



# Australian Industrial Relations Commission Amendment Rules 2005 (No. 1)<sup>1</sup>

## Select Legislative Instrument 2005 No. 151

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

Dated 28 June 2005

G. M. GIUDICE  
President

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### 1      **Name of Rules**

These Rules are the *Australian Industrial Relations Commission Amendment Rules 2005 (No. 1)*.

**2 Commencement**

These Rules commence on 1 July 2005.

**3 Amendment of *Australian Industrial Relations Commission Rules 1998***

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

**Schedule 1 Amendments**

(rule 3)

**[1] After Rule 58**

*insert*

**58A Notice of action to be taken**

A notice, under subsection 170MO of the Act, of the intention to take action may be given to each other negotiating party personally or by post or facsimile transmission.

**[2] After Rule 76**

*insert*

**76A Referral of disagreement concerning manner of establishing or varying a designated work group**

- (1) A referral of a disagreement, under subsection 12 (4) of Schedule 7 to the *Petroleum (Submerged Lands) Act 1967*, to the Commission as the reviewing authority must be made in accordance with Form R54A.
- (2) In resolution of the matter of disagreement, the Commission may invite the National Offshore Petroleum Safety Authority to participate in any proceedings.

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**76B Appeals to Commission**

- (1) An appeal, under section 37 of Schedule 7 to the *Petroleum (Submerged Lands) Act 1967* (the **PSL Act**), to the Commission as the reviewing authority must be instituted by lodging with a Registrar a notice of appeal in accordance with Form R54B and 3 copies of the notice, together with 3 copies of:
  - (a) the OHS inspector's decision under appeal; and
  - (b) any notices issued relating to the decision under appeal; and
  - (c) any other document in the possession of the appellant that is relevant to the decision under appeal.
- (2) An appeal must be instituted before the end of 14 days after the date of the decision appealed against or, on application, within such further time as is allowed by the Commission.
- (3) An application to the Commission for leave to institute an appeal after the 14 days mentioned in subrule (2) must be made in accordance with Form R54C.
- (4) If an appellant seeks an order under subsection 37 (3) of Schedule 7 to the PSL Act, (that is, an order that the making of the appeal does affect the operation of the decision or prevent the taking of action to implement the decision), the notice of appeal must include an application to that effect.
- (5) If a person seeks an order under subsection 37 (4) or (5) of Schedule 7 to the PSL Act, (that is, an order that the operation of the relevant notice under section 17 of Schedule 7, or the relevant decision under section 36 of Schedule 7, to that Act, as the case may be, not be suspended pending determination of the appeal), the notice of appeal must include an application to that effect.
- (6) On lodging a notice of appeal under subsection 37 (1) of Schedule 7 to the PSL Act, the appellant must, as soon as practicable, serve a copy of the documents lodged in accordance with subrule (1) on:
  - (a) the OHS inspector who made the decision under appeal; and

- (b) the operator of the facility or any employer (other than the operator) affected by the decision; and
  - (c) any person to whom a notice has been issued under subsection 17 (2) or 36 (1) of Schedule 7 to the PSL Act; and
  - (d) if there is a designated work group having a group member affected by the decision:
    - (i) the health and safety representative for that group; and
    - (ii) the workforce representative for that group; and
  - (e) if there is no designated work group, and a member of the workforce affected by the decision has requested a workforce representative — that workforce representative; and
  - (f) a person who owns a workplace, plant, substance or thing to which the decision relates; and
  - (g) the Chief Executive Officer of the National Offshore Petroleum Safety Authority.
- (7) On lodging a notice of appeal under subsection 37 (2) of Schedule 7 to the PSL Act, the appellant must, as soon as practicable, serve a copy of the notice of appeal and documents lodged in accordance with subrule (1) on:
- (a) the OHS inspector who made the decision under appeal; and
  - (b) if there is a designated work group having a group member affected by the decision:
    - (i) the health and safety representative for that group; and
    - (ii) the workforce representative for that group; and
  - (d) if there is no designated work group, and a member of the workforce affected by the decision has requested a workforce representative — that workforce representative; and
  - (e) the Chief Executive Officer of the National Offshore Petroleum Safety Authority; and

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- (8) On the Commission fixing a time and place for the hearing of the appeal, a Registrar must give notice to:
- (a) the appellant; and
  - (b) the OHS inspector who made the decision under appeal; and
  - (c) if there is a designated work group having a group member affected by the decision:
    - (i) the health and safety representative for that group; and
    - (ii) the workforce representative for that group; and
  - (d) if there is no designated work group, and a member of the workforce affected by the decision has requested a workforce representative — that workforce representative; and
  - (e) the Chief Executive Officer of the National Offshore Petroleum Safety Authority; and
  - (f) any other person, if the Commission so directs.

**[3] Schedule 1, Form R18***substitute***Form R18 Application for relief in relation to termination of employment**

(rule 37)

<p>Australian Industrial Relations Commission</p> <p><b>APPLICATION FOR RELIEF IN RELATION TO TERMINATION OF EMPLOYMENT</b></p> <p><i>Workplace Relations Act 1996</i> (Commonwealth) Subsection 170CE (1)</p>	<p>Commission use only</p> <p>File number:</p>  <p>Date received:</p>
<p>In making this claim you (the applicant) should be aware that:</p> <ul style="list-style-type: none"> <li>specified categories of employees are not able to make or are excluded from making a claim under the Termination of Employment provisions of the <i>Workplace Relations Act 1996</i>.</li> <li>an application must be lodged within 21 days after the day on which the termination took effect, or within such period as the Commission allows (see subsection 170CE (7)).</li> <li>section 170CJ of the <i>Workplace Relations Act 1996</i> allows the Commission to make an order for costs in certain circumstances.</li> <li>section 170CEAA of the <i>Workplace Relations Act 1996</i> requires a fee of \$52.40 to be paid on lodgment of this application with the Commission unless a Registrar is satisfied that the applicant will suffer serious hardship if he or she pays the fee. The \$52.40 lodgment fee is refundable under certain circumstances (see subsection 170CEAA (8)).</li> </ul> <p>Details in relation to these matters are available from the Industrial Registry.</p>	

Details of Employee (the applicant)	
Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> 1 Full name	Family name:  Given names:
2 Home address	    Postcode:
3 Phone or fax number(s)	business hours ( ) after hours ( ) facsimile ( )
4 Date of birth	day/month/year / /
5 First language	English <input type="checkbox"/> other <input type="checkbox"/> ( <i>specify</i> ) Is an interpreter needed? Yes <input type="checkbox"/> No <input type="checkbox"/> Is there a family member or friend who can assist you? Yes <input type="checkbox"/> No <input type="checkbox"/>
Details of Employer	
6 Name of employer's business, company, corporation, authority or agency  Contact person's name	
7 Employer's trading address or registered office	Postcode: Phone ( ) Fax ( )
8 Work performed for employer (occupation)	
9 Place of work	Suburb/town: Postcode:
10 Date when you first worked for employer	/ /
11 Date when you last worked for employer	/ /

<p>12 Date termination of employment took effect</p> <p>Did you receive written notice of termination/separation certificate?</p>	<p style="text-align: center;">/ /</p> <p><i>State the date when you think the termination of employment took effect if the date is different from the date when you last worked.</i></p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes I attach a copy <input type="checkbox"/></p>
<p>13 Qualifying period of employment</p>	<p>If you commenced employment on or after 30 August 2001, have you and your employer determined by written agreement the qualifying period of employment? (See section 170CE (5A) of the <i>Workplace Relations Act 1996</i>.)</p> <p><input type="checkbox"/> No <input type="checkbox"/> Yes      If yes, the qualifying period of employment determined by written agreement:</p> <p>(a) began on (date): / / .</p> <p>(b) ends/ended on (date): / / .</p>
<p>14 Other employment details (if known)</p>	<p><b>What is the name of the award or agreement (including Australian Workplace Agreement) under which you were employed immediately before the termination?</b></p> <p>Is the award or agreement a State or Federal award?</p> <p><input type="checkbox"/> Federal <input type="checkbox"/> State      If State, name of State:</p>
<p><b>Extension of Time</b></p>	
<p>15 This section must be completed if the application is lodged more than 21 days after the day on which the termination took effect (see item 12). In such cases, the Commission must decide whether to accept the application.</p> <p>My reason/s for seeking an extension of time to lodge this application is/are: <i>write here or attach document</i></p>	
<p><b>Details of your representative or union</b></p>	
<p>16 Is anyone representing you?</p>	<p>No <input type="checkbox"/> go to item 20 / Yes <input type="checkbox"/> go to item 17</p>
<p>17 Name of legal firm, union or other representative</p>	
<p>18 Name of contact person at legal firm, union or other representative</p>	



2005, 151	<i>Australian Industrial Relations Commission Amendment Rules 2005 (No. 1)</i>	9
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<b>Declaration</b>	
<p>I declare that no proceedings in respect of the termination that is the subject of this claim have been commenced (other than proceedings that have since been discontinued or have failed for want of jurisdiction) by me or on my behalf under any other provision of the <i>Workplace Relations Act 1996</i> or under any other law of the Commonwealth or of a State or Territory.</p> <p><b>I further declare that all the facts in this application are correct and complete to the best of my knowledge and belief.</b></p>	
<p><i>The employee must sign this declaration unless the application was prepared by a solicitor, union or other representative of the employee.</i></p>	<p>[signature of employee]</p> <p>Date / /</p>
	<p>[signature of solicitor, union or other representative]</p> <p>Date / /</p>

If this application was prepared by a legal practitioner, has a contingency fee agreement (see section 170CIA) been entered into? Yes ☐ No ☐

If this application was prepared by a representative other than a legal practitioner, has a costs arrangement (see section 170CIA) been entered into? Yes ☐ No ☐

*See next page for lodgment fee details*

U No \_\_\_\_\_

**Fee** Section 170CEAA of the *Workplace Relations Act 1996* requires a fee of \$52.40 to be paid on lodgment of this application with the Commission unless a Registrar has, in effect, approved the waiving of the fee (in which case a copy of the Registrar's approval should accompany this application). If an application is lodged by facsimile transaction, credit card details must be provided for payment of the fee (if any). If an application is lodged electronically in accordance with Rule 70A, credit card details must **not** be provided on this form. Payment of the fee (if any) can only be made via the Commission's Internet page at <http://www.airc.gov.au>

☐ **cash**

☐ **cheque/money order** (to be made payable to Collector of Public Monies, Australian Industrial Registry)

☐ **Bankcard** ☐ **Visa** ☐ **Mastercard**

**Card Number** \_\_\_\_\_

**Card Expiry Date** \_\_\_\_ / \_\_\_\_

**Cardholder's Name** .....

**Signature** .....

Any refund of the lodgement fee (see subsection 170CEAA (8)) will be forwarded to the applicant at the address nominated in item 20.

:

COMMISSION USE ONLY

Receipt Number: ..... / Credit Transaction

Processed: .....

*Note* A copy of this completed form (and any attachments) will be forwarded to your former employer.

PLEASE RETAIN A COPY OF THIS DOCUMENT FOR YOUR OWN RECORDS

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**[4] Schedule 1, Form R19***substitute***Form R19 Application for relief in respect of  
termination of employment**

(rule 37)

Australian Industrial Relations Commission APPLICATION FOR RELIEF IN RESPECT OF TERMINATION OF EMPLOYMENT	Commission use only file number
<i>Workplace Relations Act 1996</i> (Cth) Subsection 170CE (2) or (4)	date received

**This Form is to be completed in respect of an application to the Commission for relief in respect of termination of employment solely on the ground of an alleged contravention of section 170CL of the *Workplace Relations Act 1996*.**

Section 170CL states:

- “(1) This section applies if an employer decides to terminate the employment of 15 or more employees for reasons of an economic, technological, structural or similar nature, or for reasons including such reasons.
- (2) As soon as practicable after so deciding and before terminating an employee’s employment because of the decision, the employer must give to the body (if any) prescribed by regulations made for this subsection or, failing the prescription of such a body, to the Secretary of the Department, a written notice of the intended terminations, in a form prescribed by the regulations, that sets out:
- (a) the reasons for the terminations; and
  - (b) the number and categories of employees likely to be affected; and
  - (c) the time when, or the period over which, the employer intends to carry out the terminations.
- (3) The employer must not terminate an employee’s employment pursuant to the decision unless the employer has complied with subsection (2).”
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In making this claim you (the applicant) should be aware that:

- specified categories of employees are excluded from making a claim under the Termination of Employment provisions of the *Workplace Relations Act 1996*.
- an application lodged more than 21 days after the day on which the employee is given notice of the decision to terminate the employee's employment can only be accepted if the Commission decides it would be unfair not to do so.
- section 170CJ of the *Workplace Relations Act 1996* allows, in certain circumstances, the Commission to make an order for costs
- Section 170CEAA of the *Workplace Relations Act 1996* requires a fee of \$52.40 to be paid on lodgment of this application in the Commission unless a Registrar has approved the waiving of the fee. The \$52.40 lodgment fee is refundable under certain circumstances

Details in relation to these matters are available from the Industrial Registry.

Details of employer alleged to have contravened section 170CL	
1 employer's name	.....
contact person	.....
2 employer's trading address or registered office	..... ..... ..... Postcode ..... phone (....) ..... Fax (....) .....
3 date notice of decision to terminate employee's employment was given.	/ /
4 other employment details	State the name of the award or agreement (including Australian Workplace Agreement) under which the employees are*/ were employed .....
	State whether the award or agreement is State or Federal <input type="checkbox"/> Federal <input type="checkbox"/> State If State, name of State: .....

<b>5 About the employees</b>	
Here insert name and address of employee/s whose employment has been* / is proposed to be* terminated by the employer	
.....	
.....	
.....	
<b>6 Brief summary of reasons given for termination or threatened termination</b> (or attached)	
.....	
.....	
.....	
<b>Extension of Time</b>	
7 This section to be completed if the application is lodged more than 21 days after the day on which the employee is given notice of the decision to terminate the employee's employment (see Item 3 above). In such cases, the Commission must decide whether to accept the application. My reason/s for seeking an extension of time to lodge this application is/are:(or attached)	
<b>Details of Union</b>	
8 Is your union acting on your behalf	No <input type="checkbox"/> go to 11 Yes <input type="checkbox"/> go to 9
9 name and address of union	..... ..... ..... Postcode
10 union contact person	..... phone (.....) ..... Fax (.....) .....
<b>Details of representative</b>	
11 Is anyone representing you?	No <input type="checkbox"/> go to 15 Yes <input type="checkbox"/> go to 12
12 name of solicitor or representative's firm	

## Notices from the Commission

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**Declaration**

**I declare that no proceedings in respect of the termination that is the subject of this claim have been commenced (other than proceedings that have since been discontinued or failed for want of jurisdiction) in respect of or on behalf of the employee under any other provision of the *Workplace Relations Act 1996* or under any other law of the Commonwealth or of a State or Territory.**

**I further declare that all the facts in this application are correct and complete to the best of my knowledge and belief.**

*The employee must sign this declaration\**

*If a solicitor or authorised representative has prepared the application, that person must sign here*

*If a union or an inspector is applying on behalf of the employee, a union representative or the inspector, as the case may be, must sign here*

Signature of employee ..... date                      /                      /
Signature of solicitor or representative ..... date                      /                      /
Signature for union or inspector ..... date                      /                      / Name (print): ..... position: .....



U No \_\_\_\_\_

**FEE [Section 170CEAA of the Workplace Relations Act 1996 requires a fee of \$52.40 to be paid on lodgment of this application in the Commission unless a Registrar has approved the waiving of the fee (in which case a copy of the Registrar's approval should accompany this application). If an application is lodged by facsimile transmission the credit card details must be provided]**

☐ cash

☐ **cheque/money order** (to be made payable to Collector of Public Monies, Australian Industrial Registry)

☐ **Bankcard** ☐ **Visa** ☐ **Mastercard**

**Card Number** \_\_\_\_\_

**Card Expiry Date** \_\_\_\_ / \_\_\_\_

**Cardholder's Name** \_\_\_\_\_

**Normal Card Signature** \_\_\_\_\_

In the event of a refund of the lodging fee being applicable, the refund should be

forwarded to:

.....  
 .....

Commission Use Only

**Receipt Number** \_\_\_\_\_/Credit Transaction

**Processed** \_\_\_\_\_

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**[5] Schedule 1, Form R20***substitute***Form R20 Application for relief in respect of  
termination of employment**

(rule 37)

Australian Industrial Relations Commission APPLICATION FOR RELIEF IN RESPECT OF TERMINATION OF EMPLOYMENT  <i>Workplace Relations Act 1996</i> (Cth) Subsection 170CE (3)	Commission use only file number  date received
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**This Form is to be completed in respect of an application to the Commission for relief in respect of termination of employment solely on the ground or grounds of an alleged contravention of one or more of sections 170CK, 170CM and 170CN of the *Workplace Relations Act 1996*.**

In making this claim the applicant union (being a trade union whose rules entitle it to represent the industrial interests of the employee) should be aware that:

- specified categories of employees are excluded from making a claim under the Termination of Employment provisions of the *Workplace Relations Act 1996*.
- section 170CJ of the *Workplace Relations Act 1996* allows, in certain circumstances, the Commission to make an order for costs
- Section 170CEAA of the *Workplace Relations Act 1996* requires a fee of \$52.40 to be paid on lodgment of this application in the Commission unless a Registrar has approved the waiving of the fee. The \$52.40 lodgment fee is refundable under certain circumstances

Details in relation to these matters are available from the Industrial Registry.

**Application is made by—**

Name of union making application	
address of union	<p>.....</p> <p>.....</p> <p>..... Postcode: .....</p> <p>Phone (...) ..... Fax (.....) .....</p>
union contact person for notices from the Commission	

**The application is made on behalf of the following employee/s**

Name/s of employee/s (or attached)	
<b>Grounds for application</b>	
<p>Identify the ground or grounds under subsection 170CE (3) of the <i>Workplace Relations Act 1996</i> upon which this application is based—</p> <p>on the ground or grounds of an alleged contravention of one or more of—</p> <p>section 170CK <input type="checkbox"/>; and/ or</p> <p>section 170CM <input type="checkbox"/>; and/ or</p> <p>section 170CN <input type="checkbox"/></p>	
<b>Details of employer</b>	
employer's name contact person	<p>.....</p> <p>.....</p>
employer's trading address or registered office	<p>.....</p> <p>.....</p> <p>..... Postcode .....</p> <p>Phone (...) ..... Fax (.....) .....</p>
date/s of termination of employee/s employment	<p>/ /</p>

## Declaration

*Union representative must sign here*

.....

U No \_\_\_\_\_

**FEE** [Section 170CEAA of the Workplace Relations Act 1996 requires a fee of \$52.40 to be paid on lodgment of this application in the Commission unless a Registrar has approved the waiving of the fee (in which case a copy of the Registrar's approval should accompany this application). If an application is lodged by facsimile transmission the credit card details must be provided]

☐ cash

☐ **cheque/money order** (to be made payable to Collector of Public Monies, Australian Industrial Registry)

☐ **Bankcard** ☐ **Visa** ☐ **Mastercard**

Card Number \_ \_ \_ \_ \_

Card Expiry Date \_\_\_\_ / \_\_\_\_

**Cardholder's Name** \_\_\_\_\_

Normal Card Signature \_\_\_\_\_

In the event of a refund of the lodging fee being applicable, the refund should be forwarded to:

.....  
 .....  
 .....

Commission Use Only

**Receipt Number** \_\_\_\_\_/Credit Transaction

**Processed** \_\_\_\_\_

**[6] Schedule 1, Form R21***substitute***Form R21 Notice of employer's appearance —  
termination of employment**

(rule 38)

Australian Industrial Relations Commission  Notice of Employer's appearance — termination of employment  <i>Workplace Relations Act 1996</i> (Commonwealth)  Section 170CE	Commission use only File number:  Date received:
<i>Please place a tick or cross, where necessary, in the boxes below.</i>	
<b>Application details (as stated in Form R18)</b>	
1 Former employee's full name as appearing on Form R18	
2 Commission Case/ File Number	U
<b>Details of employer</b>	
3 Employer named on application	
4 Has the applicant given the employer's correct name?	Yes <input type="checkbox"/> No <input type="checkbox"/> If no, correct name is
5 Employer's address	Postcode:

6 Details of contact person	<p>[first name] [family name]</p> <p>Phone ( )</p> <p>Fax ( )</p> <p>Mobile</p>
7 Employer's details	<p><input type="checkbox"/> Company ACN _____</p> <p><input type="checkbox"/> Partnership</p> <p><input type="checkbox"/> Sole trader</p> <p><input type="checkbox"/> Government Authority</p> <p><input type="checkbox"/> Other (specify)</p>
8 Was the employer named in item 3 or 4 above the employer of the applicant at the time of termination?	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If no, what was the name and address of employer at time of termination?</p>
9 Was the applicant employed under an award or agreement (including an Australian Workplace Agreement) immediately before the termination?	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, was it:</p> <p>Federal <input type="checkbox"/> or State <input type="checkbox"/></p> <p>If State, which State?</p>
<b>Details of employer's representative</b>	
10 Is anyone representing the employer?	<p>Yes <input type="checkbox"/> go to item 11</p> <p>No <input type="checkbox"/> go to item 14</p>
11 Name of solicitor, legal firm, employer organisation or other representative	
12 Contact details of solicitor, legal firm, employer organisation or other representative	<p>[first name] [family name]</p> <p>Phone ( )</p> <p>Fax ( )</p> <p>Mobile</p>

13 Address of solicitor, legal firm, employer organisation or other representative	Postcode:
<b>Address for notices</b>	
14 Where does the employer want notices to be sent?	Business address <input type="checkbox"/> or address of solicitor, employer organisation or other representative <input type="checkbox"/> <i>Choose only one option</i>
<b>Reasons for termination</b>	
15 Brief summary of reason(s) given to employee for termination	<i>Write here or attach document</i>
<b>Late lodgment objection (if applicable)</b>	
16 If the application was lodged in the Commission more than 21 days after the day on which the termination took effect, the Commission must decide whether to accept the application. If the application was lodged out of time, please indicate whether the employer objects to the Commission extending the time for lodgment. <input type="checkbox"/> I object to the Commission extending the time for lodgment and also object to conciliation before determination of the application to extend time; OR <input type="checkbox"/> I object to the Commission extending the time for lodgment but do <u>not</u> object to conciliation before determination of the application to extend time; OR <input type="checkbox"/> I do not object to the Commission extending the time for lodgment.	



**Dismissal for want of jurisdiction (if applicable)**

*Note* If the employer intends to move for the dismissal of the application for want of jurisdiction, Form R21A must be completed and filed.

*Examples*

Examples of jurisdictional grounds on which an employer may move for the dismissal of the application (see sections 170CBA, 170CC and subsection 170CE (5A) *Workplace Relations Act 1996* are as follows:

- The applicant had not completed the qualifying period of employment (see subsection 170CE (5A)).
- The applicant was engaged under a contract of employment for a specified period of time (see paragraph 170CBA (1) (a)).
- The applicant was engaged under a contract of employment for a specified task (see paragraph 170CBA (1) (b)).
- The applicant was serving a period of probation, the duration or maximum duration of which was determined in advance and was 3 months or less, or otherwise reasonable given the nature and circumstances of the employment (see paragraph 170CBA (1) (c)).
- The applicant was a casual employee engaged for a short period.

A casual employee is taken to be engaged for a short period unless:

(a) (i) the employee is engaged by a particular employer on a regular and systematic basis for a sequence of periods of employment during a period of at least 12 months; or

(ii) the employee was engaged on a regular and systematic basis for a sequence of periods during a period of employment totalling at least 12 months but ceased to be so engaged, on the employer's initiative, at the end of the first period of employment of less than 12 months, and then within 3 months after the end of the first period was engaged again for a further sequence of periods of employment; and

(b) the employee has, or but for a decision by the employer to terminate the employee's employment, would have had, a reasonable expectation of continuing employment by the employer. (see paragraph 170CBA (1) (d), subsections 170CBA (3) and (3A)).

- The applicant was a trainee employed under a traineeship agreement or an approved traineeship for a specified period, or for the duration of the agreement (see paragraph 170CBA (1) (e)).

<ul style="list-style-type: none"> <li>• The applicant was not employed under award conditions and the applicant's annual remuneration immediately before termination exceeded a specified rate (\$94 900, July 2005) (see paragraph 170CBA (1) (f)).</li> <li>• The applicant is not covered by a federal award or agreement. <i>(This may be a relevant objection only in NSW, Qld, WA, SA, Tas. This basis of objection is only applicable if the application is based on the ground that the termination was harsh, unjust or unreasonable.)</i></li> <li>• The employer is not a constitutional corporation. <i>(This may be a relevant objection only in NSW, Qld, WA, SA, Tas. This ground of objection is applicable only if the application is based on the ground that the termination was harsh, unjust or unreasonable.)</i></li> </ul>	
<b>Declaration</b>	
<b>I declare that all the facts in this notice are correct and complete to the best of my knowledge and belief.</b>	
<i>The employer must sign this declaration unless the application was prepared by a solicitor, employer organisation or other representative of the employer.</i>	[signature of employer]  Date / /
	[signature of solicitor, employer organisation or other representative]  Date / /

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If this notice was prepared by a legal practitioner, has a contingency fee agreement (see section 170CIA) been entered into? Yes ☐ No ☐

If this notice was prepared by a representative other than a legal practitioner, has a costs arrangement (see section 170CIA) been entered into? Yes ☐ No ☐

*Note* This form must be lodged with the Commission within 7 days of receipt of the application (Form R18). Immediately after lodging the form, the employer must give a copy of the form to the applicant personally, or by post or facsimile transmission, at his or her address for service.

PLEASE RETAIN A COPY OF THIS DOCUMENT FOR YOUR OWN RECORDS
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**[7] Schedule 1, Form R21A***substitute***Form R21A Motion to dismiss the application for want of jurisdiction**

(rule 38)

Australian Industrial Relations Commission <b>Motion to dismiss the application for want of jurisdiction</b> <i>Workplace Relations Act 1996 (Cwlth)</i> Section 170CEA	Commission use only File number:  Date received:
<b>Commission Case</b> <b>File Number U</b>	
<b>Dismissal for want of jurisdiction</b> <i>Please place a tick or cross, where necessary, in the boxes below</i>	
<div style="display: flex; align-items: flex-start;"> <div style="flex: 1;"> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> </div> <div style="flex: 4;"> <p>The respondent moves for the dismissal of the application for want of jurisdiction before the matter is referred for conciliation; OR</p> <p>The respondent moves for the dismissal of the application for want of jurisdiction but indicates that the motion may be dealt with after the matter is referred for conciliation; OR</p> <p>The respondent moves (not having previously so moved) for the dismissal of the application for want of jurisdiction as conciliation has not resulted in settlement of this matter; OR</p> <p>The respondent moves (having previously so moved) for the dismissal of the application for want of jurisdiction.</p> </div> </div>	

The respondent moves for the dismissal of the application on the following grounds:

*Note* See Form R21 for some examples of jurisdictional grounds on which an employer may move for the dismissal of the application.

Documentation that will be relied on to substantiate the jurisdictional objection must accompany this Notice.

#### **Declaration**

**I declare that all the facts in this notice are correct and complete to the best of my knowledge and belief.**

*The respondent must sign this notice unless a solicitor, legal firm, employer organisation or other representative has prepared the notice.*

[signature of respondent]

Date / /

[signature of solicitor, legal firm,  
employer organisation or other  
representative]

Date / /

*Note* A motion to dismiss the application for want of jurisdiction is deemed to be made on the date of filing. Immediately after filing the motion, the employer must give a copy of the motion to the applicant personally, or by post or facsimile transmission, at his or her address for service.

PLEASE RETAIN A COPY OF THIS DOCUMENT FOR YOUR OWN RECORDS

**[8] Schedule 1, Form R28, Part 7, item 7.1, first column***substitute*

7.1 Specify the relevant awards (including State awards) which regulate the terms and conditions of employment of employees covered by the agreement. If there is more than one relevant award, please list the primary federal award first.

A relevant award is one which:

- (a) regulates any term or condition of employment of persons engaged in the same kind of work as that of employees under the agreement; and
- (b) is expected to be binding on the employer immediately before the initial day (that is, the day on which the agreement is certified by the Commission) (see ss 170X and 170XA).

**[9] Schedule 1, Form R28B, Part 6, item 6.2, first column***substitute*

6.2 Specify the relevant awards (including State awards) which regulate the terms and conditions of employment of employees covered by the agreement. If there is more than one relevant award, please list the primary federal award first.

A relevant award is one which:

- (a) regulates any term or condition of employment of persons engaged in the same kind of work as that of employees under the agreement; and
- (b) is expected to be binding on the employer immediately before the initial day (that is, the day on which the agreement is certified by the Commission) (see ss 170X and 170XA).

**[10] Schedule 1, Form R30, Part 6, item 6.1, first column***substitute*

6.1 Specify the relevant awards (including State awards) which regulate the terms and conditions of employment of employees covered by the agreement. If there is more than one relevant award, please list the primary federal award first.

A relevant award is one which:

- (a) regulates any term or condition of employment of persons engaged in the same kind of work as that of employees under the agreement; and

- 
- (b) is expected to be binding on the employer immediately before the initial day (that is, the day on which the agreement is certified by the Commission) (see ss 170X and 170XA).

**[11] Schedule 1, Form R32, Part 6, item 6.1, first column**

*substitute*

6.1 Specify the relevant awards (including State awards) which regulate the terms and conditions of employment of employees covered by the agreement. If there is more than one relevant award, please list the primary federal award first.

A relevant award is one which:

- (a) regulates any term or condition of employment of persons engaged in the same kind of work as that of employees under the agreement; and
- (b) expected to be binding on the employer immediately before the initial day (that is, the day on which the agreement is certified by the Commission) (see ss 170X and 170XA).

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**[12] Schedule 1, after Form R54**

*insert*

**Form R54A Referral of Disagreement Concerning  
Manner of Establishing or Varying a  
Designated Work Group**

(rule 76A)

***Petroleum (Submerged Lands) Act 1967***

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION REVIEWING  
AUTHORITY

REFERRAL OF DISAGREEMENT CONCERNING MANNER OF  
ESTABLISHING OR VARYING A DESIGNATED WORK GROUP

Notice is given under subsection 12 (4) of Schedule 7 to the Act by [*name of notifier*] of a disagreement in the course of consultation concerning the manner of establishing or varying a designated work group.

The parties to the consultation are:

[*names and addresses of parties to the consultation*]

Dated 20 .

[*Signature of notifier*]

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## Form R54B Notice of appeal under section 37 of Schedule 7

(rule 76B)

### ***Petroleum (Submerged Lands) Act 1967***

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION REVIEWING  
AUTHORITY

#### NOTICE OF APPEAL UNDER SECTION 37 OF SCHEDULE 7

IN the matter of: *[title of matter]*

Notice of an appeal under section 37 of Schedule 7 to the *Petroleum (Submerged lands) Act 1967* is given by *[name and address of appellant]* against a decision of *[name of OHS inspector]*, an OHS inspector, on *[date of decision]* to *[Insert details of decision with specific reference to the categories listed in paragraphs 37 (1) (a)-(f) or 37 (2) (a)-(b) of Schedule 7]*. I make the appeal as I am *[Insert details of the basis on which the appellant claims the right to appeal with specific reference to the categories listed in paragraphs 37 (1) (g)-(n) or 37 (2) (c)-(e) of Schedule 7]*.

The grounds of this appeal are as follows:

*[Set out in numbered paragraphs the grounds on which the appeal is based]*

A copy of this Notice of appeal and documents lodged in accordance with subrule 76B (1) will as soon as practicable be served on the following persons:

*[Insert names and addresses of persons required to be served under subrule 76B(6) or (7) as the case may be]*

Dated                      20 .

*[Signature of appellant]*

*[Note: If it is intended to seek an order under subsection 37 (3) of Schedule 7 to the Act that the making of the appeal affect the operation of the decision or prevent the taking of action to implement the decision, the notice of appeal must include an application to that effect, as set out below.*

“Application is also made for an order that the making of the appeal affect the operation of the decision or prevent the taking of action to implement the decision.”

*If it is intended to seek an order under subsection 37 (4) or (5) of Schedule 7 to the Act that the operation of the decision under section 36 of Schedule 7, or notice under section 17 of Schedule 7, to the Act, as the case may be, not be suspended pending determination of the appeal, the notice of appeal must include an application to that effect, as set out below.*

“Application is also made for an order under

- \* subsection 37 (4) of Schedule 7 that the operation of the decision under section 36 of Schedule 7
- \* subsection 37 (5) of Schedule 7 that the operation of a notice under section 17 of Schedule 7

of the Act not be suspended pending determination of the appeal.”

\* Omit whichever is inapplicable.]

## **Form R54C Application for an extension of time for instituting an appeal**

(rule 76B)

### ***Petroleum (Submerged Lands) Act 1967***

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION REVIEWING  
AUTHORITY

APPLICATION FOR AN EXTENSION OF TIME FOR INSTITUTING AN  
APPEAL

IN the matter of:

*[title of matter]*

Application is made by *[name and address of appellant]* for an extension of time for instituting an appeal against a decision of *[name of OHS inspector]* an OHS inspector on *[date of decision]* to *[details of decision with specific reference to the categories listed in paragraphs 37 (1) (a)-(f) or 37(2) (a)-(b) of Schedule 7]*. I make the application as I am *[Insert details of the basis on which the appellant claims the right to appeal with specific reference to the categories listed in paragraphs 37 (1) (g)-(n) or 37 (2) (c)-(e) of Schedule 7]*.

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The grounds of this application are as follows:

*[Set out in numbered paragraphs the grounds on which it is claimed an extension of time should be granted]*

Dated                      20 .

*[Signature of appellant]*

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).