

2002

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As read a third time

**Workplace Relations Legislation
Amendment (Registration and
Accountability of Organisations)
(Consequential Provisions) Bill 2002**

No. , 2002

**A Bill for an Act to deal with matters consequential
on the enactment of the *Workplace Relations
Amendment (Registration and Accountability of
Organisations) Act 2002*, and for other purposes**

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1 THIS Bill originated in the House of
2 Representatives; and, having this day passed,
3 is now ready for presentation to the Senate
4 for its concurrence.

5 I.C. HARRIS
6 *Clerk of the House of Representatives*

7 House of Representatives
8 18 September 2002

9 **A Bill for an Act to deal with matters consequential**
10 **on the enactment of the *Workplace Relations***
11 ***Amendment (Registration and Accountability of***
12 ***Organisations) Act 2002, and for other purposes***

13 The Parliament of Australia enacts:

14 **1 Short title**

15 This Act may be cited as the *Workplace Relations Legislation*
16 *Amendment (Registration and Accountability of Organisations)*
17 *(Consequential Provisions) Act 2002.*

18 **2 Commencement**

19 (1) Each provision of this Act specified in column 1 of the table
20 commences, or is taken to have commenced, on the day or at the
21 time specified in column 2 of the table.
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Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	
2. Schedules 1 and 2	A single day to be fixed by Proclamation, subject to subsection (3)	
3. Schedule 3, items 1, 2 and 3	At the same time as the provisions covered by item 2 of this table	
4. Schedule 3, items 4 and 5	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
5. Schedule 3, items 6 and 7	At the same time as the provisions covered by item 2 of this table	
6. Schedule 3, item 8	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
7. Schedule 3, item 9	At the same time as the provisions covered by item 2 of this table	
8. Schedule 3, items 10, 11 and 12	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
9. Schedule 3, items 13 and 14	At the same time as the provisions covered by item 2 of this table	
10. Schedule 3, items 15 and 16	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
11. Schedule 3, items 17 and 18	At the same time as the provisions covered by item 2 of this table	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
12. Schedule 3, item 19	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
13. Schedule 3, item 20	At the same time as the provisions covered by item 2 of this table	
14. Schedule 3, item 21	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
15. Schedule 3, items 22 and 23	At the same time as the provisions covered by item 2 of this table	
16. Schedule 3, items 24 and 25	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
17. Schedule 3, item 26	At the same time as the provisions covered by item 2 of this table	
18. Schedule 3, item 27	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
19. Schedule 3, item 28	At the same time as the provisions covered by item 2 of this table	
20. Schedule 3, item 29	Immediately after section 15 of the <i>Industrial Relations Legislation Amendment Act 1990</i> commenced	
21. Schedule 3, item 30	At the same time as the provisions covered by item 2 of this table	
22. Schedule 3, item 31	Immediately after item 1 of Schedule 19 to the <i>Workplace Relations and Other Legislation Amendment Act 1996</i> commences	
23. Schedule 3, items 32 to 41	At the same time as the provisions covered by item 2 of this table	

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
24. Schedule 3, items 42 to 46	The day on which this Act receives the Royal Assent	
25. Schedule 3, item 47	At the same time as the provisions covered by item 2 of this table	
27. Schedule 3, items 50 to 58	At the same time as the provisions covered by item 2 of this table	
28. Schedule 3, item 59	At the same time as the provisions covered by item 2 of this table, subject to subsection (5)	
29. Schedule 3, items 60 to 64	At the same time as the provisions covered by item 2 of this table	
30. Schedule 4, items 1 and 2	The 28th day after the day on which this Act receives the Royal Assent	
31. Schedule 4, items 3, 4, 5 and 6	At the same time as the provisions covered by item 2 of this table	

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Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

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(2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

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(3) If a provision covered by item 2 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

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(5) If a provision covered by item 28 of the table does not commence before item 10 of Schedule 1 to the *Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Act 2002* commences, then it does not commence at all.

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3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—Transitional provisions

Part 1—General

1 Definitions

(1) In this Schedule:

commencement means the commencement of this item.

repealed provision means a provision of the WR Act repealed by this Act.

RAO Schedule means Schedule 1B to the *Workplace Relations Act 1996*.

WR Act means the *Workplace Relations Act 1996* (other than Schedule 1B).

(2) If a provision of the WR Act, as in force immediately before commencement, and a provision of the RAO Schedule have substantially the same effect, each provision is, in relation to the other, a *corresponding provision*.

(3) An expression used in this Schedule and in the RAO Schedule has the same meaning in this Schedule as it has in that Schedule.

2 Orders etc. continue in force

An authorisation, certificate, decision, declaration, determination, direction, exemption, injunction, order, notice or permission that:

- (a) was made, given or granted under a repealed provision; and
- (b) was in force immediately before commencement;

continues in force on and after commencement as if it had been made, given or granted under the corresponding provision of the RAO Schedule.

3 Certain obligations continue

If:

- (a) a person or body had an obligation imposed under a repealed provision to do an act or thing for a specified period, or within a specified period; and

1 (b) immediately before commencement, that period had not
2 ended;
3 the provision continues to operate in relation to the obligation of the
4 person or body as if it had not been repealed.

5 **4 Terms of office continue**

6 If:

7 (a) a person was elected to an office under a repealed provision;
8 and

9 (b) immediately before commencement, the term of office for
10 which the person was elected had not ended;

11 the person continues to hold office, subject to the RAO Schedule, for
12 the remainder of the term for which the person was elected.

13 **5 Proceedings etc. commenced under WR Act continue** 14 **under WR Act**

15 (1) If, immediately before commencement, a proceeding (whether or not
16 initiated by an application) in a matter arising under a repealed
17 provision was pending in a court, the WR Act continues to apply in
18 relation to the proceeding as if the amendments made by this Act had
19 not been made.

20 (2) If, immediately before commencement, a proceeding (whether or not
21 initiated by an application) before the Commission in a matter arising
22 under a repealed provision has not been completed, the WR Act
23 continues to apply in relation to the proceeding as if the amendments
24 made by this Act had not been made.

25 (3) If, immediately before commencement, a matter (whether or not
26 initiated by an application) under a repealed provision is before an
27 Industrial Registrar, the WR Act continues to apply in relation to the
28 matter as if the amendments made by this Act had not been made.

29 (4) If, in relation to the proceeding or matter mentioned in subitem (1), (2)
30 or (3), the court, Commission or Industrial Registrar makes an order on
31 or after commencement, the order is taken to have been made under the
32 corresponding provision of the RAO Schedule and not under the
33 repealed provision, under which (apart from this subitem) the order
34 would have been made.

Schedule 1 Transitional provisions

Part 1 General

1 (5) If a penalty is imposed as a result of the order, the penalty is the penalty
2 applicable under the WR Act as in force immediately before
3 commencement and not the penalty applicable under the RAO
4 Schedule.

5 (6) In this item:
6 *make* includes give or grant.
7 *order* includes authorisation, certificate, decision, declaration,
8 determination, direction, exemption, injunction, notice or permission.

9 **6 Pre-commencement WR Act continues for transitional** 10 **purposes**

11 If a repealed provision is continued in operation after commencement
12 by this Act:

13 (a) any other provisions of the WR Act that are necessary for the
14 effective operation and enforcement of the repealed
15 provision; and

16 (b) any provisions of regulations made under provisions
17 mentioned in paragraph (a) that are necessary for the
18 effective operation and enforcement of the repealed
19 provision;

20 continue to operate as if the amendments made by this Act had not been
21 made.

22 **7 RAO Schedule regulations may extend to transitional** 23 **applications etc.**

24 In section 359 of the RAO Schedule, references to applications and
25 proceedings under that Schedule include references to applications and
26 proceedings that are to be dealt with or completed under that Schedule
27 because of this Act.

28 **8 Power of President of the Commission to resolve** 29 **difficulties**

30 If a difficulty arises in the application of this Act to a particular
31 proceeding or matter before the Commission or the Industrial Registrar,
32 the President of the Commission may, subject to any order made by the
33 Federal Court of Australia under item 9, give directions not inconsistent
34 with the RAO Schedule to resolve the difficulty.

1 **9 Power of Federal Court of Australia to resolve difficulties**

2 (1) If a difficulty arises in:

- 3 (a) the application of this Act in relation to a particular matter; or
4 (b) the application, in relation to a particular matter, of a
5 provision of the RAO Schedule because of the operation of
6 this Act;

7 the Federal Court of Australia may, on the application of an interested
8 person, make any order it considers proper to resolve the difficulty.

9 (2) An order made under subitem (1) has effect in spite of anything
10 contained in this Act, in the RAO Schedule or in any Act in force
11 immediately before commencement.

12 (3) The Federal Court of Australia has jurisdiction with respect to matters
13 arising under this Act in relation to which applications may be made to
14 it under subitem (1).

15 **10 General rules are subject to specific rules**

16 This Part has effect subject to the following Parts of this Schedule.

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2 **Part 2—Registered organisations**

3 **11 Register of organisations**

4 The register of organisations required to be kept by the Industrial
5 Registry under paragraph 63(1)(a) of the WR Act as in force
6 immediately before commencement is taken to be the register of
7 organisations required to be kept by the Industrial Registry under
8 paragraph 13(1)(a) of the RAO Schedule.

9 **12 Applications for registration**

10 If an application for registration as an organisation was made but not
11 determined under the WR Act before commencement, the application is
12 to be determined under the WR Act as if the amendments made by this
13 Act had not been made.

14 **13 Acts or omissions relevant to prohibited conduct**

15 In sections 21 and 22 of the RAO Schedule:

- 16 (a) references to acts done or omitted under that Schedule
17 include references to acts done or omitted under the WR Act;
18 and
19 (b) references in those sections to section 18 of the RAO
20 Schedule include references to the corresponding provision
21 of the WR Act.

22 **14 Correction of errors in rules of association applying for
23 registration**

24 If an application for registration as an organisation had been made but
25 not determined under the WR Act before commencement, the
26 Commission may grant leave to the applicant association under
27 paragraph 25(1)(c) of the RAO Schedule, despite item 12.

28 **15 Registration as an organisation continues**

- 29 (1) A body that was an organisation under the WR Act immediately before
30 commencement is taken to have been registered under section 19 or 20
31 of the RAO Schedule (as the case requires).

- 1 (2) Subject to this Schedule, the operation of subitem (1) in relation to an
2 organisation does not otherwise affect the organisation or the operation
3 of the WR Act (as in force after commencement) in relation to it.
- 4 (3) If:
- 5 (a) an organisation is taken to be registered under the RAO
6 Schedule because of the operation of subitem (1); and
7 (b) immediately before commencement, an undertaking given by
8 the organisation under subsection 189(2) of the WR Act was
9 in force;
- 10 the undertaking is, after commencement, taken to have been given
11 under subsection 19(2) of the RAO Schedule.
- 12 (4) In subsection 26(6) of the RAO Schedule:
- 13 (a) the reference to a certificate of registration issued under
14 subsection (4) of that section includes a reference to a
15 certificate issued under subsection 191(4) of the WR Act as
16 in force immediately before commencement; and
17 (b) the reference to a certificate as amended under section 160 of
18 the RAO Schedule includes a reference to a certificate as
19 amended under section 206 of the WR Act as in force
20 immediately before commencement.

21 **16 Representation orders**

22 Subsection 133(2) of the RAO Schedule applies to the following orders:

- 23 (a) orders made by the Commission under subsection 133(1) of
24 that Schedule on or after commencement;
- 25 (b) orders taken to have been made under that subsection
26 because of item 2 or item 5.

27 **17 Applications for amalgamation**

28 If an application for approval for the submission of an amalgamation to
29 ballot was made under section 242 of the WR Act but not determined
30 before commencement, Division 7 of Part IX of the WR Act continues
31 to apply in relation to the amalgamation as if the amendments made by
32 this Act had not been made.

33 Note: This general rule is subject to some exceptions in relation to particular aspects of
34 amalgamation proceedings (see, for example, item 20 (ballots)).

35 **18 Applications for recognition as a federation**

Schedule 1 Transitional provisions

Part 2 Registered organisations

1 (1) If an application for recognition as a federation was made under
2 section 236 of the WR Act but not determined before commencement,
3 the application is to be determined under the WR Act as if the
4 amendments made by this Act had not been made.

5 (2) For the purposes of applying subitem (1), each reference in section 236
6 of the WR Act to section 242 of that Act includes a reference to
7 section 44 of the RAO Schedule.

8 **19 Applications for community of interest declaration**

9 (1) If an application for a declaration was made under section 241 of the
10 WR Act but not determined before commencement, the application is to
11 be determined under the WR Act as if the amendments made by this
12 Act had not been made.

13 (2) For the purposes of applying subitem (1), each reference in section 241
14 of the WR Act to section 242 of that Act includes a reference to
15 section 44 of the RAO Schedule.

16 **20 Amalgamation ballots approved after commencement**

17 If, on or after commencement, the Commission approves the
18 submission of an amalgamation to ballot and the ballot (the *approved*
19 *ballot*) is, because of the operation of item 17, to be conducted under
20 the WR Act:

21 (a) in addition to the requirements of the WR Act, subsections
22 65(6) and (7) of the RAO Schedule apply in relation to the
23 approved ballot; and

24 (b) the reference in subsection 65(6) of the RAO Schedule to a
25 ballot conducted under that section includes a reference to
26 the approved ballot.

27 **21 Withdrawal from amalgamation—application made before**
28 **commencement etc.**

29 (1) If an application for a ballot was made under section 253ZJ of the WR
30 Act but not determined before commencement, Subdivision B of
31 Division 7A of Part IX of the WR Act continues to apply in relation to:

32 (a) the application; and

33 (b) any ballot ordered by the Federal Court of Australia in
34 granting the application;

1 as if the amendments made by this Act had not been made.

2 (2) However, if the application is granted, section 101, paragraph 102(2)(d)
3 and subsection 102(3) of the RAO Schedule apply in relation to the
4 ballot ordered by the Federal Court of Australia in granting the
5 application.

6 **22 Organisation not to penalise members in relation to**
7 **withdrawal from amalgamation**

8 (1) Section 131 of the RAO Schedule applies to amalgamated organisations
9 and officers and members of such organisations in relation to any
10 conduct of the organisation that occurs on or after commencement.

11 (2) For the purposes of applying subitem (1), the reference in subsection
12 131(1) of the RAO Schedule to section 130 of that Schedule includes a
13 reference to section 253ZX of the WR Act as in force immediately
14 before commencement.

15 **23 Withdrawal from amalgamation—application made after**
16 **commencement**

17 For the purposes of applying Part 3 of Chapter 3 of the RAO Schedule
18 to an organisation that became an amalgamated organisation under the
19 WR Act, references in that Part to a provision or provisions of the RAO
20 Schedule are taken to include references to the corresponding provision
21 or provisions of the WR Act.

22 **24 Grounds for deregistration**

23 (1) An application under the RAO Schedule for cancellation of the
24 registration of an organisation may be made, in relation to conduct
25 occurring before commencement, on the grounds set out in the
26 following provisions of the RAO Schedule:
27 (a) paragraph 28(1)(a) (conduct preventing or hindering object
28 of the WR Act);
29 (b) paragraph 28(1)(b) (industrial action interfering with trade or
30 commerce etc.);
31 (c) paragraph 28(1)(c) (industrial action affecting community
32 safety, health or welfare);
33 (d) paragraph 28(1)(d) (failure to comply with injunctions under
34 section 127 or 187AD of the WR Act).

Schedule 1 Transitional provisions

Part 2 Registered organisations

- 1 (2) For the purposes of applying paragraph (1)(a) of this item:
2 (a) the reference in paragraph 28(1)(a) of the RAO Schedule to
3 an object of the RAO Schedule is taken to be omitted; and
4 (b) a reference in paragraph 28(1)(a) of the RAO Schedule to the
5 Workplace Relations Act is taken to be a reference to that
6 Act as in force before commencement.

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2 **Part 3—Rules of organisations**

3 **25 Existing rules**

4 Rules of a registered organisation that were in force immediately before
5 commencement continue in force on and after commencement but may
6 be altered under the RAO Schedule.

7 Note: For transitional provisions applying to rule changes that were in the process of being
8 certified at commencement, see item 5.

9 **26 New rule requirements**

10 (1) This item applies only to the extent that it concerns alterations of rules
11 of an organisation required to bring them into conformity with the RAO
12 Schedule where:

- 13 (a) the organisation is taken to be registered under the RAO
14 Schedule because of subitem 15(1); and
15 (b) the requirements (the *new rule requirements*) are provided
16 for in the RAO Schedule but not in the WR Act (as in force
17 immediately before commencement).

18 (2) The Industrial Registrar must not exercise the power conferred by
19 subsection 156(1) of the RAO Schedule in relation to the new rule
20 requirements until the end of the interim period.

21 Note: This means that the Industrial Registrar cannot alter an organisation's rules to bring
22 them into conformity with the RAO Schedule if the requirement for the particular rule is
23 imposed by the RAO Schedule only and did not exist under the WR Act (as in force
24 immediately before commencement).

25 (3) For the purposes of this item, the *interim period* is the period of:

- 26 (a) 6 months immediately after commencement; or
27 (b) in relation to an organisation that has been granted an
28 extension by a Registrar—6 months immediately after
29 commencement, extended by the period determined by the
30 Registrar in granting the extension.

31 (4) If, within 6 months immediately after commencement, an organisation
32 applies to a Registrar for an extension of the interim period beyond the
33 period mentioned in paragraph (3)(a), the Registrar may extend the
34 period in relation to the organisation. The period must not be extended
35 by more than 6 months.

Schedule 1 Transitional provisions

Part 3 Rules of organisations

- 1 (5) In determining an application for an extension under subitem (4), the
2 Registrar must take into account:
- 3 (a) the ability of the organisation to make the necessary changes
4 to its rules within 6 months immediately after
5 commencement; and
6 (b) any other matter the Registrar considers relevant.

7 **27 Review of rules by Industrial Registrar**

8 As soon as practicable after the end of the interim period applying to an
9 organisation under item 26, the Industrial Registrar must review the
10 rules of the organisation.

11 Note: If the Industrial Registrar finds that an organisation's rules do not meet the requirements
12 of the RAO Schedule, the Industrial Registrar may alter the rules to bring them into
13 conformity with the Schedule (see section 156 of the RAO Schedule).

14 **28 Rules relating to retirement age of office-holders**

15 If, immediately before commencement, the rules of an organisation
16 made provision as set out in paragraph 199(1)(b) of the WR Act, those
17 rules:

- 18 (a) continue to apply to a person elected to a full-time office in
19 an election for which nominations were called before
20 commencement; and
21 (b) do not apply to a person elected in an election for which
22 nominations were called on or after commencement.

23 Note: Although the rules relating to retirement age may have some continuing application
24 under this item, they must still be removed from the organisation's rules during the
25 interim period applying to it under item 26 in order for the rules to conform with
26 section 145 of the RAO Schedule.

27 **29 Membership agreements between organisation and State
28 union**

- 29 (1) An agreement that was made under section 202 of the WR Act and was
30 in force immediately before commencement continues in force after
31 commencement as if it had been made under Subdivision B of
32 Division 4 of Part 2 of Chapter 5 of the RAO Schedule.
- 33 (2) If a copy of an agreement made under section 202 of the WR Act was
34 lodged in the Industrial Registry but had not come into force before
35 commencement, the WR Act continues to apply in relation to the
36 agreement as if the amendments made by this Act had not been made.
-

- 1 (3) If a copy of an agreement to terminate made under subsection 202(11)
2 of the WR Act was lodged in the Industrial Registry but had not taken
3 effect before commencement, the WR Act continues to apply in relation
4 to the agreement as if the amendments made by this Act had not been
5 made.

6 **30 Certain alterations of rules to be recorded**

7 If, under the WR Act:

- 8 (a) there was a change in the name of an organisation or an
9 alteration of the eligibility rules of an organisation; and
10 (b) the Industrial Registrar had not taken the actions required
11 under section 206 of that Act before commencement in
12 relation to the change or alteration;
13 section 160 of the RAO Schedule applies in relation to the change or
14 alteration as if the change or alteration had occurred on or after
15 commencement.

16 **31 Evidence of rules**

17 In section 161 of the RAO Schedule, the reference to a copy of the rules
18 of an organisation certified by a Registrar includes a reference to a copy
19 certified by a Registrar under the WR Act.

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2 **Part 4—Membership of organisations**

3 **32 Resignation from membership**

4 If a member of an organisation gave notice of resignation from
5 membership under section 264 of the WR Act but the notice did not
6 take effect before commencement, section 264 of the WR Act continues
7 to apply in relation to the resignation, and to any outstanding dues of
8 the member, as if the amendments made by this Act had not been made.

9 **33 Recovery of arrears**

- 10 (1) Section 178 of the RAO Schedule applies only to amounts that become
11 payable on or after the commencement of that section.
- 12 (2) Sections 264A and 265 of the WR Act continue to apply to amounts
13 that became payable before commencement as if the amendments made
14 by this Act had not been made.

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2 **Part 5—Democratic control**

3 **34 Elections**

4 (1) The RAO Schedule applies in relation to an election for an office, or a
5 position other than an office, in an organisation or a branch of an
6 organisation if no steps (including the calling of nominations) relating
7 to the election have started before commencement.

8 (2) In the case of any other election for an office in an organisation or a
9 branch of an organisation:

10 (a) the WR Act as in force immediately before commencement
11 applies to the completion of so much of any step (including
12 the calling of nominations) that was started, but not been
13 completed, before commencement; and

14 (b) the RAO Schedule (except section 188) applies to any step
15 (including the calling of nominations) that starts on or after
16 commencement.

17 **35 Elections completed before commencement**

18 The WR Act as in force immediately before commencement continues
19 to apply in relation to:

20 (a) elections held under that Act that were completed before
21 commencement; and

22 (b) inquiries into those elections.

23 **36 Inquiries into elections**

24 (1) To avoid doubt, the Electoral Commissioner must make an application
25 under subsection 200(2) of the RAO Schedule for an inquiry by the
26 Federal Court of Australia into an irregularity in relation to an election
27 for an office if at least one step in relation to the election started on or
28 after commencement even if the irregularity concerned conduct relating
29 to a step started before commencement.

30 (2) To avoid doubt, the Electoral Commissioner may make an application
31 under subsection 200(3) of the RAO Schedule for an inquiry by the
32 Federal Court of Australia into an irregularity in relation to an election
33 for an office if at least one step in relation to the election started on or

1 after commencement even if the irregularity concerned conduct relating
2 to a step that started before commencement.

3 **37 Action after inquiries into elections**

4 (1) If, after an inquiry into an election where the inquiry was conducted
5 under Division 5 of Part IX of the WR Act because of item 35, the
6 Federal Court of Australia orders a new election to be held, the RAO
7 Schedule applies to the new election.

8 (2) If, after an inquiry into an election where the inquiry was conducted
9 under Division 5 of Part IX of the WR Act because of item 35, the
10 Federal Court of Australia makes an order other than an order that a
11 new election be held, the RAO Schedule applies to the action the
12 subject of the order.

13 **38 Post election report by Australian Electoral Commission**

14 Section 197 of the RAO Schedule applies only in relation to an election
15 conducted under Part 2 of Chapter 7 of that Schedule where each step in
16 relation to the election (including the calling of nominations) occurs on
17 or after commencement.

18 **39 Applications for leave to hold office**

19 (1) If an application was made under section 229 or 230 of the WR Act but
20 not determined before commencement, that Act continues to apply in
21 relation to the application as if the amendments made by this Act had
22 not been made.

23 (2) Subsection 216(4) of the RAO Schedule has effect after commencement
24 as if “or under section 229 or 230 of the Workplace Relations Act as in
25 force immediately before the commencement of this section” were
26 inserted after “section 217”.

27 (3) Subsection 217(4) of the RAO Schedule has effect after commencement
28 as if “or under section 229 or 230 of the Workplace Relations Act as in
29 force immediately before the commencement of this section” were
30 inserted after “section 216”.

31 **40 Prescribed offences**

32 Section 212 of the RAO Schedule has effect as if the following
33 paragraph were inserted before paragraph (a):

- 1 (aa) a prescribed offence within the meaning of section 227 of the
2 Workplace Relations Act as in force immediately before the
3 commencement of this section; or

4 **41 Certain persons disqualified from holding office in**
5 **organisations**

6 Section 215 of the RAO Schedule applies in relation to a person who
7 was convicted of a prescribed offence before commencement as if the
8 following paragraph were inserted before paragraph (1)(a):

- 9 (aa) on an application made under section 229 or 230 of the
10 Workplace Relations Act (as in force immediately before the
11 commencement of this section) in relation to the conviction
12 of the person for the prescribed offence:
- 13 (i) the person was granted leave to hold office in
14 organisations; or
 - 15 (ii) the person was refused leave to hold office in
16 organisations but, under paragraph 229(2)(b) or
17 230(2)(b) of the Workplace Relations Act (as in force
18 immediately before the commencement of this section),
19 the Court specified a period for the purposes of
20 subsection 228(1) of the Workplace Relations Act (as in
21 force immediately before the commencement of this
22 section), and the period has elapsed since the person
23 was convicted of the prescribed offence or, if the person
24 served a term of imprisonment in relation to the
25 prescribed offence, since the person was released from
26 prison; or

1

2 **Part 6—Records and accounts**

3 **42 Records to be kept and lodged by organisations**

- 4 (1) The register of members kept by an organisation under paragraph
5 268(1)(a) of the WR Act as in force immediately before commencement
6 is taken to be the register of members required (as from
7 commencement) to be kept by the organisation under paragraph
8 230(1)(a) of the RAO Schedule.
- 9 (2) The lists mentioned in paragraphs 268(1)(b) and (c) of the WR Act as in
10 force immediately before commencement are taken to be the lists
11 required (as at commencement) to be kept by the organisation under
12 paragraphs 230(1)(b) and (c) of the RAO Schedule.
- 13 (3) To the extent that Part 2 of Chapter 10 of the RAO Schedule applies to
14 contraventions of subsection 230(1) or (2) or section 231 of the RAO
15 Schedule, it applies only to contraventions that occur on or after
16 commencement.
- 17 (4) Section 232 of the RAO Schedule applies only to conduct occurring on
18 or after commencement.

19 **43 Loans, grants and donations**

- 20 (1) Section 237 of the RAO Schedule applies in relation to each financial
21 year of an organisation that starts on or after commencement.
- 22 (2) Section 269 of the WR Act continues to apply in relation to the
23 financial year of an organisation that had started, but had not ended,
24 before commencement as if the amendments made by this Act had not
25 been made.

26 **44 Accounts and audit—application of Part 3 of Chapter 8 of**
27 **RAO Schedule**

- 28 (1) Part 3 of Chapter 8 of the RAO Schedule (except sections 242, 243,
29 244, 245, 246, 247, 249 and 251 and Subdivision B of Division 3)
30 applies to each financial year of an organisation that starts on or after
31 the commencement of the reporting guidelines.

- 1 (2) Subdivision B of Division 3 of Part 3 of Chapter 8 applies from
2 commencement.
- 3 (3) Sections 242, 243, 244, 245, 246, 247, 249 and 251 of the RAO
4 Schedule apply in relation to an organisation after commencement.
- 5 (4) If, because of subitem (3), a certificate is issued in relation to an
6 organisation under section 245 of the RAO Schedule during the
7 transition period, section 248 of the RAO Schedule has effect in relation
8 to that certificate as if paragraph (a) were omitted and the following
9 paragraph were substituted:
10 (a) the first financial year of the organisation concerned that
11 starts after the commencement of the reporting guidelines;
12 and
- 13 (5) If, because of subitem (3), an alteration to the rules under section 246 of
14 the RAO Schedule is certified in relation to a reporting unit during the
15 transition period, section 250 of the RAO Schedule has effect in relation
16 to that alteration as if subsection (1) were omitted and the following
17 subsection were substituted:
18 (1) An alteration to rules under section 246 takes effect at the
19 beginning of the first financial year of the organisation concerned
20 that starts after commencement of the reporting guidelines.
- 21 (6) If, because of subitem (3), an alteration to rules under section 247 of the
22 RAO Schedule is determined in relation to a reporting unit during the
23 transition period, section 250 of the RAO Schedule has effect in relation
24 to that alteration as if subsection (1) were omitted and the following
25 subsection were substituted:
26 (1) An alteration to rules of an organisation under section 247 takes
27 effect at the beginning of the first financial year of the organisation
28 concerned that starts after commencement of the reporting
29 guidelines.
- 30 (7) If, because of subitem (3), an alteration to rules under section 249 of the
31 RAO Schedule is certified in relation to a reporting unit during the
32 transition period, section 250 of the RAO Schedule has effect in relation
33 to that alteration as if subsection (1) were omitted and the following
34 subsection were substituted:

1 (1) An alteration to rules under section 249 takes effect immediately
2 after the certificate concerned takes effect.

3 (8) This item has effect subject to item 46.

4 (9) In this item:

5 *transition period*, in relation to an organisation, means the period from
6 commencement to the beginning of the first financial year of the
7 organisation that starts on or after the commencement of the reporting
8 guidelines.

9 **45 Accounting records**

10 (1) If an organisation, or a branch of an organisation, corresponds to a
11 reporting unit, the accounting records of the organisation or branch are
12 taken to be the financial records of the reporting unit.

13 (2) If an organisation, or a branch of an organisation, corresponds to 2 or
14 more reporting units, the accounting records of the organisation or
15 branch are taken to be the financial records of each of the reporting
16 units.

17 (3) If 2 or more organisations, or branches of an organisation, correspond to
18 one reporting unit, the accounting records of each organisation or
19 branch are taken to be the financial records of the reporting unit.

20 (4) In this item:

21 *organisation* means an organisation registered under the WR Act
22 immediately before commencement.

23 *reporting unit* has the meaning given by section 242 of the RAO
24 Schedule.

25 **46 Members' access to accounting records**

26 The RAO Schedule has effect in relation to an organisation:

- 27 (a) on and after commencement; and
28 (b) before the start of the first financial year of the organisation
29 after the commencement of the reporting guidelines;

30 as if Division 7 of Part 3 of Chapter 8 of that Schedule were omitted
31 and the following Division were substituted:

1 **Division 7—Members’ access to accounting records**

2 **271A Definitions**

3 In this Division:

4 **accounting records**, in relation to an organisation, includes books
5 of account and such working papers and other documents as are
6 necessary to explain the methods and calculations by which the
7 accounts of the organisation are made up.

8 **commencement** means the commencement of Schedule 1 to the
9 *Workplace Relations Legislation Amendment (Registration and*
10 *Accountability of Organisations) (Consequential Provisions) Act*
11 *2002*.

12 **organisation** has the same meaning as in the Workplace Relations
13 Act as in force immediately before commencement.

14 **271B Application of Division in relation to organisations divided**
15 **into branches**

- 16 (1) If an organisation is divided into branches:
- 17 (a) this Division (other than this section) applies in relation to
18 the organisation as if the financial affairs (including
19 transactions) of a branch did not form part of those of the
20 organisation; and
- 21 (b) this Division (other than this section) applies in relation to
22 each of the branches as if the branch were itself an
23 organisation.
- 24 (2) For the purposes of the application of this Division, in accordance
25 with paragraph (1)(b), in relation to a branch of an organisation,
26 the members of the organisation constituting the branch are taken
27 to be members of the branch.

28 **272 Information to be provided to members or Registrar**

- 29 (1) A member of an organisation, or a Registrar, may apply to the
30 organisation for specified prescribed information in relation to the
31 organisation to be made available to the person making the
32 application.

- 1 (2) The application must be in writing and must specify the period
2 within which, and the manner in which, the information is to be
3 made available. The period must not be less than 14 days after the
4 application is given to the organisation.
- 5 (3) An organisation must comply with an application made under
6 subsection (1).
- 7 Note: This subsection is a civil penalty provision (see section 305).
- 8 (4) A Registrar may only make an application under subsection (1) at
9 the request of a member of the organisation concerned, and the
10 Registrar must provide to a member information received because
11 of an application made at the request of the member.
- 12 (5) Accounts prepared under section 273 of the Workplace Relations
13 Act as in force immediately before commencement must include a
14 notice drawing attention to subsections (1), (2) and (3) of this
15 section and setting out those subsections.
- 16 Note: This subsection is a civil penalty provision (see section 305).
- 17 (6) Without limiting the information that may be prescribed under
18 subsection (1), the information prescribed must include details
19 (including the amount) of any fees paid by the organisation for
20 payroll deduction services provided by a person who is an
21 employer of:
- 22 (a) the member making the application for information; or
23 (b) the member at whose request the application was made.

24 **273 Order for inspection of accounting records**

- 25 (1) On application by a member of an organisation, the Commission
26 may make an order:
- 27 (a) authorising the applicant to inspect accounting records of the
28 organisation specified in the order; or
- 29 (b) authorising another person (whether a member or not) to
30 inspect accounting records of the organisation specified in
31 the order on the applicant's behalf.
- 32 This subsection is subject to subsections (2) and (3).
- 33 (2) The Commission may only make the order if it is satisfied:
- 34 (a) that the applicant is acting in good faith; and
-

- 1 (b) there are reasonable grounds for suspecting a breach of:
2 (i) a provision of Division 11 of Part IX of the Workplace
3 Relations Act as in force immediately before
4 commencement; or
5 (ii) a regulation made for the purposes of Division 11 of
6 Part IX of the Workplace Relations Act as in force
7 immediately before commencement; or
8 (iii) a rule of an organisation relating to its finances or
9 financial administration; and
10 (c) it is reasonable to expect that an examination of the
11 accounting records will assist in determining if there is such a
12 breach.
- 13 (3) The Commission may only make an order authorising the
14 inspection of accounting records that relate to the suspected breach
15 mentioned in paragraph (2)(b).
- 16 (4) A person authorised to inspect the accounting records may make
17 copies of the accounting records unless the Commission orders
18 otherwise.

19 **274 Frivolous or vexatious applications**

- 20 (1) A person must not make an application under section 273 that is
21 vexatious or without reasonable cause.
- 22 Note: This subsection is a civil penalty provision (see section 305).
- 23 (2) If the Commission considers an application under section 273 to be
24 vexatious or without reasonable cause, the Commission must
25 dismiss the application as soon as possible.

26 **275 Ancillary orders**

- 27 If the Commission makes an order under section 273, the
28 Commission may make any other orders it considers appropriate,
29 including any or all of the following:
- 30 (a) an order limiting the use that a person who inspects the
31 accounting records may make of information obtained during
32 the inspection;

- 1 (b) an order limiting the right of a person who inspects the
2 accounting records to make copies in accordance with
3 subsection 273(4);
4 (c) an order that the organisation is not required to provide the
5 names and addresses of its members.

6 **276 Disclosure of information acquired in inspection**

- 7 (1) An applicant who inspects the accounting records under
8 section 273, or a person who inspects the accounting records on
9 behalf of an applicant, must not disclose information obtained
10 during the inspection unless the disclosure is to:
11 (a) a Registry official; or
12 (b) the applicant.
13 (2) A person who receives information under paragraph (1)(a) or (b)
14 must not disclose the information other than to another person
15 covered by one of those paragraphs.

16 Note: This section is a civil penalty provision (see section 305).

17 **277 Organisation or committee of management may allow member**
18 **to inspect books**

19 The committee of management of an organisation, or the
20 organisation by a resolution passed at a general meeting, may
21 authorise a member to inspect accounting records of the
22 organisation.

23 **278 Commission to be advised of breaches of Part or rules etc. found**
24 **during inspection**

- 25 (1) If, as a result of inspecting the accounting records of an
26 organisation, a person reasonably believes that a breach of:
27 (a) a provision of Division 11 of Part IX of the Workplace
28 Relations Act as in force immediately before
29 commencement; or
30 (b) a regulation made for the purposes of Division 11 of Part IX
31 of the Workplace Relations Act as in force immediately
32 before commencement; or

- 1 (c) a rule of an organisation relating to its finances or financial
2 administration;
3 may have occurred, the person must give the Industrial Registry
4 written notice to that effect and give to the Industrial Registry any
5 relevant information obtained during the inspection.
- 6 (2) If the Industrial Registry receives notice under subsection (1) and
7 the Commission is satisfied that there are reasonable grounds for
8 believing that there has been a breach of:
- 9 (a) a provision of Division 11 of Part IX of the Workplace
10 Relations Act as in force immediately before
11 commencement; or
- 12 (b) a regulation made for the purposes of Division 11 of Part IX
13 of the Workplace Relations Act as in force immediately
14 before commencement; or
- 15 (c) a rule of an organisation relating to its finances or financial
16 administration;
- 17 the Commission must refer the matter to the Industrial Registrar.
- 18 Note: Where a matter is referred, it will be investigated under section 334.

19 **279 Constitution of Commission**

20 For the purposes of this Division, the Commission must be
21 constituted by a Presidential Member.

22 **47 Accounts and audit—continued application of Division 11** 23 **of Part IX of WR Act**

- 24 (1) Division 11 of Part IX of the WR Act continues to apply in relation to:
- 25 (a) each financial year of an organisation that starts after
26 commencement and ends before the commencement of the
27 reporting guidelines; and
- 28 (b) the financial year of an organisation that had started, but had
29 not ended, before the commencement of the reporting
30 guidelines;
- 31 as if the amendments made by this Act had not been made.
- 32 (2) Subsections 280(2), (3), (4), (5), (6) and (10) and sections 280A and
33 280B of the WR Act continue to apply in relation to investigations into
34 conduct where the investigations had started under any of those

1 provisions before commencement, as if the amendments made by this
2 Act had not been made.

3 **48 Inquiries and investigations—transitional operation**

4 The RAO Schedule has effect in relation to:

- 5 (a) conduct under Division 11 of Part IX of the WR Act as
6 continued in operation because of subitem 47(1); and
7 (b) conduct under that Division before commencement (except
8 conduct to which subitem 47(2) applies);

9 as if Part 4 of Chapter 11 of that Schedule were omitted and the
10 following Part were substituted:

11 **Part 4—Inquiries and investigations**

12
13 **329A Definitions**

14 In this Part:

15 *commencement* means the commencement of Schedule 1 to the
16 *Workplace Relations Legislation Amendment (Registration and*
17 *Accountability of Organisations) (Consequential Provisions) Act*
18 *2002.*

19 *organisation* has the same meaning as in the Workplace Relations
20 Act as in force immediately before commencement.

21 **330 Registrar or staff may make inquiries**

22 (1) A Registrar, or another Registry official on behalf of a Registrar,
23 may make inquiries as to whether the following are being complied
24 with:

- 25 (a) Division 11 of Part IX of the Workplace Relations Act as in
26 force immediately before commencement;
27 (b) regulations made for the purposes of that Division;
28 (c) rules of an organisation relating to its finances or financial
29 administration.

30 (2) A Registrar, or another Registry official on behalf of a Registrar,
31 may make inquiries as to whether a civil penalty provision (see
32 section 305) has been contravened.

- 1 (3) The person making the inquiries may take such action as he or she
2 considers necessary for the purposes of making the inquiries.
3 However, he or she cannot compel a person to assist with the
4 inquiries under this section.

5 **331 Registrar may conduct investigations**

- 6 (1) If a Registrar is satisfied that there are reasonable grounds for
7 doing so, the Registrar may conduct an investigation as to whether:
8 (a) a provision of Division 11 of Part IX of the Workplace
9 Relations Act as in force immediately before commencement
10 has been contravened; or
11 (b) a regulation made for the purposes of that Division has been
12 contravened; or
13 (c) a rule of an organisation relating to its finances or financial
14 administration has been contravened.
- 15 (2) If a Registrar is satisfied that there are reasonable grounds for
16 doing so, the Registrar may conduct an investigation as to whether
17 a civil penalty provision (see section 305) has been contravened.
- 18 (3) A Registrar may also conduct an investigation in the circumstances
19 set out in the regulations.
- 20 (4) Where, having regard to matters that have been brought to notice in
21 the course of, or because of, an investigation under subsection (1)
22 or (2), a Registrar forms the opinion that there are grounds for
23 investigating the finances or financial administration of the
24 organisation, the Registrar may make the further investigation.
- 25 (5) An investigation may, but does not have to, follow inquiries under
26 section 330.

27 **332 Investigations arising from auditor's report**

- 28 (1) Subject to subsection (2), a Registrar must:
29 (a) where the documents lodged in the Industrial Registry under
30 section 268 include a report of an auditor setting out any:
31 (i) defect or irregularity; or
32 (ii) deficiency, failure or shortcoming; and

- 1 (b) where for any other reason the Registrar considers that a
2 matter revealed in the documents should be investigated—
3 investigate the matter.
- 4 (2) The Registrar is not required to investigate the matters raised in the
5 report of the auditor if:
- 6 (a) the defect, irregularity, deficiency, failure or shortcoming
7 consists solely of the fact that the organisation concerned has
8 kept accounting records for its membership subscriptions
9 separately on a cash basis as provided in subsection 272(2) of
10 the WR Act as in force immediately before commencement;
11 or
- 12 (b) after consultation with the organisation and the auditor, the
13 Registrar is satisfied that the matters are trivial or will be
14 remedied in the following financial year.
- 15 (3) Where, having regard to matters that have been brought to notice in
16 the course of, or because of, an investigation under subsection (1),
17 a Registrar forms the opinion that there are grounds for
18 investigating the finances or the financial administration of the
19 organisation, the Registrar may make the further investigation.

20 **333 Investigations arising from request from members**

- 21 (1) Where documents have been lodged in the Industrial Registry
22 under subsection 280(1) of the Workplace Relations Act as in force
23 immediately before commencement, at least:
- 24 (a) if the organisation has more than 5,000 members—250
25 members; or
- 26 (b) in any other case—5% of the members of the organisation;
27 may request a Registrar to investigate the finances and the financial
28 administration of the organisation.
- 29 (2) On receipt of a request under subsection (1), a Registrar must
30 investigate the finances and the financial administration of the
31 organisation concerned. The Registrar, in conducting the
32 investigation, is not limited to the most recent financial year for
33 which documents have been lodged and may investigate years for
34 which documents are yet to be lodged.

- 1 (3) Where the Registrar receives more than one request in relation to a
2 organisation during a financial year, the Registrar is only required
3 to conduct one investigation but may conduct more than one
4 investigation.

5 **334 Investigations arising from referral under section 278**

6 If a matter is referred to the Industrial Registrar under section 278,
7 the Industrial Registrar must ensure that a Registrar conducts an
8 investigation.

9 **335 Conduct of investigations**

10 (1) This section applies to:

- 11 (a) a designated officer or employee of the organisation
12 concerned; and
13 (b) a former designated officer or employee of the organisation;
14 and
15 (c) a person who held the position of auditor of the organisation
16 during the period that is the subject of the investigation;

17 if a Registrar has reason to believe that the person:

- 18 (d) has information or a document that is relevant to the
19 investigation; or
20 (e) is capable of giving evidence which the Registrar has reason
21 to believe is relevant to the investigation.

22 (2) For the purpose of making an investigation, the Registrar may, by
23 written notice, require the person:

- 24 (a) to give to the Registrar, within the period (being a period of
25 not less than 14 days after the notice is given) and in the
26 manner specified in the notice, any information within the
27 knowledge or in the possession of the person; and
28 (b) to produce or make available to the Registrar, at a reasonable
29 time (being a time not less than 14 days after the notice is
30 given) and place specified in the notice, any documents in the
31 custody or under the control of the person, or to which he or
32 she has access; and
33 (c) to attend before the Registrar, at a reasonable time (being a
34 time not less than 14 days after the notice is given) and place
35 specified in the notice, to answer questions relating to matters
-

1 relevant to the investigation, and to produce to the Registrar
2 all records and other documents in the custody or under the
3 control of the person relating to those matters.

4 (3) A notice requiring a person to attend must state that the person may
5 be accompanied by another person. The other person may be, but
6 does not have to be, a lawyer.

7 **336 Action following an investigation**

- 8 (1) If, at the conclusion of an investigation, the Registrar who
9 conducted the investigation is satisfied that the organisation
10 concerned has contravened:
11 (a) a provision of Division 11 of Part IX of the Workplace
12 Relations Act as in force immediately before
13 commencement; or
14 (b) a provision of the regulations; or
15 (c) a rule of the organisation relating to the finances or financial
16 administration of the organisation;
17 the Registrar must notify the organisation accordingly.
- 18 (2) In addition to taking action under subsection (1), the Industrial
19 Registrar may do either or both of the following:
20 (a) issue a notice to the organisation requesting that the
21 organisation take specified action, within a specified period,
22 to rectify the matter;
23 (b) refer the matter to the Director of Public Prosecutions for
24 action in relation to possible criminal offences.
- 25 (3) The Registrar may, on application by the organisation, extend any
26 periods specified in the notice issued under subsection (2).
- 27 (4) The organisation must comply with the request made in the notice
28 issued under subsection (2).
- 29 (5) The Federal Court may, on application by the Registrar, make such
30 orders as the Court thinks fit to ensure that the organisation
31 complies with subsection (4).

32 **337 Offences in relation to investigation by Registrar**

- 33 (1) A person commits an offence if:
-

- 1 (a) the person does not comply with:
2 (i) a requirement under subsection 335(2) to attend before a
3 Registrar; or
4 (ii) a requirement under subsection 335(2) to give
5 information or produce a document; or
6 (b) the person gives information, or produces a document, in
7 purported compliance with a requirement under subsection
8 335(2), and the person knows, or is reckless as to whether,
9 the information or document is false or misleading; or
10 (c) when attending before a Registrar in accordance with a
11 requirement under subsection 335(2), the person makes a
12 statement, whether orally or in writing, and the person
13 knows, or is reckless as to whether, the statement is false or
14 misleading.

15 Maximum penalty: 30 penalty units.

- 16 (2) Strict liability applies to paragraph (1)(a).

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

- 18 (3) Paragraph (1)(a) does not apply if the person has a reasonable
19 excuse.

20 Note: A defendant bears an evidential burden in relation to the matter in
21 subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- 22 (4) A person is not excused from giving information, or producing a
23 document, that the person is required to give or produce under
24 subsection 335(2) on the ground that the information, or the
25 production of the document, might tend to incriminate the person
26 or expose the person to a penalty.

- 27 (5) However:

- 28 (a) giving the information or producing the document; or
29 (b) any information, document or thing obtained as a direct or
30 indirect consequence of giving the information or producing
31 the document;

32 is not admissible in evidence against the person in criminal
33 proceedings or proceedings that may expose the person to a
34 penalty, other than proceedings under, or arising out of,
35 paragraph (1)(b) or (c).

1 **49 Inquiries and investigations—conduct occurring on or**
2 **after commencement of the reporting guidelines**

3 To avoid doubt, Part 4 of Chapter 11 of the RAO Schedule applies only
4 in relation to conduct that occurs in a financial year of an organisation
5 that starts on or after the commencement of the reporting guidelines.

2

3 **Part 8—Miscellaneous**

4 **51 Requests by members under section 288 of the WR Act**

5 If a request was made under section 288 of the WR Act but not
6 complied with before commencement, Part XI of the WR Act continues
7 to apply in relation to the request as if the amendments made by this
8 Act had not been made.

9 **52 List of officers to be evidence**

10 A list of the officers of an organisation or a branch of an organisation
11 lodged before commencement in the Industrial Registry on behalf of the
12 organisation, or a copy of any such list certified by a Registrar before
13 commencement, as mentioned in section 292 of the WR Act is, after
14 commencement, evidence that the persons named in the list were, on the
15 day when the list was lodged, officers of the organisation or branch.

16 **53 Authorisation of financial assistance**

17 Division 1 of Part XII of the WR Act as in force immediately before
18 commencement relating to the granting of financial assistance in
19 connection with proceedings under that Act continues to have effect in
20 relation to all proceedings started under that Act before commencement.

21 **54 Delegations**

22 A delegation made under a repealed provision that was in force
23 immediately before commencement and did not end at that time,
24 continues in force after commencement as if it had been made under the
25 corresponding provision of the RAO Schedule.

26 **55 Regulations may deal with other transitional matters**

- 27 (1) The regulations may deal with matters of a transitional nature (except
28 transitional matters provided for in this Schedule) relating to the
29 amendments of the WR Act made by this Act and the enactment of the
30 RAO Schedule.
- 31 (2) Without limiting subitem (1), the regulations may provide for a matter
32 to be dealt with, wholly or partly, in either of the following ways:
33 (a) by applying (with or without modifications) to the matter:

Schedule 1 Transitional provisions
Part 8 Miscellaneous

- 1 (i) provisions of the WR Act as in force immediately
2 before commencement; or
3 (ii) provisions of the RAO Schedule; or
4 (iii) a combination of provisions mentioned in
5 subparagraphs (i) and (ii);
6 (b) by otherwise specifying rules for dealing with the matter.
- 7 (3) Despite subsection 48(2) of the *Acts Interpretation Act 1901*,
8 regulations made for the purposes of this item may be expressed to take
9 effect from a date before the regulations are notified in the *Gazette*.
- 10 (4) To the extent to which a regulation mentioned in subitem (3) takes
11 effect from a date that is earlier than the date of its publication in the
12 *Gazette*, the provision does not operate so as:
13 (a) to affect, in a manner prejudicial to any person (except the
14 Commonwealth or an authority of the Commonwealth), the
15 rights of that person existing before the date of its
16 publication, or
17 (b) to impose liabilities on any person (except the
18 Commonwealth or an authority of the Commonwealth), in
19 respect of anything done or omitted to be done before the
20 date of its publication.
- 21 (5) The Governor-General may make regulations, not inconsistent with any
22 other provision of this Schedule, for the purposes of subitem (1).
- 23 (6) In this item:
24 *matters of a transitional nature* also includes matters of an application
25 or saving nature.

1
2 **Schedule 2—Amendment of the Workplace**
3 **Relations Act 1996**

4 **Part 1—Amendments**

5 *Workplace Relations Act 1996*

6 **1 Paragraph 3(g)**

7 Repeal the paragraph.

8 **2 Subsection 4(1) (definition of *accounting records*)**

9 Repeal the definition.

10 **3 Subsection 4(1) (definition of *auditor*)**

11 Repeal the definition.

12 **4 Subsection 4(1) (definition of *collegiate electoral system*)**

13 Repeal the definition.

14 **5 Subsection 4(1) (paragraph (c) of the definition of**
15 ***demarcation dispute*)**

16 After “this Act”, insert “, or the Registration and Accountability of
17 Organisations Schedule,”.

18 **6 Subsection 4(1) (definition of *designated Presidential***
19 ***Member*)**

20 Repeal the definition.

21 **7 Subsection 4(1) (definition of *direct voting system*)**

22 Repeal the definition.

23 **8 Subsection 4(1) (definition of *electoral official*)**

24 Repeal the definition.

25 **9 Subsection 4(1) (definition of *eligibility rules*)**

26 Repeal the definition.

1 **10 Subsection 4(1) (definition of *enterprise association*)**

2 Repeal the definition.

3 **11 Subsection 4(1) (definition of *financial year*)**

4 Repeal the definition.

5 **12 Subsection 4(1) (definition of *full-time office*)**

6 Repeal the definition.

7 **13 Subsection 4(1) (definition of *irregularity*)**

8 Repeal the definition.

9 **14 Subsection 4(1) (definition of *office*)**

10 Repeal the definition, substitute:

11 *office* has the same meaning as in the Registration and
12 Accountability of Organisations Schedule.

13 **15 Subsection 4(1) (definition of *one-tier collegiate electoral*
14 *system*)**

15 Repeal the definition.

16 **16 Subsection 4(1) (definition of *organisation*)**

17 Repeal the definition, substitute:

18 *organisation* means an organisation registered under the
19 Registration and Accountability of Organisations Schedule.

20 Note: An organisation that was registered under the *Workplace Relations*
21 *Act 1996* immediately before the commencement of item 1 of
22 Schedule 2 to the *Workplace Relations Legislation Amendment*
23 *(Registration and Accountability of Organisations) (Consequential*
24 *Provisions) Act 2002* (the *Consequential Provisions Act*) is taken to
25 have been registered under the Registration and Accountability of
26 Organisations Schedule (see item 15 of Schedule 1 to the
27 Consequential Provisions Act).

28 **17 Subsection 4(1) (definition of *panel*)**

29 Omit “, except in section 38,”.

30 **18 Subsection 4(1) (definition of *postal ballot*)**

1 Repeal the definition.

2 **19 Subsection 4(1)**

3 Insert:

4 *Registration and Accountability of Organisations Schedule*
5 means Schedule 1B.

6 **19A Subsection 4(1) (at the end of the definition of *this Act*)**

7 Add “but does not include Schedule 1B or regulations made under that
8 Schedule”.

9 **20 Subsection 4(2)**

10 Repeal the subsection.

11 **21 At the end of paragraph 4(3)(a)**

12 Add “and”.

13 **22 At the end of subsection 4(3)**

14 Add:

15 ; and (d) an industrial dispute within the meaning of the Registration
16 and Accountability of Organisations Schedule.

17 **23 Subsection 4(4)**

18 Repeal the subsection.

19 **24 Subsection 4(5)**

20 Omit “subsection 202(1)”, substitute “subsection 151(1) of the
21 Registration and Accountability of Organisations Schedule”.

22 **25 Subsection 4(6)**

23 Repeal the subsection.

24 **26 Section 6**

25 Repeal the section, substitute:

26 **6 Act binds Crown**

27 (1) This Act binds the Crown in each of its capacities.

1 (2) However, this Act does not make the Crown liable to be prosecuted
2 for an offence.

3 **27 After section 8**

4 Insert:

5 **8A Functions of Commission**

6 The functions of the Commission are the functions conferred on
7 the Commission by this Act, the Registration and Accountability of
8 Organisations Schedule or otherwise.

9 **28 At the end of section 27**

10 Add:

11 (3) In this section:

12 *proceeding* includes a proceeding under the Registration and
13 Accountability of Organisations Schedule.

14 **29 Subsection 30(1)**

15 After “this Act”, insert “and the Registration and Accountability of
16 Organisations Schedule”.

17 **30 Subsection 30(3)**

18 After “this Act” (wherever occurring), insert “, the Registration and
19 Accountability of Organisations Schedule”.

20 **31 Section 31**

21 After “this Act”, insert “and the Registration and Accountability of
22 Organisations Schedule”.

23 **32 Section 32**

24 After “this Act”, insert “or the Registration and Accountability of
25 Organisations Schedule”.

26 **33 Section 32**

27 Omit “(including a member in the capacity of designated Presidential
28 Member)”.

1 **34 Section 33**

2 After “this Act”, insert “and the Registration and Accountability of
3 Organisations Schedule”.

4 **35 At the end of subsection 37(3)**

5 Add “mentioned in subsection (1)”.

6 **36 At the end of section 37**

7 Add:

8 (4) A member of the Commission may be a member of the panel
9 established under section 14 of the Registration and Accountability
10 of Organisations Schedule.

11 **37 Section 38**

12 Repeal the section.

13 **38 At the end of subsection 40(1)**

14 Add “or the Registration and Accountability of Organisations
15 Schedule”.

16 **39 At the end of paragraphs 45(1)(a) to (ed)**

17 Add “and”.

18 Note: The heading to section 45 is altered by adding at the end “**relating to matters arising**
19 **other than under the Registration and Accountability of Organisations Schedule**”.

20 **40 Paragraph 45(1)(f)**

21 Repeal the paragraph.

22 **41 At the end of paragraphs 45(3)(a) to (bb)**

23 Add “and”.

24 **42 Paragraph 45(3)(c)**

25 Repeal the paragraph.

26 **43 After section 45**

27 Insert:

1 **45A Appeals to Full Bench relating to matters arising under the**
2 **Registration and Accountability of Organisations**
3 **Schedule etc.**

- 4 (1) Subject to the Registration and Accountability of Organisations
5 Schedule and this Act, an appeal lies to a Full Bench, with the
6 leave of the Full Bench, against:
- 7 (a) a decision of a member of the Commission by way of a
8 finding in relation to a matter arising under the Registration
9 and Accountability of Organisations Schedule; and
 - 10 (b) an order made by a member of the Commission under that
11 Schedule, other than an order made by consent of the parties
12 to an industrial dispute; and
 - 13 (c) a decision of a member of the Commission under that
14 Schedule not to make an order; and
 - 15 (d) a decision of a member of the Commission under paragraph
16 111(1)(g) of this Act; and
 - 17 (e) a decision of a member of the Commission that the member
18 has jurisdiction, or a refusal or failure of a member of the
19 Commission to exercise jurisdiction, in a matter arising under
20 the Registration and Accountability of Organisations
21 Schedule.
- 22 (2) A Full Bench must grant leave to appeal under subsection (1) if, in
23 its opinion, the matter is of such importance that, in the public
24 interest, leave should be granted.
- 25 (3) An appeal under subsection (1) may be instituted by:
- 26 (a) a party to the proceeding; or
 - 27 (b) a person bound by an order; or
 - 28 (c) a person aggrieved by the decision.
- 29 (4) Where an appeal has been instituted under this section, a Full
30 Bench or Presidential Member may, on such terms and conditions
31 as the Full Bench or Presidential Member considers appropriate,
32 order that the operation of the whole or a part of the decision or act
33 concerned be stayed pending the determination of the appeal or
34 until further order of a Full Bench or Presidential Member.
- 35 (5) A Full Bench may direct that 2 or more appeals be heard together,
36 but an organisation or person who has a right to be heard in

- 1 relation to one of the appeals may be heard in relation to a matter
2 raised in another of the appeals only with the leave of the Full
3 Bench.
- 4 (6) For the purposes of an appeal under this section, a Full Bench:
5 (a) may admit further evidence; and
6 (b) may direct a member of the Commission to provide a report
7 in relation to a specified matter.
- 8 (7) On the hearing of the appeal, the Full Bench may do one or more
9 of the following:
10 (a) confirm, quash or vary the decision or act concerned;
11 (b) make an order or decision dealing with the subject-matter of
12 the decision or act concerned;
13 (c) direct the member of the Commission whose decision or act
14 is under appeal, or another member of the Commission, to
15 take further action to deal with the subject-matter of the
16 decision or act in accordance with the directions of the Full
17 Bench;
18 (d) in the case of an appeal under paragraph (1)(d)—take any
19 action (including making an order) that could have been
20 taken if the decision under paragraph 111(1)(g) had not been
21 made.
- 22 (8) If, under paragraph (6)(b), a Full Bench directs a member of the
23 Commission to provide a report, the member must, after making
24 such investigation (if any) as is necessary, provide the report to the
25 Full Bench.
- 26 (9) Each provision of this Act and the Registration and Accountability
27 of Organisations Schedule relating to the hearing or determination
28 of a matter mentioned in subsection (1) of this section extends to
29 the hearing or determination of an appeal under this section.

30 **44 Subsection 48(1)**

31 After “this Act”, insert “or the Registration and Accountability of
32 Organisations Schedule”.

33 **45 Paragraph 63(1)(a)**

34 Repeal the paragraph.

1 **46 At the end of paragraph 63(1)(d)**

2 Add “or the Registration and Accountability of Organisations
3 Schedule”.

4 **47 Subsection 63(2)**

5 Repeal the subsection.

6 **48 Subsection 66(1)**

7 After “Industrial Registry”, insert “under this Act and the Registration
8 and Accountability of Organisations Schedule”.

9 **49 Paragraph 67(2)(a)**

10 After “this Act”, insert “, the Registration and Accountability of
11 Organisations Schedule”.

12 **50 Paragraph 67(2)(b)**

13 After “this Act”, insert “or the Registration and Accountability of
14 Organisations Schedule”.

15 **51 Paragraph 75(2)(a)**

16 After “this Act”, insert “, the Registration and Accountability of
17 Organisations Schedule”.

18 **52 Paragraph 75(2)(b)**

19 After “this Act”, insert “or the Registration and Accountability of
20 Organisations Schedule”.

21 **53 Paragraph 81(1)(a)**

22 After “this Act”, insert “, the Registration and Accountability of
23 Organisations Schedule (to the extent permitted by that Schedule) or
24 any other Act”.

25 **54 At the end of paragraph 81(1)(b)**

26 Add “, the Registration and Accountability of Organisations Schedule
27 (to the extent permitted by that Schedule) or any other Act”.

28 **55 Subsection 82(1)**

1 After “Registrar” (second occurring), insert “under this Act or the
2 Registration and Accountability of Organisations Schedule”.

3 **56 Paragraph 83BB(1)(i)**

4 After “this Act”, insert “, the Registration and Accountability of
5 Organisations Schedule”.

6 **57 After subsection 88B(1)**

7 Insert:

8 (1A) To the extent that the Commission is performing its functions
9 under this Part in relation to matters arising under the Registration
10 and Accountability of Organisations Schedule, the Commission
11 must perform those functions in a way that furthers the objects of
12 that Schedule.

13 **58 Paragraph 89(b)**

14 After “this”, insert “Act, the Registration and Accountability of
15 Organisations Schedule”.

16 **59 At the end of section 90**

17 Add:

18 (2) To the extent that the Commission is performing its functions in
19 relation to matters arising under the Registration and
20 Accountability of Organisations Schedule, the Commission must
21 take into account the public interest, and for that purpose must
22 have regard to:
23 (a) the objects of that Schedule; and
24 (b) the state of the national economy and the likely effects on the
25 national economy of any order that the Commission is
26 considering, or is proposing to make, with special reference
27 to likely effects on the level of employment and on inflation.

28 **60 At the end of section 98A**

29 Add “or the Registration and Accountability of Organisations
30 Schedule”.

31 **61 At the end of subsection 99(1)**

32 Add:

1 Note: Some industrial disputes (including demarcation disputes) are dealt
2 with under the Registration and Accountability of Organisations
3 Schedule.

4 **62 At the end of subsection 100(1)**

5 Add:

6 Note: A demarcation dispute that is not resolved by conciliation is dealt with
7 under the Registration and Accountability of Organisations Schedule.

8 **63 Subsection 103(2)**

9 After “this Act”, insert “or the Registration and Accountability of
10 Organisations Schedule”.

11 **64 At the end of section 104**

12 Add:

13 (6) In an arbitration proceeding under the Registration and
14 Accountability of Organisations Schedule, unless all the parties
15 agree, evidence must not be given, or statements made, that would
16 disclose anything said or done in a conciliation proceeding under
17 that Schedule (whether before a member of the Commission or at a
18 conference arranged by a member of the Commission) in relation
19 to matters in dispute that remain unsettled.

20 **65 Subsection 108(2)**

21 Omit “Subject to subsection (2A), the”, substitute “The”.

22 Note: This item removes an inoperative cross-reference.

23 **66 Subsection 109(1)**

24 After “Commission”, insert “(whether under this Act or otherwise)”.

25 **67 Subsection 109(4)**

26 Omit “Subsections”, substitute “Subject to subsection (4A) of this
27 section, subsections”.

28 **68 After subsection 109(4)**

29 Insert:

30 (4A) Subsections 45A(4) to (8) (inclusive) apply in relation to a review
31 under this section in relation to a matter arising under the

1 Registration and Accountability of Organisations Schedule in the
2 same manner as they apply in relation to an appeal under
3 section 45A.

4 **69 At the end of section 109**

5 Add:

6 (8) Nothing in this section affects any right of appeal or any power of
7 a Full Bench under section 45A, and an appeal under that section
8 and a review under this section may, if the Full Bench considers
9 appropriate, be dealt with together.

10 **70 After subsection 110(2)**

11 Insert:

12 (2A) If the hearing or determination concerns an industrial dispute or
13 other proceeding arising under the Registration and Accountability of
14 Organisations Schedule, the procedure of the Commission in the
15 hearing or determination is, subject to this Act, the Registration
16 and Accountability of Organisations Schedule and the Rules of the
17 Commission, within the discretion of the Commission.

18 **71 Before subsection 111(1)**

19 Insert:

20 (1A) Subject to this Act, the Commission may do any of the things
21 mentioned in subsection (1) in relation to an industrial dispute
22 arising under this Act.

23 (1B) Subject to the Registration and Accountability of Organisations
24 Schedule, the Commission may do any of the things mentioned in
25 subsection (1) in relation to an industrial dispute arising under that
26 Schedule.

27 **72 Subsection 111(1)**

28 Omit “Subject to this Act, the Commission may, in relation to an
29 industrial dispute:”, substitute “The Commission may:”.

30 **73 At the end of subsection 111(2)**

31 Add “(whether under this Act, the Registration and Accountability of
32 Organisations Schedule or otherwise)”.

1 **74 At the end of section 111**

2 Add:

3 Note: Section 133 of the Registration and Accountability of Organisations
4 Schedule gives the Commission particular powers in relation to
5 representation rights of organisations of employees.

6 **75 Section 118A**

7 Repeal the section.

8 **76 Subsection 119(1)**

9 Omit “an industrial dispute”, substitute “a matter”.

10 **77 Subsection 119(1)**

11 Omit “the industrial dispute”, substitute “the matter”.

12 **78 Subsection 119(2)**

13 Omit “industrial dispute”, substitute “matter”.

14 **79 Subsection 119(3)**

15 Omit “industrial dispute” (wherever occurring), substitute “matter”.

16 **80 At the end of section 119**

17 Add:

18 (6) In this section:

19 *matter* means:

- 20 (a) an industrial dispute arising under this Act; or
21 (b) a proceeding (including an industrial dispute) arising under
22 the Registration and Accountability of Organisations
23 Schedule.

24 **81 At the end of subsection 134(2)**

25 Add “or the Registration and Accountability of Organisations
26 Schedule”.

27 **82 Subsection 134(3)**

28 After “this Act”, insert “or the Registration and Accountability of
29 Organisations Schedule”.

1 **83 After section 170LK**

2 Insert:

3 **170LKA Certificate as to requested representation or invitation**

4 (1) If a Registrar is satisfied:

5 (a) on application by an organisation of employees, that an
6 employee has made a request in accordance with subsection
7 170LK(4) for the organisation to represent the employee in
8 meeting and conferring with an employer about a proposed
9 agreement; or

10 (b) on application by an employer, that, after making such a
11 request, the requirement in subsection 170LK(5) for the
12 employer to give a reasonable opportunity to the organisation
13 to meet and confer about the proposed agreement, has,
14 because of subsection 170LK(6), ceased to apply to the
15 employer;

16 the Registrar may issue a certificate to that effect.

17 (2) The certificate must not identify any of the employees concerned.
18 However, it must identify the organisation, the employer and the
19 proposed agreement.

20 (3) The certificate is, for all purposes of this Act, evidence that the
21 employee or employees made the request or that the requirement
22 has ceased to apply.

23 **84 Subsection 170MR(5)**

24 Omit “section 196”, substitute “section 159 of the Registration and
25 Accountability of Organisations Schedule”.

26 **85 Before subsection 174(1)**

27 Insert:

28 (1A) This section does not apply to a demarcation dispute.

29 Note: The heading to section 174 is altered by inserting “(other than demarcation dispute)”
30 after “dispute”.

31 **86 After section 174**

32 Insert:

174A Reference of demarcation dispute to State authority for determination

- (1) The President may refer a demarcation dispute to a State authority to be investigated and dealt with under this Act:
- (a) by conciliation; or
 - (b) by arbitration; or
 - (c) by conciliation and, if necessary, by arbitration.
- (2) The President may revoke the reference at any time before a determination is made by the State authority in settlement of the demarcation dispute.
- (3) In relation to the exercise of powers under subsection (1) or (2), the President may direct a member of the Commission to provide a report in relation to a specified matter.
- (4) After making such investigation (if any) as is necessary, the member must provide the report to the President.
- (5) For the purposes of investigating and dealing with the demarcation dispute, the State authority may exercise any powers of the Commission under this Act or the Registration and Accountability of Organisations Schedule that are exercisable by a Commissioner.
- (6) A determination made by the State authority in settlement of the demarcation dispute:
- (a) is taken for the purposes of this Act (other than section 109) and the Registration and Accountability of Organisations Schedule to be an order made under the Registration and Accountability of Organisations Schedule by a member of the Commission, but section 45A of this Act applies in relation to the determination as if paragraph 45A(7)(c) were omitted; and
 - (b) is taken, for the purposes of sections 152 and 153 of this Act, not to be an order, award, decision or determination of a State industrial authority.
- (7) Section 149 applies in relation to a determination made by the State authority in settlement of the demarcation dispute as if a reference to the Commission were a reference to the State authority.

- 1 (8) Sections 299, 302, 303, 354 and 355 of this Act and sections 355
2 and 356 of the Registration and Accountability of Organisations
3 Schedule apply in relation to the exercise of powers under this
4 section by the State authority as if a reference to:
5 (a) a member of the Commission; or
6 (b) the Commission;
7 were a reference to the State authority, and as if the State authority
8 exercised those powers as a member of the Commission.
- 9 (9) In exercising powers under this section, the State authority has the
10 same protection and immunity as a member of the Commission has
11 under section 41 in performing functions as a member of the
12 Commission.
- 13 (10) In this section:
- 14 *State authority* means:
15 (a) a member of a State industrial authority nominated by the
16 head of the State industrial authority; or
17 (b) if another office is prescribed in relation to the State
18 industrial authority—the holder of the office.

19 **87 Subsection 176(1)**

20 After “Act”, insert “or the Registration and Accountability of
21 Organisations Schedule”.

22 **88 Subsection 178(1)**

23 Omit “Subject to section 182, where”, substitute “Where”.

24 Note: This item removes an inoperative cross-reference.

25 **89 Subsection 178(1)**

26 After “Commission”, insert “(whether under this Act, the Registration
27 and Accountability of Organisations Schedule or otherwise)”.

28 **90 Paragraph 187(4)(a)**

29 After “this Act”, insert “, the Registration and Accountability of
30 Organisations Schedule”.

31 **91 Part IX (heading)**

32 Repeal the heading, substitute:

1 **Part IX—Entry and inspections by organisations**

2 **92 Divisions 1A to 11 of Part IX**

3 Repeal the Divisions.

4 **93 Division 11A of Part IX (heading)**

5 Repeal the heading.

6 **94 Division 12 of Part IX**

7 Repeal the Division.

8 **95 Part X**

9 Repeal the Part.

10 **96 Subsection 298B(1) (at the end of the definition of**
11 ***industrial body*)**

12 Add:

13 ; or (c) a court or commission, however designated, exercising under
14 an industrial law powers and functions corresponding to
15 those conferred on the Commission by the Registration and
16 Accountability of Organisations Schedule.

17 **97 Subsection 298B(1) (definition of *industrial law*)**

18 After “this Act”, insert “, the Registration and Accountability of
19 Organisations Schedule”.

20 **98 At the end of subsection 298F(1)**

21 Add:

22 ; or (c) any proceedings under the Registration and Accountability of
23 Organisations Schedule; or
24 (d) any other activity for which the Registration and
25 Accountability of Organisations Schedule provides.

26 Note: The heading to section 298F is replaced by the heading “**Matters arising under this**
27 **Act or the Registration and Accountability of Organisations Schedule**”.

28 **99 Sections 310, 313, 314, 315 and 316**

29 Repeal the sections.

1 **100 Subsection 317(5) (definition of *ballot*)**

2 Repeal the definition, substitute:

3 *ballot* means a ballot ordered under section 135 or 136.

4 **101 Sections 318, 319, 321, 322, 323, 324, 325, 326, 327, 328,**
5 **329, 330, 331, 332, 333, 337 and 340**

6 Repeal the sections.

7 **102 Heading to Part XII**

8 Repeal the heading, substitute:

9 **Part XII—Costs**

10 **103 Division 1 of Part XII**

11 Repeal the Division.

12 **104 Paragraph 359(2)(e)**

13 Repeal the paragraph.

14 **105 Subsection 414(2)**

15 Repeal the subsection.

16 **106 Subsection 415(1)**

17 Repeal the subsection, substitute.

18 (1) The jurisdiction of the Court under this Act is to be exercised by a
19 Full Court in relation to matters in which a writ of mandamus or
20 prohibition or an injunction is sought against:

21 (a) a Presidential member; or

22 (b) officers of the Commonwealth at least one of whom is a
23 Presidential member.

24 **107 Section 421**

25 Repeal the section.

26 **108 Subsection 469(1)**

1 After “Act”, insert “or the Registration and Accountability of
2 Organisations Schedule”.

3 **109 After subsection 469(2)**

4 Insert:

5 (2A) Subject to this Act, the Registration and Accountability of
6 Organisations Schedule and any other Act, a party to a proceeding
7 before the Court in a matter arising under the Registration and
8 Accountability of Organisations Schedule may be represented only
9 as provided by this section.

10 **110 At the end of paragraph 469(8)(b)**

11 Add “or the Registration and Accountability of Organisations
12 Schedule”.

13 **111 Section 470**

14 After “Act”, insert “or the Registration and Accountability of
15 Organisations Schedule”.

16 **112 At the end of subsection 471(1)**

17 Add “or the Registration and Accountability of Organisations
18 Schedule”.

19 **113 Schedules 3 and 4**

20 Repeal the Schedules.

1

2 **Part 2—Transitional and saving provisions**

3 **114 Transitional and saving provisions**

4 (1) An application made under section 291A of the *Workplace Relations*
5 *Act 1996* but not determined before the commencement of this item is
6 taken to have been made under section 170LKA of that Act as in force
7 after that commencement.

8 (2) A certificate in force under section 291A of the *Workplace Relations*
9 *Act 1996* as in force immediately before the commencement of this item
10 continues in force on and after that commencement as if it had been
11 issued under section 170LKA of that Act as in force after that
12 commencement.

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Schedule 3—Amendment of other Acts

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5

Builders Labourers’ Federation (Cancellation of Registration—Consequential Provisions) Act 1986

6
7

2 Section 3 (subparagraph (b)(i) of the definition of non-registered association)

8
9

Omit “Workplace Relations Act”, substitute “Registration and
Accountability of Organisations Schedule”.

10

3 Section 3

11

Insert:

12
13

Registration and Accountability of Organisations Schedule
means Schedule 1B to the *Workplace Relations Act 1996*.

14
15

3A Section 3 (at the end of the definition of *Workplace Relations Act*)

16

Add “(other than Schedule 1B to that Act)”.

17

4 Paragraph 4(3A)(a)

18
19

Omit “Industrial Relations Act” (wherever occurring), substitute
“Workplace Relations Act”.

20

5 Paragraph 4(3A)(b)

21

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

22

6 Paragraph 4(3A)(b)

23

Repeal the paragraph, substitute:

24
25
26
27
28

(b) make an objection under section 56 of the Registration and
Accountability of Organisations Schedule, or under
regulations made under that Schedule in relation to a
proceeding under that Schedule, and be heard in relation to
that objection.

29

8 Subsection 4(4)

30
31

Omit “Industrial Relations Act” (first occurring), substitute “Workplace
Relations Act”.

1 **9 Subsection 4(4)**

2 After “Workplace Relations Act” (first occurring), insert “or the
3 Registration and Accountability of Organisations Schedule”.

4 **10 Subparagraph 4(4)(a)(ii)**

5 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

6 **11 Paragraph 4(4)(b)**

7 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

8 **12 Subsection 4(5)**

9 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

10 **13 Subsection 4(5)**

11 After “Workplace Relations Act”, insert “or the Registration and
12 Accountability of Organisations Schedule”.

13 **14 Subsection 4(5)**

14 Omit “that Act”, substitute “the Registration and Accountability of
15 Organisations Schedule”.

16 **15 Subsection 4(6)**

17 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

18 **16 Subsection 5(1)**

19 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

20 **17 Subsection 5(1)**

21 Omit “Division 1 of Part IX of the Workplace Relations Act”, substitute
22 “Part 2 of Chapter 2 of the Registration and Accountability of
23 Organisations Schedule”.

24 **18 Section 5**

25 Omit “that Division” (wherever occurring), substitute “that Part”.

26 **19 Subparagraph 5(1)(b)(ii)**

27 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

1 **20 Subparagraph 5(1)(b)(ii)**

2 After “Workplace Relations Act”, insert “or the Registration and
3 Accountability of Organisations Schedule”.

4 **21 Paragraph 5(1)(c)**

5 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

6 **22 Paragraph 5(1)(c)**

7 Omit “Workplace Relations Act”, substitute “Registration and
8 Accountability of Organisations Schedule”.

9 **22A Paragraph 5(1)(c)**

10 Omit “under that Act”, substitute “under that Schedule”.

11 **23 Paragraph 5(1)(c)**

12 Omit “Division 1 of Part IX of that Act”, substitute “Part 2 of Chapter 2
13 of that Schedule”.

14 **24 Subsections 6(1) and (2)**

15 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

16 **25 Subsection 7(2)**

17 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

18 **26 Subsection 7(2)**

19 Omit “Workplace Relations Act”, substitute “Registration and
20 Accountability of Organisations Schedule”.

21 **27 Subsection 7(3)**

22 Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

23 **28 Subsection 7(3)**

24 Omit “Workplace Relations Act”, substitute “Registration and
25 Accountability of Organisations Schedule”.

26 **29 Subsection 7(3)**

27 Omit “section 234”, substitute “section 235”.

28 Note: This item corrects an incorrect cross-reference.

30 Subsection 7(3)

Omit “section 235 of that Act”, substitute “section 36 of that Schedule”.

31 Subsection 7(4)

Omit “Industrial Relations Act”, substitute “Workplace Relations Act”.

32 Subsection 7(4)

Omit “Workplace Relations Act”, substitute “Registration and Accountability of Organisations Schedule”.

Commonwealth Authorities and Companies Act 1997**33 Paragraph 7(2)(c)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

Commonwealth Electoral Act 1918**34 Section 5 (definition of *electoral matters*)**

Omit “the *Conciliation and Arbitration Act 1904* or”.

36 Subsection 287(1) (definition of *registered industrial organisation*)

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

Crimes Act 1914**37 Section 85ZL (subparagraph (c)(ii) of the definition of *Commonwealth authority*)**

Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to the *Workplace Relations Act 1996*”.

Criminal Code Act 1995**38 The Dictionary in the *Criminal Code* (subparagraph (a)(vi) of the definition of *Commonwealth authority*)**

1 Repeal the subparagraph, substitute:

2 (vi) Part 2 of Chapter 2 of the *Workplace Relations*
3 *Amendment (Registration and Accountability of*
4 *Organisations) Act 2002*; or

5 **39 The Dictionary in the *Criminal Code* (subparagraph (n)(vi)**
6 **of the definition of *Commonwealth public official*)**

7 Repeal the subparagraph, substitute:

8 (vi) Part 2 of Chapter 2 of the *Workplace Relations*
9 *Amendment (Registration and Accountability of*
10 *Organisations) Act 2002*; or

11 **40 The Dictionary in the *Criminal Code* (subparagraph (r)(vi)**
12 **of the definition of *Commonwealth public official*)**

13 Repeal the subparagraph, substitute:

14 (vi) Part 2 of Chapter 2 of the *Workplace Relations*
15 *Amendment (Registration and Accountability of*
16 *Organisations) Act 2002*; or

17 ***Disability Discrimination Act 1992***

18 **41 Subsection 4(1) (definition of *registered organisation*)**

19 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
20 the *Workplace Relations Act 1996*”.

21 Note: The heading to section 20 is altered by omitting “the *Workplace Relations Act 1996*”
22 and substituting “Schedule 1B to the *Workplace Relations Act 1996*”.

23 ***Employment, Workplace Relations and Small Business***
24 ***Legislation Amendment (Application of Criminal***
25 ***Code) Act 2001***

26 **42 Subsections 2(12) and (13)**

27 Repeal the subsections.

28 **43 Schedule 1 (heading relating to the *Workplace Relations***
29 ***(Registered Organisations) Act 2001*)**

30 Repeal the heading.

1 **44 Items 205 to 243 of Schedule 1**

2 Repeal the items.

3 **45 Schedule 1 (heading relating to the *Workplace Relations***
4 ***(Registered Organisations) (Consequential Provisions)***
5 ***Act 2001*)**

6 Repeal the heading.

7 **46 Item 244 of Schedule 1**

8 Repeal the item.

9 ***Equal Opportunity for Women in the Workplace Act 1999***

10 **47 Subsection 3(1) (paragraph (a) of the definition of *trade***
11 ***union*)**

12 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
13 the *Workplace Relations Act 1996*”.

14 ***Human Rights and Equal Opportunity Commission Act 1986***

15 **50 Subsection 3(1) (paragraph (a) of the definition of *trade***
16 ***union*)**

17 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
18 the *Workplace Relations Act 1996*”.

19 ***Income Tax Assessment Act 1936***

20 **51 Subsection 27A(1) (paragraph (c) of the definition of**
21 ***registered organization*)**

22 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
23 the *Workplace Relations Act 1996*”.

24 ***Insurance Act 1973***

25 **52 Subsection 3(1) (paragraph (e) of the definition of**
26 ***insurance business*)**

1 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
2 the *Workplace Relations Act 1996*”.

3 ***Life Insurance Act 1995***

4 **54 Paragraph 11(3)(b)**

5 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
6 the *Workplace Relations Act 1996*”.

7 ***National Crime Authority Act 1984***

8 **56 Schedule 1 (item referring to the *Workplace Relations Act*
9 **1996**)**

10 Repeal the item, substitute:

Workplace Relations Act 1996, section 355, and section 356 of Schedule 1B

11 ***Navigation Act 1912***

12 **58 Paragraph 138(2)(b)**

13 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
14 the *Workplace Relations Act 1996*”.

15 ***Occupational Health and Safety (Commonwealth*
16 *Employment) Act 1991***

17 **59 Subsection 5(1) (paragraph (a) of the definition of**
18 ***registered union*)**

19 Omit “the *Industrial Relations Act 1988*”, substitute “Schedule 1B to
20 the *Workplace Relations Act 1996*”.

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

22 **60 Clause 2 of Schedule 7 (paragraph (a) of the definition of**
23 ***registered union*)**

24 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
25 the *Workplace Relations Act 1996*”.

1 ***Sex Discrimination Act 1984***

2 **61 Subsection 4(1) (definition of *registered organization*)**

3 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
4 the *Workplace Relations Act 1996*”.

5 Note: The heading to section 19 is altered by omitting “**the *Workplace Relations Act 1996***”
6 and substituting “**Schedule 1B to the *Workplace Relations Act 1996***”.

7 ***Superannuation Act 1976***

8 **62 Subsection 51(2BB) (paragraph (a) of the definition of**
9 ***approved organisation*)**

10 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
11 the *Workplace Relations Act 1996*”.

12 ***Superannuation Industry (Supervision) Act 1993***

13 **63 Subsection 10(1) (paragraph (c) of the definition of**
14 ***registered organisation*)**

15 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
16 the *Workplace Relations Act 1996*”.

17 ***United States Naval Communication Station (Civilian***
18 ***Employees) Act 1968***

19 **64 Paragraph 4(b)**

20 Omit “the *Workplace Relations Act 1996*”, substitute “Schedule 1B to
21 the *Workplace Relations Act 1996*”.

1
2 **Schedule 4—Amendments about entry to**
3 **premises**
4

5 ***Workplace Relations Act 1996***

6 **1 Subsection 285C(1)**

7 Omit “A”, substitute “Subject to subsections (2) and (3), a”.

8 **2 At the end of section 285C**

9 Add:

10 (3) The person may not enter premises if all of the following
11 conditions are satisfied:

12 (a) no more than 20 employees are employed to work at the
13 premises;

14 (b) all the employees at the premises are employed by an
15 employer who is the holder of a conscientious objection
16 certificate in force under section 267, that has been endorsed
17 by the Registrar as provided in subsection (4);

18 (c) none of the employees employed at the premises is a member
19 of an organisation.

20 (4) Subject to subsection (5), a Registrar may, on the application of an
21 employer, endorse a certificate issued to that employer under
22 section 267 if the Registrar is satisfied that the employer is a
23 practising member of a religious society or order whose doctrines
24 or beliefs preclude membership of an organisation or body other
25 than the religious society or order of which the employer is a
26 member.

27 (5) A Registrar must not endorse a certificate under subsection (4)
28 unless satisfied that, at the time application is made for
29 endorsement, all of the employees employed by the applicant have
30 agreed that the applicant’s certificate should be endorsed.

31 (6) An application under subsection (4) may be made at the time of an
32 application under section 267 or at any later time.

33 (7) The endorsement of a Registrar under subsection (4) remains in
34 force for the period that the certificate remains in force.

1 Note: A certificate issued under section 267 remains in force for the period
2 (not exceeding 12 months) specified in the certificate, but may be
3 renewed. A Registrar's endorsement under subsection (4) does not
4 remain in force when a certificate is renewed, but a new application
5 for endorsement may be made.

6 **3 Paragraph 285C(3)(b)**

7 Omit "section 267", substitute "section 180 of the Registration and
8 Accountability of Organisations Schedule".

9 **4 Subsection 285C(4)**

10 Omit "section 267", substitute "section 180 of the Registration and
11 Accountability of Organisations Schedule".

12 **5 Subsection 285C(6)**

13 Omit "section 267", substitute "section 180 of the Registration and
14 Accountability of Organisations Schedule".

15 **6 Subsection 285C(7) (note)**

16 Omit "section 267", substitute "section 180 of the Registration and
17 Accountability of Organisations Schedule".

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