

EXPLANATORY STATEMENT

Select Legislative Instrument 2008 No. 73

Australian Industrial Relations Commission Amendment Rules 2008 (No. 1)

Amendment of the Australian Industrial Relations Commission Rules 2007

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

Authority

Section 124 of the *Workplace Relations Act 1996* (the Act) authorises the making of the rules of the Australian Industrial Relations Commission (the Commission).

Under subsection 124(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; and

(e) the furnishing of security for the payment of costs in respect of an application made under section 643.

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

" 'prescribed' includes prescribed by Rules of the Commission made under section 124;"

Purpose

The amendments are consequential to the amendments to the *Workplace Relations Act 1996* by the *Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008* and a change of name of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*, now known as the *Occupational Health and Safety Act 1991*; and a number of amendments are to improve the workings of the Rules.

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

Schedule 1

Item 1—Amends the definition of OHS (CE) Act in Rule 3 to reflect the change of name to the *Occupational Health and Safety Act 1991*.

Item 2— Amends Rule 30 by providing for an application, under subsection 643(3) of the Act, for relief in relation to termination of employment

Item 3—Inserts a new Part 11A Collective Agreements and new Rule 54A to provide for an application under section 397A of the Act to have a collective agreement terminated.

Item 3A— Amends the heading of Part 12 to take account of the new Rule 55A Extension of pre-reform certified agreement on application of person bound by the agreement.

Item 4—Amends Rule 55 by providing for an application for an order under paragraph 2A (1) (b) of Schedule 7 to the Act to vary a pre-reform certified agreement and inserts a new Rule 55A to provide for an application for an order under paragraph 2A (1) (a) of Schedule 7 to the Act to extend the nominal expiry date of a pre-reform certified agreement.

Item 5—Inserts a new Rule 59A to provide for an application under clause 29A of Schedule 7 to the Act to have an old IR agreement terminated.

Item 6—Inserts a new Rule 61A to provide for an application for an order under paragraph 16A (1) (a) of Schedule 8 to the Act to extend the nominal expiry date of a preserved collective State agreement and a new Rule 61B for an application under paragraph 16A (1) (b) of Schedule 8 to the Act to vary a preserved collective State agreement.

Item 7—Amends the heading of Part 16 to reflect the change of name to the *Occupational Health and Safety Act 1991*.

Item 8—Amends subrule 80(1) to reflect the change of name to the *Occupational Health and Safety Act 1991*.

Item 9—Amends rule 81 to reflect the change of name to the *Occupational Health and Safety Act 1991*.

Item 10—The amendment to Form R4 in Schedule 1 corrects a typographical error.

Item 11—The amendment to Form R11 in Schedule 1, before subheading “Employer”, provides for specific information on any extant collective agreements binding on employees who will be subject to the proposed new agreement.

Item 12—Amends the Note in Form R11 in Schedule 1, by clarifying which attachments are to be served on the employer and the authorised ballot agent.

Item 13—Amends the item headed “Fee” in Form R27 in Schedule 1, to clarify the process for lodging an application to waive a lodgement fee, to reflect the removal of the Bankcard option for payment and correct a typographical error.

Item 14—Inserts a new Form R27A arising from the amendment to Rule 30.

Items 15 and 16—Amends Form R28 in Schedule 1 arising from the insertion of the new Form R27A.

Item 17—The amendment to Form R29 in Schedule 1 removes the reference to ‘not applicable’ to minimise confusion.

Item 18—The amendment to Form R30 in Schedule 1 removes the reference to ‘not applicable’ to minimise confusion.

Item 19—The amendment to Form R40 in Schedule 1 corrects a typographical error.

Item 20—Inserts a new Form R48A in Schedule 1 arising from a new Rule 54A.

Item 21—Inserts new Forms R49A and R49B in Schedule 1 arising from the amendment to Rule 55 and a new Rule 55A.

Item 22—Inserts a new Form R53A in Schedule 1 arising from a new Rule 59A.

Item 23—Inserts new Forms R55A and 55B in Schedule 1 arising from new Rules 61A and 61B.

Items 24 and 25—Amends Form R63 in Schedule 1 to reflect the change of name to the *Occupational Health and Safety Act 1991*.

Item 26—Amends Form R64 in Schedule 1 to reflect the change of name to the *Occupational Health and Safety Act 1991*.

Item 27—Amends Form R65 in Schedule 1 to reflect the change of name to the *Occupational Health and Safety Act 1991*.