

EXPLANATORY STATEMENT

Select Legislative Instrument 2005 No. 151

Australian Industrial Relations Commission Amendment Rules 2005 (No. 1)

(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 amendments to the *Petroleum (Submerged Lands) Act 1967* by the *Petroleum (Submerged Lands) Amendment Act 2003*, the remainder reflect the new filing fee and remuneration limit for unfair dismissal applications and 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 1 July 2005.

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 58A provides for the notice of the intention to take action under subsection 170MO of the *Workplace Relations Act 1996* to be given to each other negotiating party personally or by post or facsimile.

Item 2 - Insertion of a new Rule 76A provides for the referral of a disagreement to the Commission, as the reviewing authority, concerning the manner of establishing or varying a designated work group under subclause 24(4) of Schedule 7 of the *Petroleum (Submerged*

Lands) Act; and the insertion of a new Rule 76B provides for an appeal to the Commission as the reviewing authority under clause 37 of Schedule 7 of the Petroleum (Submerged Lands) Act against a decision by the OHS inspector under either clause 17, 33,34,35 or 36 of Schedule 7 of that Act.

Item 3 - Amendments to Form R18 reflect the new filing fee under section 170CEAA of the Workplace Relations Act 1996 and point 6, amendment better describes the types of employer named as the respondent on the application form.

Item 4 - Amendments to Form R19 reflect the new filing fee under section 170CEAA of the Workplace Relations Act 1996.

Item 5 - Amendments to Form R20 reflect the new filing fee under section 170CEAA of the Workplace Relations Act 1996.

Item 6 - Amendments to Form R21 provide a cross reference to applicant and case number details on Form R18 to clearly identify the matter and reflect the indexed (1 July 2005) specified rate within the grounds for jurisdictional objections in respect of an employee, not employed under award conditions whose remuneration exceeds \$94,900 per year.

Item 7 - Amendment to Form R21A provides a cross reference to Form R18, the application form the subject of the motion to dismiss for want of jurisdiction.

Item 8 - Amendment to Form R28, Part 7.1 provides for specific information on the relevant award for determining the no disadvantage test.

Item 9 - Amendment to Form R28B, Part 6.2 provides for specific information on the relevant award for determining the no disadvantage test.

Item 10 - Amendment to Form R30, Part 6.1 provides for specific information on the relevant award for determining the no disadvantage test.

Item 11 - Amendment to Form R32, Part 6.1 provides for specific information on the relevant award for determining the no disadvantage test.

Item 12 - Insertion of a new Form R54A arising from new Rule 76A; new Form R54B arising from new Rule 76B and new Form R54C arising from new Rule 76B.