsection 335(2) of the Act.
- (2) The amount of the attendance allowance is the amount (the ***usual pay***) that the witness would otherwise have been entitled to receive for performing his or her normal duties during the witness's absence from work to attend the specified place.
- (3) When claiming the attendance allowance, the witness must provide evidence that confirms:
  - (a) the witness's usual pay; and
  - (b) that the witness did not receive the witness's usual pay for the time when the witness was necessarily absent from the witness's work to attend the specified place.

**176F Legal allowance**

- (1) The witness is entitled to a payment (the *legal allowance*) towards meeting the legal costs and disbursements that the witness reasonably incurs for a lawyer to represent the witness at the specified place.
- (2) The amount of the legal allowance is an amount calculated using the costs for general federal law proceedings set out in the *Federal Circuit Court Rules 2001*, as in force on 2 May 2017.

## Division 2—Investigation of protected disclosures

### 176G Discretion not to investigate

- (1) For the purposes of subsection 337CA(2) of the Act, any of the following circumstances are circumstances in which an authorised official (the **investigator**) may decide not to investigate a disclosure, or not to investigate a disclosure further, under Division 3 of Part 4A of Chapter 11 of the Act (the **investigation provisions**):
- (a) the information does not, to any extent, concern serious disclosable conduct;
  - (b) the disclosure is frivolous or vexatious;
  - (c) the discloser has informed the investigator that the discloser does not wish the investigation to be pursued, and the investigator is reasonably satisfied that there are no matters concerning the disclosure that warrant investigation;
  - (d) it is impracticable for the disclosure to be investigated:
    - (i) because the discloser's contact details have not been disclosed; or
    - (ii) because the discloser refuses or fails, or is unable, to give, for the purposes of the investigation, such information or assistance as the investigator asks the discloser to give; or
    - (iii) because of the age of the information;
  - (e) column 1 of an item of the following table applies to the information, or the disclosable conduct that the information concerns, and any additional condition in column 2 of that item is satisfied.

Information or disclosable conduct that has been or is being dealt with adequately		
Item	Column 1	Column 2
	Information or disclosable conduct	Additional condition
1	the information or disclosable conduct is the same, or substantially the same, as information or disclosable conduct that is being or has been investigated under the investigation provisions	none

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<b>Information or disclosable conduct that has been or is being dealt with adequately</b>		
<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Information or disclosable conduct</b>	<b>Additional condition</b>
2	the information or disclosable conduct is the same, or substantially the same, as: (a) information or disclosable conduct that is being or has been investigated under another law of the Commonwealth or the executive power of the Commonwealth; or (b) information included in evidence that has been admitted in a proceeding, or disclosable conduct that is or has been the subject of a proceeding; or (c) information or disclosable conduct that is being or has been dealt with by an authorised official under another process	(a) it would be inappropriate to conduct another investigation at the same time as that other investigation, proceeding or process; or (b) the investigator is reasonably satisfied that, because of that investigation, proceedings or process, investigation under the investigation provisions is not warranted
3	an authorised official has disclosed some or all of the information to a member of an Australian police force or to the Australian Competition and Consumer Commission under section 337CD of the Act	the investigator is reasonably satisfied that there are no matters concerning the disclosure, other than the offence or contravention mentioned in that section, that warrant investigation
4	an authorised official or any other person or body has disclosed the information to another person or body	the investigator is reasonably satisfied that the person or body to whom the information has been disclosed will deal with the information in such a way that further investigation under the investigation provisions is not warranted

- (2) If the investigator decides not to investigate the disclosure, or not to investigate it further, Part 4A of Chapter 11 of the Act does not, by implication, prevent the information from being investigated otherwise than under the investigation provisions.

**176H Consent to and notice of allocation of handling of disclosure**

- (1) In accordance with subsection 337CC(1) of the Act, this regulation prescribes procedures to be followed and other matters in relation to the allocation of handling of disclosures that qualify for protection under the Act.
- (2) The person to whom a disclosure is made (the **recipient**) must not allocate the handling of a disclosure to an authorised official (other than the recipient) under section 337C of the Act unless the authorised official has consented to the allocation.
- (3) Unless the recipient is, or allocates the disclosure to, the Commissioner, the recipient must inform the Commissioner of the following matters:
- (a) the allocation of the disclosure to the authorised official;
  - (b) the information that was disclosed;

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- (c) the suspected disclosable conduct (if any);
  - (d) if the discloser's name is known to the recipient, and the discloser consents to disclosure of his or her name—the discloser's name;
  - (e) if the discloser's contact details are known to the recipient, and the discloser consents to disclosure of the contact details—the discloser's contact details.
- (4) The recipient must inform the discloser of the allocation.
- (5) Subregulation (4) does not apply if contacting the discloser is not reasonably practicable.
- (6) Subregulations (2) to (5) apply, in relation to a subsequent allocation under subsection 337C(3) of the Act of the handling of a disclosure, in the same way as they apply to an initial allocation of the handling of a disclosure.

**176J Notice of investigation of disclosure**

- (1) In accordance with subsection 337CC(2) of the Act, this regulation prescribes procedures to be followed and other matters in relation to investigations under Division 3 of Part 4A of Chapter 11 of the Act (the *investigation provisions*).
- (2) The authorised official to whom the handling of the disclosure is allocated must, as soon as reasonably practicable, inform the discloser of the following (whichever is applicable):
- (a) that the authorised official is required to investigate the disclosure;
  - (b) that the authorised official has decided under subsection 337CA(2) of the Act and regulation 176G not to investigate the disclosure, or not to investigate the disclosure further.
- (3) If paragraph (2)(a) applies, the authorised official must inform the discloser of the estimated length of the investigation.
- (4) If paragraph (2)(b) applies, the authorised official must inform the discloser of:
- (a) the reasons for the decision; and
  - (b) other courses of action that might be available to the discloser under other laws of the Commonwealth.
- (5) Despite paragraph (4)(a), the authorised official may delete from the reasons given to the discloser any reasons that would, if contained in a document, cause the document to be exempt for the purposes of Part IV of the *Freedom of Information Act 1982*.
- (6) Subregulation (2) does not apply if contacting the discloser is not reasonably practicable.
- (7) If:
- (a) the authorised official has decided under subsection 337CA(2) of the Act and regulation 176G not to investigate the disclosure, or not to investigate the disclosure further; and



(b) the authorised official is not the Commissioner;  
the authorised official must inform the Commissioner of the decision, and of the reasons for the decision.

**176K Suspending Part 4A investigation while conducting an investigation under another law**

- (1) In accordance with subsection 337CC(2) of the Act, this regulation prescribes procedures to be followed in relation to investigations under Division 3 of Part 4A of Chapter 11 of the Act (the *investigation provisions*).
- (2) The authorised official conducting an investigation under the investigation provisions of a disclosure that concerns disclosable conduct (the *Part 4A conduct*) must suspend the investigation for any period during which the authorised official reasonably believes that any authorised official is investigating, under:
  - (a) a law of the Commonwealth other than the investigation provisions; or
  - (b) the executive power of the Commonwealth;disclosable conduct that is the same, or substantially the same, as the Part 4A conduct.

**176L Adoption of findings**

- (1) In accordance with subsection 337CC(2) of the Act, this regulation prescribes matters in relation to investigations under Division 3 of Part 4A of Chapter 11 of the Act (the *investigation provisions*).
- (2) The authorised official conducting an investigation under the investigation provisions may, for the purposes of the investigation, adopt a finding set out in the report of:
  - (a) an investigation or inquiry under:
    - (i) a law of the Commonwealth other than the investigation provisions;  
or
    - (ii) the executive power of the Commonwealth; or
  - (b) another investigation under the investigation provisions;  
conducted by the authorised official or any other person.

**176M Completion of investigation**

- (1) In accordance with subsection 337CC(2) of the Act, this regulation prescribes procedures to be followed and other matters in relation to investigations under Division 3 of Part 4A of Chapter 11 of the Act (the *investigation provisions*).

*Notice to discloser*

- (2) On completing an investigation under the investigation provisions, the authorised official must, as soon as reasonably practicable and subject to subregulation (4), inform the discloser of the following:

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- (a) that the authorised official has completed the investigation;
- (b) whichever of the following apply:
  - (i) that the authorised official will be taking further action as a result of the investigation;
  - (ii) that the authorised official has recommended, or will be recommending, that a government authority take action as a result of the investigation, and the name of the authority;
  - (iii) that the authorised official will not be taking further action, and has not recommended, and will not be recommending, that any government authority take action, as a result of the investigation.
- (3) Each of the following is a **government authority**:
  - (a) the Commonwealth, a State or a Territory;
  - (b) an authority of the Commonwealth, a State or a Territory.
- (4) Subregulation (2) does not apply if contacting the discloser is not reasonably practicable.

*Report*

- (5) On completing an investigation under the investigation provisions, the authorised official must prepare a report of the investigation.
- (6) The report must set out:
  - (a) the matters considered in the course of the investigation; and
  - (b) the duration of the investigation; and
  - (c) the authorised official's findings (if any); and
  - (d) the action (if any) that has been, is being, or is recommended to be, taken; and
  - (e) any claims made about, and any evidence of, detrimental action taken against the discloser, and any response to those claims and that evidence.
- (7) The authorised official must, within 30 days after preparing the report under subregulation (5), give a copy of the report to another person or body if the report sets out action that is recommended to be taken by the other person or body.
- (8) The authorised official may delete from a copy of the report given to a person or body under subregulation (7) any material:
  - (a) that is likely to enable the identification of the discloser or another person; or
  - (b) the inclusion of which would:
    - (i) result in the copy being a document that is exempt for the purposes of Part IV of the *Freedom of Information Act 1982*; or
    - (ii) contravene a designated publication restriction.

**Division 3—Other matters****177 Authorisation to act in relation to applications or proceedings**

Where these Regulations or the Act provide that a person, organisation, branch, reporting unit, constituent part, company or committee of management may or must take any step in relation to any application or proceeding dealt with by the General Manager or the Commissioner, the step may be taken as follows:

- (a) by the person, or on behalf of the person by any other person who has the written authority of the person to take the step;
- (b) on behalf of the organisation, branch, reporting unit or constituent part by a person authorised by the rules of the organisation, branch, reporting unit or constituent part to take the step;
- (c) on behalf of a company that is not an organisation by an officer or person authorised under the seal of the company to represent it under the Act, or in the proceedings;
- (d) on behalf of the committee of management by a person authorised by the committee to take the step.

**178 Proceedings before General Manager**

- (1) In any proceedings before the General Manager, the General Manager may exempt a person from compliance with a procedural requirement under the Act or these Regulations if the General Manager is satisfied that there are special circumstances.
- (2) An exemption under subregulation (1) may be granted:
  - (a) absolutely; or
  - (b) subject to conditions.
- (3) Failure to comply with a procedural requirement for proceedings before the General Manager does not render the proceedings void but the proceedings may be:
  - (a) set aside, either wholly or in part, as irregular; or
  - (b) amended; or
  - (c) otherwise dealt with as and how the General Manager thinks fit.

**178A Proceedings before the Commissioner**

- (1) In any proceedings before the Commissioner, the Commissioner may exempt a person from compliance with a procedural requirement under the Act or these Regulations if the Commissioner is satisfied that there are special circumstances.
- (2) An exemption under subregulation (1) may be granted:
  - (a) absolutely; or
  - (b) subject to conditions.

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- (3) Failure to comply with a procedural requirement for proceedings before the Commissioner does not render the proceedings void but the proceedings may be:
  - (a) set aside, either wholly or in part, as irregular; or
  - (b) amended; or
  - (c) otherwise dealt with as and how the Commissioner thinks fit.

**179 Proceedings before FWC**

- (1) In any proceedings before the FWC, the FWC may exempt a person from compliance with a procedural requirement under the Act or these Regulations if the FWC is satisfied there are special circumstances.
- (2) An exemption under subregulation (1) may be granted:
  - (a) absolutely; or
  - (b) subject to conditions.
- (3) Failure to comply with a procedural requirement for proceedings before the FWC does not render the proceedings void but the proceedings may be:
  - (a) set aside, either wholly or in part, as irregular; or
  - (b) amended; or
  - (c) otherwise dealt with as and how the FWC thinks fit.

**180 Use of previous evidence**

- (1) Any evidence given in any proceedings (the *earlier proceedings*) in relation to a matter under the Act or these Regulations may be used in any subsequent proceedings:
  - (a) before the General Manager in relation to that matter:
    - (i) if the General Manager permits; and
    - (ii) on any terms and conditions determined by the General Manager; or
  - (b) before the Commissioner in relation to that matter:
    - (i) if the Commissioner permits; and
    - (ii) on any terms and conditions determined by the Commissioner.
- (2) However, a person who is a party to the subsequent proceedings may object to the use in the subsequent proceedings of any evidence given in the earlier proceedings if the person was not a party to the earlier proceedings.
- (3) The General Manager or the Commissioner, before giving a permission under subregulation (1), must have regard to any objection made under subregulation (2).
- (4) If evidence has been given orally, this regulation does not authorise its use in the subsequent proceedings unless:
  - (a) in the case of subsequent proceedings before the General Manager—both:
    - (i) a written record of the evidence is available for the use of the General Manager; and

- (ii) the General Manager is satisfied the written record is a true record of the evidence; or
- (b) in the case of subsequent proceedings before the Commissioner—both:
  - (i) a written record of the evidence is available for the use of the Commissioner; and
  - (ii) the Commissioner is satisfied the written record is a true record of the evidence.

### **181 General powers of General Manager and Commissioner**

- (1) In any proceedings before the General Manager, the General Manager, on the application of a party or on the General Manager's own motion, may:
  - (a) require a person, by summons served on the person, to appear before the General Manager:
    - (i) to give evidence; and
    - (ii) to produce such books, documents or things as are referred to in the summons for inspection by the General Manager or by such party as the General Manager determines; and
  - (b) take evidence on oath or affirmation; and
  - (c) adjourn any matter or hearing; and
  - (d) amend or give leave to amend any application, notice or other document; and
  - (e) extend the time fixed by these Regulations for the lodging of any document or the doing of any act (whether that time has expired or not); and
  - (f) give directions to any party in relation to the service of documents and the manner of service of documents; and
  - (g) order any party to pay any other party such reasonable sum for costs as he or she thinks just.
- (1A) In any proceedings before the Commissioner, the Commissioner, on the application of a party or on the Commissioner's own motion, may:
  - (a) require a person, by summons served on the person, to appear before the Commissioner:
    - (i) to give evidence; and
    - (ii) to produce such books, documents or things as are referred to in the summons for inspection by the Commissioner or by such party as the Commissioner determines; and
  - (b) take evidence on oath or affirmation; and
  - (c) adjourn any matter or hearing; and
  - (d) amend or give leave to amend any application, notice or other document; and
  - (e) extend the time fixed by these Regulations for the lodging of any document or the doing of any act (whether that time has expired or not); and
  - (f) give directions to any party in relation to the service of documents and the manner of service of documents; and

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(g) order any party to pay any other party such reasonable sum for costs as he or she thinks just.

- (2) A person must not refuse or fail to comply with a summons served on him or her for the purposes of paragraph (1)(a) or (1A)(a).

Penalty: 5 penalty units.

- (3) Strict liability applies in subregulation (2) to the physical element of failing to comply.

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

- (4) It is a defence to a prosecution for an offence against subregulation (2) if the person had a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter mentioned in subregulation (4) (see section 13.3 of the *Criminal Code*).

- (5) If the General Manager exercises a power under subregulation (1) on the application of a party, the General Manager may make any order for payment of fees or costs relating to the exercise of the power as the General Manager thinks just.

- (6) If the Commissioner exercises a power under subregulation (1A) on the application of a party, the Commissioner may make an order for payment of fees or costs relating to the exercise of the power that the Commissioner thinks just.

### 181A Delegation by General Manager to staff—prescribed class of employees

For the purposes of subsection 343A(3) of the Act, the class of employees that are members of the staff of the FWC who hold or perform duties of an Executive Level 2 position, or an equivalent position, is prescribed.

## Part 11—Consequential provisions

### **182 Information to be provided to members or General Manager (RAO Schedule, s 272(1) (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*))**

- (1) For subsection 272(1) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*), an application to an organisation must be:
  - (a) addressed to the secretary, or any other executive officer, of the organisation; and
  - (b) delivered by hand at, or sent by pre-paid post to, the office of the organisation.
- (2) For subsection 272(1) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*), the following information in relation to an organisation, being information relating to the financial year of the organisation for which accounts and statements were last prepared in accordance with subsection 273(1) or 285(5) of the *Workplace Relations Act 1996* (as in force before the commencement of the RAO Schedule), is prescribed information in relation to the organisation:
  - (a) for a compulsory levy raised by the organisation, other than a levy for which the organisation has, during the financial year, operated a special fund or account:
    - (i) the purpose for which the levy was raised; and
    - (ii) the total amount received by the organisation;
  - (b) for a collection by the organisation of voluntary contributions made by the members for the furtherance of a particular purpose, other than voluntary contributions for which the organisation has, during the financial year, operated a special fund or account:
    - (i) the purpose for which the contributions were collected; and
    - (ii) the total amount received by the organisation as voluntary contributions for the furtherance of that purpose;
  - (c) for a donation or grant of more than \$1 000 made to the organisation:
    - (i) if the donation or grant was made for a specified purpose—that purpose; and
    - (ii) the amount of the donation or grant;
  - (d) for a compulsory levy imposed on the organisation:
    - (i) the purpose for which the levy was imposed; and
    - (ii) the total amount paid by the organisation;
  - (e) for a donation or grant of more than \$1 000 made by the organisation:

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- (i) the purpose for which the donation or grant was made; and
  - (ii) the amount of the donation or grant; and
  - (iii) if the donation or grant is not a prescribed donation or grant—the name and address of the person to whom the donation or grant was made;
- (f) for an amount of more than \$1 000 received or paid by the organisation (other than an amount included in an amount mentioned in a subparagraph of paragraph 107(a) of the *Workplace Relations Regulations 1996* (as in force before the commencement of the RAO Schedule) in relation to the organisation):
  - (i) the purpose for which the amount was received or paid by the organisation; and
  - (ii) the amount received or paid by the organisation; and
  - (iii) the name and address of the person from whom the amount was received or to whom the amount was paid;
- (g) the amount paid as remuneration to the holder of an office in the organisation;
- (h) for a sale or revaluation of an asset of the organisation that has resulted in a profit or loss of more than \$1 000:
  - (i) a description of the asset sold or revalued; and
  - (ii) for a revaluation of an asset—the reason for which the asset was revalued; and
  - (iii) the amount of the profit made or the loss incurred;
- (i) for a loan of more than \$1 000 made by the organisation:
  - (i) the purpose for which the loan was made; and
  - (ii) the amount of the loan; and
  - (iii) the security given for the loan; and
  - (iv) if the loan is not a prescribed loan—the name and address of the person to whom the loan was made and the arrangements made for the repayment of the loan;
- (j) the total amount paid by the organisation for investments (other than investments in Government, municipal or other public debentures, stock or bonds) made by the organisation during the financial year;
- (k) for an investment (other than an investment in Government, municipal or other public debentures, stock or bonds) held by the organisation at the end of the financial year, being an investment the book value of which, as at the end of that financial year, is more than the greater of \$1 000 and 20% of the total book value of all such investments held by the organisation at the end of that financial year:
  - (i) a description of the investment; and
  - (ii) the book value of the investment as at the end of the financial year; and
  - (iii) if applicable, the quoted market value of the investment as at the end of the financial year;



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- (l) for an asset (other than an asset included in a class of assets mentioned in a subparagraph of paragraph 107(b) of the *Workplace Relations Regulations 1996* (as in force before the commencement of the RAO Schedule)) held by the organisation at the end of the financial year, the book value of which, as at the end of the financial year, is more than the greater of \$1 000 and 5% of the total book value of all the assets held by the organisation at the end of the financial year:
    - (i) a description of the asset; and
    - (ii) the book value of the asset as at the end of the financial year;
  - (m) for a loan of more than \$10 000 received by the organisation:
    - (i) the purpose for which the loan was received; and
    - (ii) the amount of the loan; and
    - (iii) the name and address of the person from whom the loan was received; and
    - (iv) the security given for the loan; and
    - (v) the arrangements made for the repayment of the loan;
  - (n) for an amount held by the organisation as provision for one of the following purposes:
    - (i) the payment of annual leave entitlements to its officers and employees;
    - (ii) the payment of long service leave entitlements to its officers and employees;
    - (iii) the payment of superannuation or retirement benefits to its officers and employees;
 the number of officers and employees for whom the amount so held provides;
  - (o) for a contingent liability of the organisation as at the end of the financial year, being a contingent liability the amount of which has been ascertained and is more than 5% of the net value of the assets of the organisation as at the end of the financial year:
    - (i) a description of the liability; and
    - (ii) the amount for which the organisation is liable;
  - (p) for a liability of the organisation (other than a liability included in a class of liabilities mentioned in a subparagraph of paragraph 107(b) of the *Workplace Relations Regulations 1996* (as in force before the commencement of the RAO Schedule)) outstanding at the end of the financial year involving an amount of more than 5% of the total amount of the other liabilities of the organisation as at the end of the financial year:
    - (i) a description of the liability; and
    - (ii) the amount for which the organisation is liable;
  - (q) for a fund or account operated by the organisation for a compulsory levy raised by the organisation or for voluntary contributions collected from the members of the organisation:
    - (i) the purpose for which the levy was raised or the voluntary contributions collected; and
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- (ii) if applicable, the amount of the balance of the fund or account at the commencement of the financial year; and
- (iii) whether any amounts were transferred to the fund or account from any other fund or account operated by the organisation and, if any amounts were so transferred, a description of each fund or account from which amounts were so transferred and the amount transferred from each fund or account; and
- (iv) the total amount paid by the members of the organisation for the levy or as voluntary contributions; and
- (v) the total amount of payments made out of the fund or account in furtherance of the purpose for which the levy was raised or the voluntary contributions collected; and
- (vi) whether any payment was made out of the fund or account in furtherance of a purpose other than the purpose for which the levy was raised or the voluntary contributions collected and, if any payment was so made, the amount of each payment and the purpose for which it was made; and
- (vii) whether any amounts were transferred from the fund or account to any other fund or account operated by the organisation and, if any amounts were so transferred, a description of each fund or account to which the amounts were transferred and the amount transferred to each fund or account; and
- (viii) in respect of:
  - (A) each payment details of which are given in accordance with subparagraph (vi); and
  - (B) each transfer details of which are given in accordance with subparagraph (vii);the designation within the organisation of the person who approved the payment or transfer and the date on which the approval was given; and
- (ix) the amount of the balance of the fund or account at the end of the financial year or, for a fund or account that the organisation ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets;
- (r) for a fund (other than the general fund or a fund mentioned in paragraph (q)) the operation of which is required by the rules of the organisation:
  - (i) the purpose for which the fund was operated; and
  - (ii) if applicable, the amount of the balance of the fund at the beginning of the financial year; and
  - (iii) whether any amounts were transferred to the fund from any other fund or any account operated by the organisation and, if any amounts were so transferred, a description of each fund or account from which amounts were so transferred and the amount transferred from each fund or account; and

- (iv) the total of the amounts, other than amounts mentioned in subparagraph (iii), paid into the fund; and
- (v) the total amount of payments made out of the fund in furtherance of the purpose for which the fund was operated; and
- (vi) whether any payment was made out of the fund in furtherance of a purpose other than the purpose for which the fund was operated and, if any payment was so made, the amount of each payment and the purpose for which it was made; and
- (vii) whether any amounts were transferred from the fund to any other fund or any account operated by the organisation and, if any amounts were so transferred, a description of each fund or account to which the amounts were transferred and the amount transferred to each fund or account; and
- (viii) in respect of:
  - (A) each payment details of which are given in accordance with subparagraph (vi); and
  - (B) each transfer details of which are given in accordance with subparagraph (vii);
 the designation within the organisation of the person who approved the payment or transfer and the date on which the approval was given; and
- (ix) the amount of the balance of the fund at the end of the financial year or, for a fund that the organisation ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets; and
- (x) the amount paid for payroll deduction services provided by the employer of the member:
  - (A) who made an application under subsection 272(1) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*); or
  - (B) on whose behalf the application was made.

(3) In subregulation (2):

- (a) a reference to a person includes a reference to any body whether corporate or unincorporated; and
- (b) a reference to a prescribed donation or grant, or to a prescribed loan, is a reference to a donation or grant made, or a loan granted, by an organisation to a member of the organisation on the certification of the officer of the organisation authorising the donation, grant or loan that the officer was satisfied, from investigations made by the officer, that the donation, grant or loan was necessary to relieve the member or a dependant of the member from severe financial hardship.

(4) For paragraph (2)(f), a member must:

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- (a) specify the nature of any transaction for which the amount was received or paid; and
  - (b) provide any other information the member has to assist the organisation to identify in its financial records the information applied for under subsection 272(1) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*).
- (5) Any information that must be made available to a member of an organisation, or to the General Manager, under subsection 272(3) of the RAO Schedule (as modified by item 46 of Schedule 1 to the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*):
  - (a) must be in writing signed by the secretary, or any other executive officer, of the organisation; and
  - (b) must:
    - (i) if the application was made by the General Manager—be delivered by hand at, or sent by prepaid post to, the office of the General Manager; or
    - (ii) if the application was made by a member of the organisation and specifies an address for the member—be sent by prepaid post to that address; or
    - (iii) in any other case—be left for collection at the office of the organisation.
- (6) In this regulation a reference to the **RAO Schedule** is a reference to Schedule 1 to the former *Workplace Relations Act 1996*.

## Schedule 1A—Federal counterparts

(regulation 8A)

### Part 1—New South Wales

Item	Association	Federal counterpart
101	Australian Maritime Officers Union of New South Wales	The Australian Maritime Officers' Union
102	Australian Institute of Marine and Power Engineers New South Wales District	The Australian Institute of Marine and Power Engineers
103	Australian Salaried Medical Officers' Federation (New South Wales)	Australian Salaried Medical Officers Federation
104	Australian Services Union of N.S.W.	Australian Municipal, Administrative, Clerical and Services Union
105	Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union, New South Wales Branch	'Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union' known as the Australian Manufacturing Workers' Union
106	Club Managers' Association	Club Managers' Association, Australia
107	Construction, Forestry, Mining and Energy Union (New South Wales Branch)	Construction, Forestry, Mining and Energy Union
108	Electrical Trades Union of Australia, New South Wales Branch	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
109	Electricity Supply Professional Officers Association	Community and Public Sector Union
110	Finance Sector Union of Australia, New South Wales Branch	Finance Sector Union of Australia
111	Gas Employees Union	The Australian Workers' Union
112	Health Services Union	Health Services Union
113	Institute of Senior Educational Administrators of New South Wales	Australian Education Union
114	United Voice, New South Wales Branch	United Voice
115	Media, Entertainment and Arts Alliance New South Wales	Media, Entertainment and Arts Alliance
116	Musicians' Union of New South Wales	Media, Entertainment and Arts Alliance
117	National Union of Workers, New South Wales Branch	National Union of Workers
118	New South Wales Fire Brigade Employees Union	United Firefighters' Union of Australia
119	New South Wales Independent Education Union	Independent Education Union of Australia

**Schedule 1A** Federal counterparts**Part 1** New South Wales

<b>Item</b>	<b>Association</b>	<b>Federal counterpart</b>
120	New South Wales Local Government, Clerical, Administrative, Energy, Airlines & Utilities Union	Australian Municipal, Administrative, Clerical and Services Union
121	New South Wales Nurses' Association	Australian Nursing Federation
122	New South Wales Teachers Federation	Australian Education Union
123	NTEU New South Wales	National Tertiary Education Industry Union
124	Police Association of New South Wales	Police Federation of Australia
125	Police Association Salaried Officers Union	Police Federation of Australia
126	Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales	Community and Public Sector Union
127	Real Estate Association of New South Wales	Real Estate Association of New South Wales
128	Shop Assistants and Warehouse Employees' Federation of Australia, Newcastle and Northern, New South Wales	Shop, Distributive and Allied Employees Association
129	Shop, Distributive and Allied Employees' Association, New South Wales	Shop, Distributive and Allied Employees Association
130	The Association of Principals Employed in Catholic Schools in New South Wales	Independent Education Union of Australia
131	The Association of Principals of Independent Schools in New South Wales	Independent Education Union of Australia
132	The Association of Professional Engineers, Scientists and Managers, Australia (NSW Branch)	The Association of Professional Engineers, Scientists and Managers, Australia
133	The Australian Workers' Union, New South Wales	The Australian Workers' Union
134	The Australasian Meat Industry Employees' Union, New South Wales Branch	The Australasian Meat Industry Employees Union
135	The Australasian Meat Industry Employees' Union, Newcastle and Northern Branch	The Australasian Meat Industry Employees Union
136	The Australian Rail, Tram and Bus Industry Union, New South Wales	Australian Rail, Tram and Bus Industry Union
137	The Federated Brick, Tile and Pottery Industrial Union of Australia, New South Wales Branch	Construction, Forestry, Mining and Energy Union
138	The Federated Tobacco & Cigarette Workers' Union of Australia, New South Wales Branch	The Australian Workers' Union
139	The Gas Industry Salaried Officers' Federation, New South Wales Branch	The Australian Workers' Union

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<b>Item</b>	<b>Association</b>	<b>Federal counterpart</b>
140	The Recorded Media Industry Union of New South Wales	The Australian Workers' Union
141	The Local Government Engineers' Association of New South Wales	The Association of Professional Engineers, Scientists and Managers, Australia
142	The New South Wales Plumbers and Gasfitters Employees' Union	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
143	The Seamen's Union of Australia, New South Wales Branch	The Maritime Union of Australia
144	Transport Workers' Union of New South Wales	Transport Workers' Union of Australia

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## Part 2—Queensland

Item	Association	Federal counterpart
201	Actors, Entertainers and Announcers Equity Association, Queensland, Union of Employees	Media, Entertainment and Arts Alliance
202	Australian Federated Union of Locomotive Employees, Queensland Union of Employees	Australian Federated Union of Locomotive Employees
203	Australian Institute of Marine and Power Engineers' Union of Employees, Queensland District	The Australian Institute of Marine and Power Engineers
204	Australian Journalists' Association (Queensland District) "Union of Employees"	Media, Entertainment and Arts Alliance
205	Together Queensland, Industrial Union of Employees	Australian Municipal, Administrative, Clerical and Services Union
206	Automotive, Metals, Engineering, Printing and Kindred Industries Industrial Union of Employees, Queensland	'Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union' known as the Australian Manufacturing Workers' Union
207	Australasian Meat Industry Union of Employees (Queensland Branch)	The Australasian Meat Industry Employees Union
208	Australian Maritime Officers Union Queensland Union of Employees	The Australian Maritime Officers' Union
209	The Association of Professional Engineers, Scientists and Managers, Australia, Queensland Branch, Union of Employees	The Association of Professional Engineers, Scientists and Managers, Australia
210	Australian Rail, Tram and Bus Industry Union of Employees, Queensland Branch	Australian Rail, Tram and Bus Industry Union
211	The Australian Workers' Union of Employees, Queensland	The Australian Workers' Union
212	Australian Building Construction Employees and Builders' Labourers' Federation (Queensland) Union of Employees	Construction, Forestry, Mining and Energy Union
213	The Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland	Construction, Forestry, Mining and Energy Union
214	The Electrical Trades Union of Employees Queensland	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
215	Federated Engine Drivers' and Firemens' Association of Queensland, Union of Employees	Construction, Forestry, Mining and Energy Union



<b>Item</b>	<b>Association</b>	<b>Federal counterpart</b>
216	Federated Ironworkers Association of Australia (Queensland Branch) Union of Employees	The Australian Workers' Union
217	Finance Sector Union of Australia, Queensland Branch, Industrial Union of Employees	Finance Sector Union of Australia
218	Griffith University Faculty Staff Association (Union of Employees)	National Tertiary Education Industry Union
219	James Cook University Staff Association (Union of Employees)	National Tertiary Education Industry Union
220	United Voice, Queensland Branch	United Voice
221	Musicians' Union of Australia (Brisbane Branch) Union of Employees	Musicians' Union of Australia
222	The National Union of Workers Industrial Union of Employees Queensland	National Union of Workers
223	Plumbers & Gasfitters Employees' Union Queensland, Union of Employees	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
224	Property Sales Association of Queensland, Union of Employees	Property Sales Association of Queensland, Union of Employees
225	Queensland Association of Academic Staff in Colleges of Advanced Education (Union of Employees)	National Tertiary Education Industry Union
226	Queensland Colliery Employees Union of Employees	Construction, Forestry, Mining and Energy Union
227	Queensland Fire and Rescue - Senior Officers Union of Employees	United Firefighters' Union of Australia
228	Queensland Independent Education Union of Employees	Independent Education Union of Australia
229	Queensland Nurses' Union of Employees	Australian Nursing Federation
230	The Queensland Police Commissioned Officers' Union of Employees	Police Federation of Australia
231	Queensland Police Union of Employees	Police Federation of Australia
232	Queensland Services, Industrial Union of Employees	Australian Municipal, Administrative, Clerical and Services Union
233	Queensland Teachers Union of Employees	Australian Education Union
234	Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees	Shop, Distributive and Allied Employees Association
235	Salaried Doctors Queensland, Industrial Organisation of Employees (SDQ)	Australian Salaried Medical Officers Federation
236	The Seamen's Union of Australasia, Queensland Branch, Union of Employees	The Maritime Union of Australia

**Schedule 1A** Federal counterparts  
**Part 2** Queensland

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<b>Item</b>	<b>Association</b>	<b>Federal counterpart</b>
237	Textile, Clothing and Footwear Union of Australia, Queensland, Union of Employees	Textile, Clothing and Footwear Union of Australia
238	Transport Workers' Union of Australia, Union of Employees (Queensland Branch)	Transport Workers' Union of Australia
239	United Firefighters' Union of Australia, Union of Employees, Queensland	United Firefighters' Union of Australia
240	The University of Queensland Academic Staff Association (Union of Employees)	National Tertiary Education Industry Union

## Part 3—Western Australia

Item	Association	Federal counterpart
301	Australian Institute of Marine and Power Engineers, Western Australian Union of Workers	The Australian Institute of Marine and Power Engineers
302	Australian Medical Association (WA) Incorporated	Australian Salaried Medical Officers Federation
303	Western Australian Municipal, Administrative, Clerical and Services Union of Employees	Australian Municipal, Administrative, Clerical and Services Union
304	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Workers Union of Australia, Engineering and Electrical Division, WA Branch	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
305	Electrical Trades Union of Workers of Australia (Western Australian Goldfields' Sub-Branch), Kalgoorlie	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
306	Health Services Union of Western Australia (Union of Workers)	Health Services Union
307	United Voice, WA Branch	United Voice
308	Media, Entertainment and Arts Alliance of Western Australia (Union of Employees)	Media, Entertainment and Arts Alliance
309	Murdoch University Academic Staff Association	National Tertiary Education Industry Union
310	Salaried Pharmacists' Association Western Australian Union of Workers	Health Services Union
311	Seamen's Union of Australia, West Australian Branch	The Maritime Union of Australia
312	The Association of Professional Engineers, Australia (Western Australian Branch) Organisation of Employees	The Association of Professional Engineers, Scientists and Managers, Australia
313	The Australian Collieries' Staff Association, Western Australian Branch	The Association of Professional Engineers, Scientists and Managers, Australia
314	The Australian Maritime Officers Union - Western Area Union of Employees	The Australian Maritime Officers' Union
315	The Australian Nursing Federation, Industrial Union of Workers Perth	Australian Nursing Federation
316	The Australian Rail, Tram and Bus Industry Union of Employees, West Australian Branch	Australian Rail, Tram and Bus Industry Union

**Schedule 1A** Federal counterparts  
**Part 3** Western Australia

<b>Item</b>	<b>Association</b>	<b>Federal counterpart</b>
317	The Australian Workers' Union, West Australian Branch, Industrial Union of Workers	The Australian Workers' Union
318	The Automotive, Food, Metals, Engineering, Printing & Kindred Industries Union of Workers - Western Australian Branch	'Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union' known as the Australian Manufacturing Workers' Union
319	The Boot Trade of Western Australia Union of Workers, Perth	Textile, Clothing and Footwear Union of Australia
320	The Breweries and Bottleyards Employees' Industrial Union of Workers of Western Australia	The Breweries and Bottleyards Employees' Industrial Union of Workers of Western Australia
321	The Civil Service Association of Western Australia Incorporated	CPSU, the Community and Public Sector Union
322	The Coal Miners' Industrial Union of Workers of Western Australia, Collie	Construction, Forestry, Mining and Energy Union
323	The Construction, Forestry, Mining and Energy Union of Workers	Construction, Forestry, Mining and Energy Union
324	The Federated Brick, Tile and Pottery Industrial Union of Australia (Union of Workers) Western Australian Branch	Construction, Forestry, Mining and Energy Union
325	The Forest Products, Furnishing and Allied Industries Industrial Union of Workers, WA	The Australian Workers' Union
326	The Independent Education Union of Western Australia, Union of Employees	Independent Education Union of Australia
327	The Plumbers and Gasfitters Employees' Union of Australia, West Australian Branch, Industrial Union of Workers	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
328	The Shop, Distributive and Allied Employees' Association of Western Australia	Shop, Distributive and Allied Employees Association
329	The State School Teachers' Union of W.A. (Incorporated)	Australian Education Union
330	The Western Australian Clothing and Allied Trades' Industrial Union of Workers, Perth	Textile, Clothing and Footwear Union of Australia
331	Transport Workers' Union of Australia, Industrial Union of Workers, Western Australian Branch	Transport Workers' Union of Australia
332	Union of Australian College Academics, Western Australian Branch, Industrial Union of Workers	National Tertiary Education Industry Union
333	United Firefighters Union of Australia West Australian Branch	United Firefighters' Union of Australia

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<b>Item</b>	<b>Association</b>	<b>Federal counterpart</b>
334	University of Western Australia Academic Staff Association	National Tertiary Education Industry Union
335	W.A. Dental Technicians' and Employees' Union of Workers, Perth	Health Services Union
336	West Australian Branch, Australasian Meat Industry Employees Union, Industrial Union of Workers, Perth	The Australasian Meat Industry Employees Union
337	West Australian Psychiatric Nurses' Association (Union of Workers)	Health Services Union
338	Western Australian Municipal, Road Boards, Parks and Racecourse Employees' Union of Workers, Perth	Western Australian Shire Councils, Municipal Road Boards, Health Boards, Parks, Cemeteries and Racecourse, Public Authorities, Water Boards Union
339	Western Australian Police Union of Workers	Police Federation of Australia
340	Western Australian Railway Officers' Union	Australian Municipal, Administrative, Clerical and Services Union

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## Part 4—South Australia

Item	Association	Federal counterpart
401	Amalgamated ASU (SA) State Union	Australian Municipal, Administrative, Clerical and Services Union
402	Amalgamated AWU (SA) State Union	The Australian Workers' Union
403	The Australasian Meat Industry Employees' Union (S.A. Branch)	The Australasian Meat Industry Employees Union
404	The Australian Building and Construction Workers' Federation	Construction, Forestry, Mining and Energy Union
405	Australian Institute of Marine and Power Engineers (Employees) Adelaide District	The Australian Institute of Marine and Power Engineers
406	Australian Nursing Federation (S.A. Branch)	Australian Nursing Federation
407	Australian Workers' Union (Whyalla-Woomera Branch)	The Australian Workers' Union
408	Electrical Trades Union of Australia, South Australian Branch	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
409	The Gas Industry Salaried Officers' Federation (S.A. Branch)	The Australian Workers' Union
410	Independent Education Union (South Australia) Incorporated	Independent Education Union of Australia
411	Merchant Service Guild of Australia, South Australian Section	The Australian Maritime Officers' Union
412	Musicians Union of Australia, Adelaide Branch	Musicians' Union of Australia
413	The Plumbers & Gas Fitters Employees Union of Australia - Adelaide Branch	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
414	The Police Association of South Australia	Police Federation of Australia
415	Public Service Association of South Australia Incorporated	CPSU, the Community and Public Sector Union
416	Shop, Distributive and Allied Employees Association, South Australian Branch	Shop, Distributive and Allied Employees Association
417	The South Australian Branch of the Transport Workers' Union of Australia	Transport Workers' Union of Australia
418	South Australian Salaried Medical Officers' Association	Australian Salaried Medical Officers Federation
419	The South Australian Wholesale Soft Goods Salesmen and Warehousemen's Association	Shop, Distributive and Allied Employees Association

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<b>Item</b>	<b>Association</b>	<b>Federal counterpart</b>
420	Textile, Clothing and Footwear Union of South Australia	Textile, Clothing and Footwear Union of Australia
421	United Firefighters Union of South Australia Incorporated	United Firefighters' Union of Australia
422	Universities' Staff Association of South Australia Incorporated	National Tertiary Education Industry Union
423	The Wharf Superintendents and Supervisors Association of S.A.	The Australian Maritime Officers' Union

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## Part 5—Tasmania

Item	Association	Federal counterpart
501	Australian Education Union, Tasmanian Branch	Australian Education Union
502	Australian Municipal, Administrative, Clerical and Services Union	Australian Municipal, Administrative, Clerical and Services Union
503	Australian Nursing Federation Tasmanian Branch	Australian Nursing Federation
504	Australian Rail, Tram and Bus Industry Union, Tasmanian Branch	Australian Rail, Tram and Bus Industry Union
505	Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union	Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union' known as the Australian Manufacturing Workers' Union
506	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia	Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia
507	Construction, Forestry, Mining and Energy Union, Tasmanian Branch	Construction, Forestry, Mining and Energy Union
508	Health Services Union of Australia, Tasmania No. 1 Branch	Health Services Union
509	Health Services Union of Australia, Tasmania No. 2 Branch	Health Services Union
510	Independent Education Union of Australia, Tasmania	Independent Education Union of Australia
511	United Voice, Tasmanian Branch	United Voice
512	Media, Entertainment and Arts Alliance, Tasmania Branch	Media, Entertainment and Arts Alliance
513	Musicians' Union of Australia, Hobart Branch	Musicians' Union of Australia
514	National Union of Workers (Central Branch)	National Union of Workers
515	Police Association of Tasmania	Police Federation of Australia
516	Shop, Distributive and Allied Employees Association, Tasmanian Branch	Shop, Distributive and Allied Employees Association
517	Tasmanian Salaried Medical Practitioners' Society	Australian Salaried Medical Officers Federation
518	Tasmanian Union of Professional and Clerical Officers in Education	Australian Municipal, Administrative, Clerical and Services Union
519	Textile, Clothing and Footwear Union of Australia, Tasmanian Branch	Textile, Clothing and Footwear Union of Australia
520	The Association of Professional Engineers, Scientists and Managers, Australia	The Association of Professional Engineers, Scientists and Managers, Australia



<b>Item</b>	<b>Association</b>	<b>Federal counterpart</b>
521	The Australasian Meat Industry Employees Union, Tasmanian Branch	The Australasian Meat Industry Employees Union
522	The Australian Institute of Marine and Power Engineers	The Australian Institute of Marine and Power Engineers
523	The Australian Maritime Officers' Union Victoria Tasmanian Area	The Australian Maritime Officers' Union
524	The Australian Workers' Union, Tasmania Branch	The Australian Workers' Union
525	The Community and Public Sector Union (State Public Services Federation Tasmania) Inc	CPSU, the Community and Public Sector Union
526	The Marine and Harbour Trust Employees' Association	The Australian Maritime Officers' Union
527	The Tasmanian Independent Schools Teachers Association	Independent Education Union of Australia
528	Transport Workers' Union of Australia (Victorian/Tasmanian Branch)	Transport Workers' Union of Australia
529	United Firefighters Union of Australia, Tasmanian Branch	United Firefighters' Union of Australia
530	Woolclassers' Association of Australia	The Australian Workers' Union

**Schedule 1** Transitionally recognised associations

**Part 1** Representation rights of transitionally recognised associations of employees

**Division 1** Orders about representation rights of transitionally recognised associations of employees—no prior order for State-registered association

Clause 1.1A

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## **Schedule 1—Transitionally recognised associations**

Note: This Schedule is made for Schedule 1 to the Act.

### **Part 1—Representation rights of transitionally recognised associations of employees**

#### **Division 1—Orders about representation rights of transitionally recognised associations of employees—no prior order for State-registered association**

##### **1.1A Application of Division**

This Division does not apply to an application for an order about the right to represent transferring employees.

##### **1.1 Order**

- (1) For subclause 4(1) of Schedule 1 to the Act, this clause applies if:
- (a) an organisation, a transitionally recognised association of employees, an employer or the Minister applies to the FWC to make any of the following orders in relation to a demarcation dispute:
    - (i) an order that a transitionally recognised association of employees is to have the right, to the exclusion of 1 or more other associations or organisations, to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of employees who are eligible for membership of the association;
    - (ii) an order that a transitionally recognised association of employees that does not have the right to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of employees is to have that right;
    - (iii) an order that a transitionally recognised association of employees is not to have the right to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of employees who are eligible for membership of the association; and
  - (b) immediately before the reform commencement:
    - (i) the transitionally recognised association mentioned in subparagraph (a)(i), (ii) or (iii) was a State-registered association; and
    - (ii) there was no order of a similar kind in force in relation to the State-registered association immediately before the reform commencement.

Note 1: If an order of a similar kind was in force immediately before the reform commencement, see Division 3.

Note 2: **State-registered association** has the meaning given by subitem 1(1) of Schedule 1 to the Act.

- (2) The FWC may make the order.
- (3) The FWC must not make an order unless it is satisfied that:
  - (a) the conduct, or threatened conduct, of:
    - (i) a transitionally recognised association or organisation to which the order would relate; or
    - (ii) an officer, member or employee of the transitionally recognised association or organisation:  
is preventing, obstructing or restricting the performance of work; or
  - (b) the conduct, or threatened conduct, of:
    - (i) a transitionally recognised association or organisation to which the order would relate; or
    - (ii) an officer, member or employee of the transitionally recognised association or organisation:  
is harming the business of an employer; or
  - (c) the consequences mentioned in paragraph (a) or (b) have ceased, but are likely to recur as a result of the conduct, or threatened conduct, of the association, organisation or person; or
  - (d) the consequences mentioned in paragraph (a) or (b) are imminent as a result of conduct, or threatened conduct, of the association, organisation or person.
- (4) In considering whether to make an order under subclause (2), the FWC must have regard to the wishes of the employees who are affected by the dispute and, where it considers it appropriate, the FWC is also to have regard to:
  - (a) the effect of any order on the operations (including operating costs, work practices, efficiency and productivity) of an employer who is a party to the dispute or who is a member of a transitionally recognised association or organisation that is a party to the dispute; and
  - (b) any agreement or understanding of which the FWC becomes aware that deals with the right of a transitionally recognised association or organisation to represent under the Act or the Fair Work Act the industrial interests of a particular class or group of employees; and
  - (c) the consequences of not making an order for any employer, employees, transitionally recognised association or organisation involved in the dispute; and
  - (d) any other order made by the FWC, in relation to another demarcation dispute involving the transitionally recognised association or organisation to which the order under subclause (2) would relate, that the FWC considers to be relevant.
- (5) The powers of the FWC under this Division are exercisable only by a Full Bench.

**Schedule 1** Transitionally recognised associations

**Part 1** Representation rights of transitionally recognised associations of employees

**Division 1** Orders about representation rights of transitionally recognised associations of employees—  
no prior order for State-registered association

Clause 1.2

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**1.2 Variation of order**

The FWC may, on application by the Minister, an organisation, a transitionally recognised association of employees or an employer, vary an order made under subclause 1.1(2).

**1.3 Organisations and transitionally recognised association must comply with order**

- (1) An organisation or a transitionally recognised association to which the order applies must comply with the order.
- (2) The Federal Court may, on application by the Minister or a person, organisation or transitionally recognised association affected by an order, make such orders as it thinks fit to ensure compliance with that order.

## **Division 2—Orders about representation rights of transitionally recognised associations of employees—prior order about State-registered association**

### **1.3A Application of Division**

This Division does not apply to an application for an order about the right to represent transferring employees.

### **1.4 Order**

- (1) For subclause 4(1) of Schedule 1 to the Act, this clause applies if:
  - (a) an organisation, transitionally recognised association, an employer or the Minister applies to the FWC to make any of the following orders:
    - (i) an order that a transitionally recognised association of employees is to have the right, to the exclusion of 1 or more other associations or organisations, to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of employees who are eligible for membership of the association;
    - (ii) an order that a transitionally recognised association of employees that does not have the right to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of employees is to have that right;
    - (iii) an order that a transitionally recognised association of employees is not to have the right to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of employees who are eligible for membership of the association; and
  - (b) immediately before the reform commencement:
    - (i) the transitionally recognised association mentioned in subparagraph (a)(i), (ii) or (iii) was a State-registered association; and
    - (ii) there was an order of a similar kind in force in relation to the State-registered association.

Note 1: If no order of a similar kind was in force immediately before the reform commencement, see Division 1.

Note 2: **State-registered association** has the meaning given by subitem 1(1) of Schedule 1 to the Act.

- (2) The FWC must make an order to the same effect as the order mentioned in subparagraph (1)(b)(ii).
- (3) The FWC may, on application by the Minister, an organisation, a transitionally recognised association of employees or an employer, vary an order made under subclause (2).

**Schedule 1** Transitionally recognised associations

**Part 1** Representation rights of transitionally recognised associations of employees

**Division 2** Orders about representation rights of transitionally recognised associations of employees—  
prior order about State-registered association

Clause 1.5

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**1.5 Order may be subject to limits or alterations**

- (1) The order may be subject to conditions or limitations.
- (2) The order:
  - (a) may be made with changes from the text of the order mentioned in subparagraph 1.4(1)(b)(ii) that the FWC considers necessary to reflect the language and content of the Act and the Fair Work Act; but
  - (b) must be the same in substance as the order mentioned in subparagraph 1.4(1)(b)(ii).

**1.6 Organisations and transitionally recognised association must comply with order**

- (1) An organisation and a transitionally recognised association to which the order applies must comply with the order.
- (2) The Federal Court may, on application by the Minister or a person, organisation or transitionally recognised association affected by an order, make such orders as it thinks fit to ensure compliance with that order.

## **Division 3—Proceedings about representation rights in State or Territory immediately before reform commencement**

### **1.6A Application of Division**

This Division does not apply to a transitionally recognised association recognised under subclause 2(1A) of Schedule 1 to the Act.

### **1.7 Representation rights—evidence in prior proceedings**

- (1) For subclause 4(1) of Schedule 1 to the Act, this clause applies to a transitionally recognised association if:
  - (a) immediately before the reform commencement:
    - (i) it was a State-registered association that was party to proceedings about representation rights under a State or Territory industrial law; and
    - (ii) no order about the representation rights of it and the other parties to the proceedings had been made by the court or tribunal hearing the proceedings; and
  - (b) the transitionally recognised association is involved in proceedings before the FWC about the dispute which gave rise to the proceedings mentioned at (a)(i).
- (2) The FWC must have regard to any evidence that was given in the proceedings mentioned at subparagraph (a)(i).

Note 1: The FWC may treat the evidence that was before the State tribunal as being before the FWC.

Note 2: **State-registered association** has the meaning given by subitem 1(1) of Schedule 1 to the Act.

## **Division 4—Orders about the right of certain persons to represent transferring employees in the federal system**

### **1.7A Order**

- (1) For subclause 4(1) of Schedule 1 to the Act, this clause applies if an organisation, a transitionally recognised association of employees, an employer or the Minister applies to the FWC to make any of the following orders:
  - (a) an order that a transitionally recognised association of employees is to have the right, to the exclusion of one or more other associations or organisations, to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of transferring employees who are eligible for membership of the association;
  - (b) an order that a transitionally recognised association of employees that does not have the right to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of transferring employees is to have that right;
  - (c) an order that a transitionally recognised association of employees is not to have the right to represent, under the Act or the Fair Work Act, the industrial interests of a particular class or group of transferring employees who are eligible for membership of the association.
- (2) The FWC may make the order.
- (3) In considering whether to make an order under subclause (2), the FWC must have regard to:
  - (a) the wishes of transferring employees who would be affected by the order; and
  - (b) any other matter that the FWC considers relevant, including the following:
    - (i) any prior State orders of a similar kind that were in force in relation to the transferring employees;
    - (ii) the effect of the new order on the operation of the employer of the transferring employees;
    - (iii) any agreements or understandings of which the FWC becomes aware that deal with the right of the transitionally recognised association or other organisation to represent the transferring employees;
    - (iv) the consequences, for the employer, the employees, the transferring employees, the transitionally recognised association or an organisation affected by the order, of not making an order.
- (4) The FWC may, on application by an organisation, a transitionally recognised association of employees, an employer or the Minister, vary an order made under subclause (2).
- (5) An order under subclause (2) may be subject to conditions or limitations.



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**1.7B Organisations and transitionally recognised associations must comply with order**

- (1) An organisation, or a transitionally recognised association, to which an order under subclause 1.7A(2) applies must comply with the order.
- (2) The Federal Court may, on application by an organisation affected by an order, a transitionally recognised association of employees affected by an order, an employer affected by an order or the Minister, make such orders as it thinks fit to ensure compliance with the order.

## Part 2—Cancellation of transitional recognition

### 1.8 Form of application to FWC for cancellation of recognition of transitionally recognised association

For paragraph 5(5)(a) of Schedule 1 to the Act, an application to the FWC by a transitionally recognised association to cancel its recognition under that Schedule must:

- (a) be in writing; and
- (b) state the grounds on which the application is made; and
- (c) be made by an officer of the association who is authorised to make the application.

### 1.9 Cancellation of transitional recognition by FWC—recognition by mistake

For subparagraph 5(5)(b)(i) of Schedule 1 to the Act, the FWC will be satisfied that a transitionally recognised association was recognised by mistake if, after giving the association an opportunity to be heard, it considers that, when the association was granted transitional recognition, it did not satisfy:

- (a) subclause 2(1) of Schedule 1 to the Act; or
- (b) subclause 2(1A) of Schedule 1 to the Act.

### 1.10 Cancellation of transitional recognition by FWC—association no longer State-registered association

For subparagraph 5(5)(b)(ii) of Schedule 1 to the Act, the FWC will be satisfied that a transitionally recognised association is no longer a State-registered association if, after giving the association an opportunity to be heard, it considers that the association is no longer a body that is:

- (a) an industrial organisation for the purposes of the *Industrial Relations Act 1996* of New South Wales; or
- (b) an organisation for the purposes of Chapter 12 of the *Industrial Relations Act 1999* of Queensland; or
- (c) an association or organisation for the purposes of the *Industrial Relations Act 1979* of Western Australia; or
- (d) a registered association for the purposes of the *Fair Work Act 1994* of South Australia; or
- (e) an organisation for the purposes of the *Industrial Relations Act 1984* of Tasmania.

Note: **State-registered association** has the meaning given by subitem 1(1) of Schedule 1 to the Act.

## **Part 3—Modification of the Act for transitionally recognised associations**

### **1.11 Application of Part**

For clause 7 of Schedule 1 to the Act, this Part explains how section 19 of the Act applies to a transitionally recognised association.

### **1.12 Provisions not to apply**

The following provisions of section 19 of the Act are taken not to apply to the association:

- (a) paragraph 19(1)(j);
- (b) subsection 19(2);
- (c) subsection 19(3).

### **1.13 Other criteria for recognition of transitionally recognised association—coverage rules**

Section 19 (other than the provisions mentioned in clause 1.12) of the Act applies to the association as if the section required the FWC to refuse to grant an application for recognition made by the association, unless the rules of the association state that the association is eligible to represent members only within the State in which it had been registered as a State-registered association immediately before its recognition as a transitionally recognised association.

Note: *State-registered association* has the meaning given by subitem 1(1) of Schedule 1 to the Act.

### **1.14 Change of rules not to prevent recognition**

Section 19 (other than the provisions mentioned in clause 1.12) of the Act applies to the association as if the section provided that the FWC is not prevented from granting an application for recognition made by a transitionally recognised association only because the association amended its rules after its recognition as a transitionally recognised association.

## Schedule 1AA—Prescribed State laws

(Subclause 1(2) of Schedule 2 to the Act)

1. *Industrial Relations Act 1996* of New South Wales.
2. *Industrial Relations Act 1999* of Queensland.
3. *Industrial Relations Act 1979* of Western Australia.
4. *Fair Work Act 1994* of South Australia.

## Schedule 2—Recognised State-registered associations

Note: *This Schedule is made for Schedule 2 to the Act.*

### 2.1 Form of application to FWC for cancellation of recognition of State-registered association

For paragraph 3(3)(a) of Schedule 2 to the Act, an application to the FWC by a recognised State-registered association to cancel its recognition under that Schedule must:

- (a) be in writing; and
- (b) state the grounds on which the application is made; and
- (c) be made by an officer of the association who is authorised to make the application.

Note: **State-registered association** has the meaning given by subitem 1(1) of Schedule 1 to the Act.

### 2.2 Cancellation of recognition by FWC—State-registered association recognised by mistake

For subparagraph 3(3)(b)(i) of Schedule 2 to the Act, the FWC will be satisfied that a recognised State-registered association was recognised by mistake if, after giving the association an opportunity to be heard, the FWC considers that the association did not satisfy subclause 1(1) of that Schedule at the time at which it was granted recognition.

Note: **State-registered association** has the meaning given by subitem 1(1) of Schedule 1 to the Act.

### 2.3 Cancellation of recognition by FWC—recognised State-registered association no longer State-registered association

For subparagraph 3(3)(b)(ii) of Schedule 2 to the Act, the FWC will be satisfied that a recognised State-registered association is no longer a State-registered association if, after giving the association an opportunity to be heard, it considers that the association is no longer a body that is:

- (a) an industrial organisation for the purposes of the *Industrial Relations Act 1996* of New South Wales; or
- (b) an organisation for the purposes of Chapter 12 of the *Industrial Relations Act 1999* of Queensland; or
- (c) an association or organisation for the purposes of the *Industrial Relations Act 1979* of Western Australia; or
- (d) a registered association for the purposes of the *Fair Work Act 1994* of South Australia; or
- (e) an organisation for the purposes of the *Industrial Relations Act 1984* of Tasmania.

Note: **State-registered association** has the meaning given by subitem 1(1) of Schedule 1 to the Act.

Clause 2.4

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**2.4 Cancellation of recognition by FWC—recognised State-registered association contravened State or Territory industrial law**

For subparagraph 3(3)(b)(iii) of Schedule 2 to the Act, the FWC will be satisfied that a recognised State-registered association has been found by another industrial body to have contravened a State or Territory industrial law and that the contravention constitutes serious misconduct, if:

- (a) the FWC considers that the association has contravened a State or Territory law; and
- (b) the FWC considers that the contravention constitutes serious misconduct; and
- (c) the FWC does not consider it to be unjust to cancel the recognition of the association, having regard to:
  - (i) the gravity of the matters constituting the contravention; and
  - (ii) the action that has been taken by, or against the association in relation to the matters.

Note: **State-registered association** has the meaning given by subitem 1(1) of Schedule 1 to the Act.

## Schedule 3—Forms

### Form 1—Certificate of registration

(regulation 30)

*Fair Work (Registered Organisations) Act 2009*, subsection 26(4)

#### **CERTIFICATE OF REGISTRATION OF AN ASSOCIATION AS AN ORGANISATION**

I, \_\_\_\_\_, the General Manager, under subsection 26(4) of the *Fair Work (Registered Organisations) Act 2009*, certify that on (*insert date of registration*) an association of \*employers/ \*employees called (*insert name of association*) was registered as an organisation under subsection 26(1) of the Act.

The eligibility rules of the association are as follows:

- (*insert relevant rules*)

Dated \_\_\_\_\_ 20\_\_.

.....  
General Manager

*\*Omit if inapplicable.*

## Form 2—Application for ballot under Part 3 of Chapter 3

(paragraph 82(a))

*Fair Work (Registered Organisations) Act 2009*, subsection 94(4)

### APPLICATION FOR BALLOT UNDER PART 3 OF CHAPTER 3

TO: THE FAIR WORK COMMISSION

I/We, (*full name(s) of applicant(s)*), the applicant(s) listed in the schedule to this application,\*:

- (a) apply for a ballot to be held to decide whether (*name of constituent part of amalgamated organisation*) should withdraw from (*name of amalgamated organisation*); and
- (b) nominate (*name*), of (*address*) as the representative constituent member for the purposes of the ballot.

*\*Omit if inapplicable.*

#### PARTICULARS

1. Details of the eligibility of the applicant(s) to make the application in accordance with subsection 94(3) of the Act.
2. The date of the amalgamation as a result of which the constituent part became part of the amalgamated organisation.
3. If the application is made more than 5 years after the date of the amalgamation—any information the applicant(s) consider relevant to whether it is appropriate for the FWC to accept the application under section 94A of the Act.
4. A statement that neither of the events in subsection 94(2) of the Act has occurred.
5. Each question proposed to be put to the ballot.
6. Any other information that the applicant wishes the FWC to have regard to.

Note 1: Section 95 of the Act requires this application to be accompanied by a fair and accurate written outline of the proposal to withdraw from the amalgamation.

Note 2: Section 95A of the Act requires this application to be accompanied by a statement of the name, and a copy of the rules, proposed for the new organisation and a statement of the name, and a copy of the alterations of the rules, proposed for the amalgamated organisation.

Dated 20 .

.....  
*Signature of applicant(s)*



## Form 3—Ballot paper under Part 3 of Chapter 3

(regulation 90A)

*Fair Work (Registered Organisations) Act 2009*, section 102

BALLOT OF MEMBERS OF

(*Name of constituent part of organisation*)

BALLOT PAPER IN RESPECT OF PROPOSED WITHDRAWAL  
FROM AMALGAMATED ORGANISATION

(*Initials, or facsimile of  
initials, of the person  
conducting the ballot*)

CLOSING DATE OF BALLOT: (*Date*)

### *Directions to Voter*

- Record your vote on the ballot paper as follows:
  - if you approve the withdrawal of the constituent part from the amalgamated organisation referred to in the question set out below, write “YES” in the space provided opposite the question;
  - if you do not approve the withdrawal of the constituent part from the amalgamated organisation referred to in the question set out below, write “NO” in the space provide opposite the question.
- Do not place on this paper any mark or writing by which you may be identified.

### QUESTION FOR VOTERS:

DO YOU APPROVE THE PROPOSED WITHDRAWAL OF (*name of  
constituent part of organisation whose members are voting*) FROM (*name of  
amalgamated organisation from which withdrawal is proposed*) AND ITS  
REGISTRATION AS A SEPARATE ORGANISATION UNDER THE *FAIR  
WORK (REGISTERED ORGANISATIONS) ACT 2009*? \_\_\_\_\_

## Form 4—Application for determination of day of withdrawal from amalgamated organisation

(subregulation 107(5))

*Fair Work (Registered Organisations) Act 2009*, subsection 109(5)

### APPLICATION FOR DETERMINATION OF DAY OF WITHDRAWAL FROM AMALGAMATED ORGANISATION

TO: THE FEDERAL COURT OF AUSTRALIA

I/We, (*full name(s) of applicant(s)*), the applicant(s) listed in the schedule to this application\*, apply for:

- (a) a determination of the day on which the withdrawal of (*name of constituent part of amalgamated organisation*) from (*name of amalgamated organisation*) is to take effect;
- (b) orders to apportion the assets and liabilities of (*name of amalgamated organisation*) between (*name of amalgamated organisation*) and (*name of constituent part of amalgamated organisation*);\*
- (c) other orders in connection with giving effect to the withdrawal\*.

*\*Omit if inapplicable.*

#### INFORMATION

- 1. Details of the eligibility of the applicant(s) to make the application in accordance with subsection 109(3) of the Act.
- 2. A statement that more than 50% of the formal votes cast in a ballot are in favour of the constituent part withdrawing from the amalgamated organisation.
- 3. If the constituent part, or an organisation of which the constituent part was a State or Territory branch, was de-registered in connection with the formation of the amalgamated organisation:
  - a. the assets and liabilities of the constituent part or organisation before the de-registration; and
  - b. any change in the net value of those assets or liabilities that has occurred since the amalgamation.
- 4. Details of any rules, arrangements, practices or understandings of the amalgamated organisation under which:
  - a. assets of the amalgamated organisation have been held for the benefit of the constituent part; or
  - b. liabilities of the amalgamated organisation have been the responsibility of the constituent part.
- 5. Details of the creditors of the amalgamated organisation and the nature of their interest.

6. Other information to which the applicant wishes the Court to have regard.

Dated 20 .

.....  
*Signature of applicant(s)*

## Form 5—Agreement between organisation and State union

(regulation 117)

*Fair Work (Registered Organisations) Act 2009*, subsection 151(1)

### AGREEMENT BETWEEN ORGANISATION AND STATE REGISTERED UNION

(*Insert name of organisation*) (the **Organisation**) and (*insert name of State union*) (the **Union**) agree that the members of the Union who, under the eligibility rules of the Organisation, are not eligible to be members of the Organisation are \*[, subject to the provisions set out in the Schedule,] eligible to become members of the Organisation.

\*[SCHEDULE]

Dated 20 .

Signed on behalf of the  
Organisation by

(*Signature, name and title of  
office, of person(s) signing*)

in the presence of

.....

Signed on behalf of the  
Union by

(*Signature, name and title of  
office, of person(s) signing*)

in the presence of

.....

\**Omit words within brackets if unnecessary.*

## Form 6—Agreement between organisation and State union

(regulation 118)

*Fair Work (Registered Organisations) Act 2009*, subsection 152(2)

### ASSETS AND LIABILITIES AGREEMENT BETWEEN ORGANISATION AND STATE-REGISTERED UNION

*(Insert name of organisation)*, in this agreement called ‘the Organisation’, and *(insert name of State union)*, in this agreement called ‘the Union’, agree to the following arrangements for the management and control of the assets and liabilities of the Organisation and the Union:

*(Set out details of agreement)*

Dated 20 .

Signed on behalf of the  
Organisation by:

*(Signature, name and title of  
office of person(s) signing)*

in the presence of

.....

Signed on behalf of the  
Union by:

*(Signature, name and title of  
office of person(s) signing)*

in the presence of

.....

## Form 7—Certificate of conscientious objection to membership of association

(subregulation 128(2))

*Fair Work (Registered Organisations) Act 2009*, subsection 180(1)

### CERTIFICATE OF CONSCIENTIOUS OBJECTION TO MEMBERSHIP OF ASSOCIATION

I, \_\_\_\_\_, \*the/\*a General Manager or delegate to the General Manager, under subsection 180(1) of the *Fair Work (Registered Organisations) Act 2009*, certify that:

- (a) on application made by (*name of applicant*) of (*address of applicant*), I am satisfied that \*his/\*her conscientious beliefs do not allow \*him/\*her to be a member of an association of a kind described in paragraph \*18(1)(a)/ \*18(1)(b)/ \*18(1)(c) of the Act; and
- (b) (*name of applicant*) has paid the prescribed fee.

This certificate, unless sooner revoked, remains in force for a period of \_\_\_\_\_ from the date of this certificate.

Dated \_\_\_\_\_ 20 \_\_\_\_.

.....  
\* General Manager or delegate  
to the General Manager

\*Omit if inapplicable.

(regulation 144)

*Fair Work (Registered Organisations) Act 2009*, paragraph 203(2)(a)

I, \*the Commissioner /\*delegate of the Commissioner,  
acting under subsection 203(1) of the *Fair Work  
(Registered Organisations) Act 2009*, certify that

.....  
(Signature of staff member)

\*Commissioner  
\*Delegate of Commissioner

*Fair Work (Registered Organisations) Regulations 2009*

## Endnotes

### Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.



**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

### Endnote 3—Legislation history

Number and year	FRLI registration or gazettal	Commencement	Application, saving and transitional provisions
82, 2003	8 May 2003	12 May 2003 (r 2)	
351, 2003	23 Dec 2003	23 Dec 2003 (r 2)	—
51, 2006	17 Mar 2006 (F2006L00834)	27 Mar 2006 (r 2)	—
307, 2007	26 Sept 2007 (F2007L03832)	27 Sept 2007 (r 2) Note: disallowed by the House of Representatives on 12 Mar 2008	—
168, 2009	30 June 2009 (F2009L02569)	1 July 2009 (r 2)	—
245, 2011	14 Dec 2011 (F2011L02676)	15 Dec 2011 (r 2)	—
321, 2012	11 Dec 2012 (F2012L02417)	Sch 2: 1 Jan 2013 (s 2)	—
322, 2012	11 Dec 2012 (F2012L02409)	Sch 2: 12 Dec 2012 (s 2)	—
152, 2013	28 June 2013 (F2013L01264)	Sch 1 (item 18): 1 July 2013 (s 2)	—
Name	Registration	Commencement	Application, saving and transitional provisions
Fair Work (Registered Organisations) Amendment Regulations 2017	24 Apr 2017 (F2017L00470)	Sch 1 and 3: 1 May 2017 (s 2(1) items 2, 4) Sch 2: 2 May 2017 (s 2(1) item 3)	—
Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Regulations 2019	25 Mar 2019 (F2019L00392)	Sch 1 (item 57): 26 Mar 2019 (s 2(1) item 2)	—
Fair Work (Registered Organisations) Amendment (Withdrawal from Amalgamations) Regulations 2021	19 Mar 2021 (F2021L00263)	20 Mar 2021 (s 2(1) item 1)	—
Federal Circuit and Family Court of Australia Legislation (Consequential Amendments and Other Measures) Regulations 2021	30 Aug 2021 (F2021L01204)	Sch 2 (item 26): 1 Sept 2021 (s 2(1) item 1)	—

## Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Fair Work Legislation Amendment Regulations 2022	13 Dec 2022 (F2022L01640)	Sch 1 (item 7): 10 Jan 2023 (s 2(1) item 4) Sch 1 (items 10–61): <u>awaiting commencement</u> <u>(s 2(1) item 5)</u> Sch 1 (items 62–65): 7 Dec 2022 (s 2(1) item 6)	—

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

Provision affected	How affected
<b>Part 1</b>	
r. 1 .....	rs. 2009 No. 168
r. 2 .....	rep LA s 48D
r. 3 .....	rs No 168, 2009 am No 321, 2012; F2017L00470; F2019L00392; F2022L01640 ( <a href="#">Sch 1 item 10</a> )
r. 4 .....	am. 2006 No. 51; 2009 No. 168; No. 152, 2013; F2017L00470 rep F2017L00470
r. 5 .....	am. 2009 No. 168
r. 6 .....	am. 2009 No. 168
r. 7 .....	rs. 2009 No. 168
r. 8 .....	rs. 2009 No. 168
r. 8A .....	ad. 2011 No. 245
r. 9 .....	am. 2009 No. 168
r. 10 .....	am. 2009 No. 168; F2017L00470
r. 11 .....	am. 2009 No. 168; F2017L00470
<b>Part 2</b>	
<b>Division 1</b>	
Division 1 heading.....	ad F2017L00470
r. 12 .....	am. 2009 No. 168
<b>Division 2</b>	
Division 2 heading.....	ad F2017L00470
Heading to r. 13 .....	am. 2009 No. 168; 2012 No. 321
r. 13 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 14 .....	am. 2009 No. 168; 2012 No. 321
r. 14 .....	am. 2009 No. 168; 2012 No. 321
r. 15 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
r. 16 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
<b>Division 3</b>	
Division 3 .....	ad F2017L00470 rep <a href="#">F2022L01640</a>
r 16A .....	ad F2017L00470 rep <a href="#">F2022L01640</a>
r 16B.....	ad F2017L00470 rep <a href="#">F2022L01640</a>
r 16C.....	ad F2017L00470 rep <a href="#">F2022L01640</a>
r 16D .....	ad F2017L00470

## Endnote 4—Amendment history

Provision affected	How affected
	rep <a href="#">F2022L01640</a>
<b>Division 4</b>	
Division 4 heading.....	ad F2017L00470
r 17 .....	am No 168, 2009; F2017L00470; <a href="#">F2022L01640</a>
r 18 .....	am No 168, 2009; F2017L00470; <a href="#">F2022L01640</a>
r 19 .....	am. 2009 No. 168
r 20 .....	rs No 168, 2009
	am No 321, 2012; F2017L00470; <a href="#">F2022L01640</a>
<b>Part 3</b>	
Heading to Part 3 .....	am. 2009 No. 168
<b>Division 1</b>	
Heading to Div. 1 of Part 3 .....	am. 2009 No. 168
Heading to r. 21 .....	am. 2009 No. 168
r. 21 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 22 .....	am. 2009 No. 168
r. 22 .....	am. 2009 No. 168
r. 23 .....	am. 2009 No. 168; 2012 No. 321; F2017L00470
Heading to r. 24 .....	am. 2009 No. 168
r. 24 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 25 .....	am. 2009 No. 168
r. 25 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
r 26 .....	am No 51, 2006; No 168, 2009; F2017L00470; <a href="#">F2022L01640</a>
Heading to r. 27 .....	am. 2009 No. 168
r. 27 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 28 .....	am. 2009 No. 168
r. 28 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 29 .....	am. 2009 No. 168
r. 29 .....	am. 2009 No. 168
Heading to r. 30 .....	am. 2009 No. 168
r. 30 .....	am. 2009 No. 168
Heading to r. 31 .....	am. 2009 No. 168
r. 31 .....	am. 2003 No. 351; 2009 No. 168
r 32 .....	am No 168, 2009 (Sch 1 item 37 relating to paragraph 32(3)(b) md not incorp); No 321, 2012; F2017L00470
<b>Division 2</b>	
Heading to Div. 2 of Part 3 .....	am. 2009 No. 168
Heading to r. 33 .....	am. 2009 No. 168
	rs. 2009 No. 168
r. 33 .....	am. 2006 No. 51; 2009 No. 168
	rs. 2009 No. 168

## Endnotes

### Endnote 4—Amendment history

Provision affected	How affected
	am. 2012 No. 321
Heading to r. 34.....	am. 2009 No. 168
r. 34 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
Heading to r. 35.....	am. 2009 No. 168
r. 35 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
Heading to r. 36.....	am. 2009 No. 168
r. 36 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
<b>Part 4</b>	
Heading to Part 4.....	am. 2009 No. 168
<b>Division 1</b>	
Heading to Div. 1 of Part 4.....	am. 2009 No. 168
r. 37 .....	am. 2009 No. 168
r. 38 .....	am. 2009 No. 168; F2017L00470
Heading to r. 39.....	am. 2009 No. 168
r. 39 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
Heading to r. 40.....	am. 2009 No. 168
r. 40 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
Heading to r. 41.....	am. 2009 No. 168
r. 41 .....	am. 2009 No. 168
r. 42 .....	am. 2009 No. 168; F2017L00470
Heading to r. 43.....	am. 2009 No. 168
r. 43 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 44.....	am. 2009 No. 168
r. 44 .....	am. 2009 No. 168
Heading to r. 45.....	am. 2009 No. 168
r. 45 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
Heading to r. 46.....	am. 2009 No. 168
r. 46 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 47.....	am. 2009 No. 168
r. 47 .....	am. 2009 No. 168
Heading to r. 48.....	am. 2009 No. 168
r. 48 .....	am. 2009 No. 168
Heading to r. 49.....	am. 2009 No. 168
r. 49 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
Heading to r. 50.....	am. 2009 No. 168
Heading to r. 51.....	am. 2009 No. 168
r. 51 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 52.....	am. 2009 No. 168
r. 52 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 53.....	am. 2009 No. 168

## Endnote 4—Amendment history

Provision affected	How affected
r. 53 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 54 .....	am. 2009 No. 168
r. 54 .....	am. 2009 No. 168
Heading to r. 55 .....	am. 2009 No. 168
r. 55 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 56 .....	am. 2009 No. 168
Heading to r. 57 .....	am. 2009 No. 168
Heading to r. 58 .....	am. 2009 No. 168
r. 58 .....	am. 2003 No. 351
Heading to r. 59 .....	am. 2009 No. 168
r. 59 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 60 .....	am. 2009 No. 168
r. 60 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 61 .....	am. 2009 No. 168
r. 61 .....	am. 2009 No. 168
Heading to r. 62 .....	am. 2009 No. 168
r. 62 .....	am. 2009 No. 168
Heading to r. 63 .....	am. 2009 No. 168
r. 63 .....	am. 2003 No. 351; 2009 No. 168
Heading to r. 64 .....	am. 2009 No. 168
r. 64 .....	am. 2009 No. 168
Heading to r. 65 .....	am. 2009 No. 168
Heading to r. 66 .....	am. 2009 No. 168
r. 66 .....	am. 2009 No. 168
Heading to r. 67 .....	am. 2009 No. 168
r. 67 .....	am. 2003 No. 351; 2009 No. 168
r. 68 .....	am. No 351, 2003; No 168, 2009; F2017L00470; <u>F2022L01640</u>
r. 69 .....	am. 2003 No. 351; 2009 No. 168; F2017L00470
Heading to r. 70 .....	am. 2009 No. 168
r. 70 .....	am. 2009 No. 168
r. 71 .....	am. 2009 No. 168
r. 72 .....	am. 2009 No. 168
Heading to r. 73 .....	am. 2009 No. 168
r. 73 .....	am. 2009 No. 168
Heading to r. 74 .....	am. 2009 No. 168
Heading to r. 75 .....	am. 2009 No. 168
Heading to r. 76 .....	am. 2009 No. 168
Heading to r. 77 .....	am. 2009 No. 168
Heading to r. 78 .....	am. 2009 No. 168
r. 78 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321

## Endnotes

### Endnote 4—Amendment history

Provision affected	How affected
Heading to r. 79 .....	am. 2009 No. 168
r. 79 .....	am. 2009 No. 168
<b>Division 2</b>	
Heading to Div. 2 of Part 4 .....	am. 2009 No. 168
r 80 .....	am No 351, 2003; No 51, 2006; No 168, 2009; F2021L00263
Heading to r. 81 .....	am. 2009 No. 168
r. 81 .....	am. 2009 No. 168
Heading to r. 82 .....	am. 2009 No. 168
r. 82 .....	am. 2009 No. 168
r 83 .....	am No 51, 2006; No 168, 2009 rs F2021L00263
Heading to r. 84 .....	am. 2009 No. 168
r. 84 .....	am. 2006 No. 51; 2009 No. 168; 2012 No. 321
r 85 .....	rs No 51, 2006 am No 168, 2009; F2021L00263
r 86 .....	am No 51, 2006; No 168, 2009; No 321, 2012; F2021L00263
r 87 .....	am No 351, 2003; No 168, 2009; F2017L00470; F2021L00263; <u>F2022L01640</u>
r 87A .....	ad F2021L00263 am <u>F2022L01640</u>
r 88 .....	am No 51, 2006; No 168, 2009; No 321, 2012; F2021L00263
r 89 .....	am No 168, 2009; F2021L00263; <u>F2022L01640</u>
r 90 .....	am No 168, 2009; F2021L00263
r 90A .....	ad F2021L00263
r 91 .....	am No 168, 2009; F2021L00263
r 92 .....	am No 168, 2009; F2021L00263 rep F2021L00263
r 93 .....	am No 168, 2009; F2021L00263
r 94 .....	am No 168, 2009; F2021L00263
r 94A .....	ad F2021L00263
r 94B .....	ad F2021L00263
r 94C .....	ad F2021L00263
r 94D .....	ad F2021L00263
r 94E .....	ad F2021L00263
r 94F .....	ad F2021L00263
r 95 .....	am No 168, 2009; F2021L00263
r 96 .....	am No 351, 2003; No 168, 2009; F2021L00263
r 97 .....	am No 351, 2003; No 168, 2009; F2017L00470; F2021L00263; <u>F2022L01640</u>
r 98 .....	am No 351, 2003; No 168, 2009; F2021L00263
Heading to r. 99 .....	am. 2009 No. 168
r 100 .....	am No 168, 2009; F2021L00263



## Endnote 4—Amendment history

Provision affected	How affected
r 101 .....	am No 168, 2009; F2021L00263
r 102 .....	am No 51, 2006; No 168, 2009; No 321, 2012; F2021L00263
Heading to r. 103 .....	am. 2009 No. 168
r. 103 .....	am. 2006 No. 51; 2009 No. 168; 2012 No. 321
Heading to r. 104 .....	am. 2009 No. 168
r. 104 .....	am. 2006 No. 51; 2009 No. 168; 2012 No. 321
Heading to r. 105 .....	am. 2009 No. 168
r. 105 .....	am. 2006 No. 51; 2009 No. 168; 2012 No. 321
Heading to r. 106 .....	am. 2009 No. 168
r. 106 .....	am. 2006 No. 51; 2009 No. 168; 2012 No. 321
r 107 .....	am No 351, 2003; No 168, 2009; F2021L00263
Heading to r. 108 .....	am. 2009 No. 168
r. 108 .....	am. 2009 No. 168
Heading to r. 109 .....	am. 2009 No. 168
r. 109 .....	am. 2009 No. 168
r 110 .....	am No 168, 2009 rs F2021L00263
r 111 .....	am No 51, 2006; No 168, 2009; F2017L00470; <u>F2022L01640</u>
<b>Division 3</b>	
r 112 .....	am No 351, 2003; No 168, 2009; F2017L00470; <u>F2022L01640</u>
r 113 .....	am No 351, 2003; No 168, 2009; F2017L00470; F2021L00263; <u>F2022L01640</u>
r 114 .....	am No 168, 2009; F2021L00263
<b>Part 4A</b>	
Heading to Part 4A .....	am. 2009 No. 168
Part 4A .....	ad. 2006 No. 51
r. 114A .....	ad. 2006 No. 51 am. 2009 No. 168; 2012 No. 321; No 322, 2012; F2017L00470
Heading to r. 114B .....	am. 2009 No. 168 rs. 2012 No. 322
r. 114B .....	ad. 2006 No. 51 am. 2009 No. 168; 2012 No. 321
Heading to r. 114C .....	am. 2009 No. 168 rs. 2012 No. 322
r. 114C .....	ad. 2006 No. 51 am. 2009 No. 168; 2012 No. 321
r. 114CA .....	ad. 2012 No. 322
Heading to r. 114D .....	am. 2009 No. 168
r. 114D .....	ad. 2006 No. 51 am. 2009 No. 168; 2012 No. 321
Note to r. 114D (2) .....	am. 2009 No. 168

## Endnotes

### Endnote 4—Amendment history

Provision affected	How affected
	rs. 2012 No. 321
r 114E.....	ad No 307, 2007 (disallowed); No 322, 2012
	am F2017L00470
r. 114F .....	ad. 2012 No. 322
	am F2017L00470
<b>Part 5</b>	
Heading to Part 5.....	am. 2009 No. 168
<b>Division 1</b>	
Heading to r. 115.....	am. 2009 No. 168
r. 115 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
Heading to r. 116.....	am. 2009 No. 168
r. 116 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 117.....	am. 2009 No. 168
r. 117 .....	am. 2009 No. 168
Heading to r. 118.....	am. 2009 No. 168
r. 118 .....	am. 2009 No. 168
Heading to r. 119.....	am. 2009 No. 168
r. 119 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 120.....	am. 2009 No. 168
r. 120 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 121.....	am. 2009 No. 168
r. 121 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 122.....	am. 2009 No. 168
r. 122 .....	am. 2009 No. 168
Heading to r. 123.....	am. 2009 No. 168
r. 123 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 124.....	am. 2009 No. 168
r. 124 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 125.....	am. 2009 No. 168
r. 125 .....	am. 2009 No. 168; 2012 No. 321
r. 125A .....	ad. 2011 No. 245
r. 125B.....	ad. 2011 No. 245
	am. 2012 No. 321
r. 125C.....	ad. 2011 No. 245
r. 125D .....	ad. 2011 No. 245
	am. 2012 No. 321
r. 125E.....	ad. 2011 No. 245
r. 125F .....	ad. 2011 No. 245
	am. 2012 No. 321
r. 125G .....	ad. 2011 No. 245

## Endnote 4—Amendment history

Provision affected	How affected
r. 125H .....	ad. 2011 No. 245 am F2017L00470
Heading to r. 126 .....	am. 2009 No. 168
r. 126 .....	am. 2009 No. 168; 2012 No. 321
<b>Division 2</b>	
Heading to r. 127 .....	am. 2009 No. 168
r. 127 .....	am. 2009 No. 168; 2012 No. 321
<b>Part 6</b>	
Heading to Part 6 .....	am. 2009 No. 168
Heading to r. 128 .....	am. 2009 No. 168
r. 128 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 129 .....	am. 2009 No. 168
r. 129 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 130 .....	am. 2009 No. 168
r. 130 .....	am. 2009 No. 168
<b>Part 7</b>	
Heading to Part 7 .....	am. 2009 No. 168
<b>Division 1</b>	
r. 131 .....	am No 168, 2009; F2017L00470; <u>F2022L01640</u>
Heading to r. 132 .....	am. 2009 No. 168
r. 132 .....	am. 2009 No. 168
r. 133 .....	am No 168, 2009; No 321, 2012; F2017L00470; <u>F2022L01640</u>
r. 134 .....	am No 351, 2003; No 168, 2009; No 321, 2012; F2017L00470; <u>F2022L01640</u>
r. 135 .....	am No 168, 2009; No 321, 2012; F2017L00470; <u>F2022L01640</u>
r. 136 .....	am No 168, 2009; F2017L00470; <u>F2022L01640</u>
r. 137 .....	am No 168, 2009; No 321, 2012; F2017L00470; <u>F2022L01640</u>
Heading to r. 138 .....	am. 2009 No. 168
r. 138 .....	am. 2003 No. 351; 2009 No. 168
Heading to r. 139 .....	am. 2009 No. 168
r. 139 .....	am. 2009 No. 168
r. 140 .....	am No 351, 2003; No 168, 2009; F2017L00470; <u>F2022L01640</u>
Heading to r. 141 .....	am. 2009 No. 168
r. 141 .....	am. 2003 No. 351; 2009 No. 168
r. 142 .....	am No 351, 2003; No 168, 2009; F2017L00470; <u>F2022L01640</u>
Heading to r. 143 .....	am. 2009 No. 168
r. 143 .....	am. 2009 No. 168
Heading to r. 144 .....	am. 2009 No. 168
r. 144 .....	am. 2009 No. 168
<b>Division 2</b>	
Heading to Div. 2 of Part 7 .....	am. 2009 No. 168

## Endnotes

### Endnote 4—Amendment history

Provision affected	How affected
r 145 .....	am No 351, 2003; No 168, 2009; F2017L00470; <a href="#">F2022L01640</a>
r. 146 .....	am. 2009 No. 168
<b>Part 8</b>	
Heading to Part 8 .....	am. 2009 No. 168
Heading to r. 147 .....	am. 2009 No. 168
r. 147 .....	am. 2009 No. 168
Heading to r. 148 .....	am. 2009 No. 168
r. 148 .....	am. 2009 No. 168
Heading to r. 149 .....	am. 2009 No. 168
r. 149 .....	am. 2009 No. 168
Heading to r. 150 .....	am. 2009 No. 168
r. 150 .....	am. 2009 No. 168
Heading to r. 151 .....	am. 2009 No. 168
r. 151 .....	am. 2009 No. 168
r 152 .....	am No 351, 2003; No 168, 2009; F2017L00470; <a href="#">F2022L01640</a>
Heading to r. 153 .....	am. 2009 No. 168
r. 153 .....	am. 2003 No. 351; 2009 No. 168; 2012 No. 321
Heading to r. 154 .....	am. 2009 No. 168
r. 154 .....	am. 2009 No. 168
Heading to r. 155 .....	am. 2009 No. 168
r. 155 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 156 .....	am. 2009 No. 168
r. 156 .....	am. 2009 No. 168
Heading to r. 157 .....	am. 2009 No. 168
r. 157 .....	am. 2009 No. 168; 2012 No. 321
Heading to r. 158 .....	am. 2009 No. 168
r. 158 .....	am. 2009 No. 168
r. 159 .....	am. 2009 No. 168
r 159A .....	ad F2017L00470 am <a href="#">F2022L01640</a>
r 159B .....	ad F2017L00470 am <a href="#">F2022L01640</a>
r 159C .....	ad F2017L00470 am <a href="#">F2022L01640</a>
r 159D .....	ad F2017L00470 am <a href="#">F2022L01640</a>
Heading to r. 160 .....	am. 2009 No. 168
r. 160 .....	am. 2009 No. 168
Heading to r. 161 .....	am. 2009 No. 168
r. 161 .....	am. 2009 No. 168

## Endnote 4—Amendment history

Provision affected	How affected
Heading to r. 162 .....	am. 2009 No. 168
r. 162 .....	am. 2009 No. 168
r. 163 .....	am. 2009 No. 168; F2017L00470
Heading to r. 164 .....	am. 2009 No. 168
r. 164 .....	am. 2009 No. 168
Heading to r. 165 .....	am. 2009 No. 168
r. 165 .....	am. 2009 No. 168
r 166 .....	am No 168, 2009; F2017L00470; <u>F2022L01640</u>
r 167 .....	am No 168, 2009; F2017L00470; <u>F2022L01640</u>
<b>Part 8A</b>	
Part 8A .....	ad F2017L00470
r 167A .....	ad F2017L00470
r 167B .....	ad F2017L00470 am <u>F2022L01640</u>
<b>Part 9</b>	
Heading to Part 9 .....	am. 2009 No. 168
r 168 .....	am F2021L00263
r 171 .....	am No 168, 2009; F2017L00470; F2021L00263; <u>F2022L01640</u>
Note 1 to r. 172 .....	rs. 2012 No. 321
<b>Part 10</b>	
Heading to Part 10 .....	am. 2009 No. 168
<b>Division 1</b>	
Division 1 .....	ad F2017L00470
r 176A .....	ad F2017L00470 am <u>F2022L01640</u>
r 176B .....	ad F2017L00470
r 176C .....	ad F2017L00470
r 176D .....	ad F2017L00470
r 176E .....	ad F2017L00470
r 176F .....	ad F2017L00470 am F2021L01204
<b>Division 2</b>	
Division 2 .....	ad F2017L00470
r 176G .....	ad F2017L00470
r 176H .....	ad F2017L00470 am <u>F2022L01640</u>
r 176J .....	ad F2017L00470 am <u>F2022L01640</u>
r 176K .....	ad F2017L00470
r 176L .....	ad F2017L00470

## Endnotes

### Endnote 4—Amendment history

Provision affected	How affected
r 176M.....	ad F2017L00470
<b>Division 3</b>	
Division 3 heading.....	ad F2017L00470
r 177 .....	am No 168, 2009; F2017L00470; <u>F2022L01640</u>
r. 178 .....	am. 2009 No. 168
r 178A .....	ad F2017L00470
	rep <u>F2022L01640</u>
r. 179 .....	am. 2009 No. 168; 2012 No. 321
r 180 .....	am No 168, 2009; F2017L00470; <u>F2022L01640</u>
r 181 .....	am No 168, 2009; F2017L00470; <u>F2022L01640</u>
r 181A .....	ad No 168, 2009
	am No 321, 2012
	rs F2022L01640
<b>Part 11</b>	
Part 11 .....	ad. 2003 No. 351
r. 182 .....	ad. 2003 No. 351
	am. 2009 No. 168
<b>Schedule 1A</b>	
Schedule 1A .....	ad No 245, 2011
<b>Schedule 1</b>	
Schedule 1 .....	ad No 168, 2009
<b>Part 1</b>	
<b>Division 1</b>	
c 1.1A.....	ad No 322, 2012
c 1.1.....	ad No 168, 2009
	am No 321, 2012
c 1.2.....	ad No 168, 2009
	am No 321, 2012
c 1.3.....	ad No 168, 2009
<b>Division 2</b>	
c 1.3A.....	ad No 322, 2012
c 1.4.....	ad No 168, 2009
	am No 321, 2012; No 322, 2012
c 1.5.....	ad No 168, 2009
	am No 321, 2012
c 1.6.....	ad No 168, 2009
<b>Division 3</b>	
c 1.6A.....	ad No 322, 2012
c 1.7.....	ad No 168, 2009
	am No 321, 2012; No 322, 2012; F2017L00470

## Endnote 4—Amendment history

Provision affected	How affected
<b>Division 4</b>	
Division 4 .....	ad No 322, 2012
c 1.7A .....	ad No 322, 2012 am F2017L00470
c 1.7B .....	ad No 322, 2012
<b>Part 2</b>	
c 1.8 .....	ad No 168, 2009 am No 321, 2012; F2017L00470
c 1.9 .....	ad No 168, 2009 am No 321, 2012 rs No 322, 2012 am F2017L00470
c 1.10 .....	ad No 168, 2009 am No 321, 2012; F2017L00470
<b>Part 3</b>	
c 1.11 .....	ad No 168, 2009
c 1.12 .....	ad No 168, 2009
c 1.13 .....	ad No 168, 2009 am No 321, 2012
c 1.14 .....	ad No 168, 2009 am No 321, 2012
<b>Schedule 1AA</b>	
Schedule 1AA .....	ad. 2011 No. 245
<b>Schedule 2</b>	
Schedule 2 .....	ad No 168, 2009
c 2.1 .....	ad No 168, 2009 am No 321, 2012; F2017L00470
c 2.2 .....	ad No 168, 2009 am No 321, 2012; F2017L00470
c 2.3 .....	ad No 168, 2009 am No 321, 2012
c 2.4 .....	ad No 168, 2009 am No 321, 2012
<b>Schedule 3</b>	
Heading to Schedule 1 .....	rep. 2009 No. 168
Heading to Schedule 3 .....	ad. 2009 No. 168
Form 1 .....	am. 2009 No. 168
Form 2 .....	am No 351, 2003; No 168, 2009 rs F2021L00263
Form 3 .....	am No 168, 2009

## Endnotes

### Endnote 4—Amendment history

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Provision affected	How affected
	rs F2021L00263
Form 4 .....	am No 168, 2009
	rs F2021L00263
Form 5 .....	am. 2006 No. 51; 2009 No. 168
Form 6 .....	am. 2009 No. 168
Form 7 .....	am. 2009 No. 168
Form 8 .....	am No 168, 2009; No 321, 2012
	rs F2017L00470; F2022L01640