

# **Australian Industrial Relations Commission Amendment Rules 2004 (No. 2) 2004 No. 280**

## **EXPLANATORY STATEMENT**

### **STATUTORY RULES 2004 NO. 280**

#### **Australian Industrial Relations Commission Amendment Rules 2004 (No. 2)**

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

#### **Authority**

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

Under subsection 48(1) of the Act the President of the Commission by signed instrument, after consultation with members of the Commission, may make rules, not inconsistent with the Act, with respect to:

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

and, in particular:

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

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

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

#### **Purpose**

A number of amendments are consequential to the amendments made to the *Workplace Relations Act 1996* by the *Workplace Relations Amendment (Transmission of Business) Act 2004* and the remainder have been made to improve the workings of the Rules.

#### **Details**

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

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

**Rule 2** provides that these Rules commence on *Gazetta*.

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

## **Schedule 1**

**Item 1** - Insertion of a new Rule 51A provides for an application under section 170MBA of the *Workplace Relations Act 1996* for an order about the extent to which a successor employer is bound by a certified agreement arising from *Workplace Relations Amendment (Transmission of Business) Act 2004*.

**Item 2** - Form R28 is amended to require the date that the employees first have access or ready access to the agreement to be included. Form R28 is also amended to simplify the provision of details relating to the no disadvantage test.

**Item 3** - Amendment to Form R28B requires the reasons for characterising the new business as a greenfields site. Form R28B is also amended to simplify the provision of details relating to the no disadvantage test.

**Item 4** - Amendments to Form R30 requires a copy of the written notice given to employees of the employer's intention to make the agreement, and again if the proposed agreement is varied for any reason, to accompany the application. Form R30 is also amended to simplify the provision of details relating to the no disadvantage test.

**Item 5** - Form R32 is amended to require the date that the employees first have access or ready access to the agreement to be included. Form R32 is also amended to simplify the provision of details relating to the no disadvantage test.

**Item 6** - Insertion of new Forms R33A and R33B arising from new Rule 51A.

**Item 7** - Amendment to Form R34 provides for the accompanying statutory declaration to better particularise the requirements of subsection 170MC(3); and amendment to Form R35 provides instruction to parties in addressing the requirements of subsection 170MD(3) of the Act.

**Item 8** - Amendment to Form R37 provides for the accompanying statutory declaration to better particularise the requirements of subsection 170MG(3).