

IR301*

Industrial Relations Act 1979

Industrial Relations Commission Amendment Regulations (No. 2) 2008

Made by the Chief Commissioner of the Western Australian Industrial Relations Commission after consulting the members of the Commission.

1. Citation

These regulations are the *Industrial Relations Commission Amendment Regulations (No. 2) 2008*.

2. Commencement

These regulations come into operation as follows:

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 July 2008.

3. The regulations amended

The amendments in these regulations are to the *Industrial Relations Commission Regulations 2005*.

4. Part 10A inserted

After Part 10 the following Part is inserted —

“

Part 10A — Road Freight Transport Industry Tribunal

99A. Interpretation of this Part

In this Part —

“**applicant**” means a person who refers a dispute or matter to the Tribunal under the *Owner-Drivers (Contracts and Disputes) Act 2007* section 40;

“**Tribunal**” has the meaning given to that term in the *Owner-Drivers (Contracts and Disputes) Act 2007* section 38(2).

99B. Referrals to the Tribunal

The referral of a dispute or matter to the Tribunal under the *Owner-Drivers (Contracts and Disputes) Act 2007* is to be by way of notice of referral in Form 7A.

99C. Application of certain provisions

The regulations that are set out in the Table to this regulation apply to the exercise of jurisdiction by the Tribunal as if the references in the regulations to the Commission were references to the Tribunal.

Table

r. 102	r. 103
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99D. Procedures specific to Tribunal proceedings

- (1) A notice of referral is to be signed by the applicant or, where applicable, the applicant’s solicitor or agent and, where necessary, sealed by the applicant.
- (2) Unless in a particular case the Chief Commissioner otherwise directs, the Registrar is to present a notice of referral to the Chief Commissioner for allocation of the matter as soon as practicable after the notice is filed.

- (3) The Registrar is to endorse on the notice of referral the time for lodging an answering statement under regulation 14.
- (4) Unless an ex parte application for a shortened time period within which an answering statement is to be filed and such application granted, the Respondent is to file any answering statement within 21 days of the date of service of the notice of referral.
- (5) Proof of service of a notice of referral is to be given by statutory declaration in Form 4 filed in the office of the Registrar within 2 days of the day on which service was effected.
- (6) A notice of answer and counter-proposal is to be in Form 5 and is to specify with particularity the answer and counter-proposal made and the basis on which the answer and counter-proposal is made.
- (7) Where service of any other document is required by the Tribunal proof of such service is to be given by statutory declaration in Form 4 filed in the office of the Registrar within 7 days of the day on which service was effected.
- (8) The Tribunal may orally, in writing, by telephone or fax transmission or email issue a summons to attend conciliation proceedings under the *Owner-Drivers (Contracts and Disputes) Act 2007* section 45.
- (9) If proof of service of a copy of the notice of Referral has been filed by the applicant or a copy of the notice of Referral has been sent by fax transmission or by email to the Respondent by an officer of the Commission at the direction of the Tribunal, the Tribunal may, prior to the lodgment of the notice of answer and counter-proposal, convene a conference under the *Owner-Drivers (Contracts and Disputes) Act 2007* section 44(2)(b).
- (10) A direction, order or declaration of the Tribunal under the *Owner-Drivers (Contracts and Disputes) Act 2007* section 44(3) when committed to writing and sealed is to be served by the Registrar or such other person as the Tribunal may direct, on such person or persons as the Tribunal may direct.

99E. Forms modified

For the purposes of this Part —

- (a) Forms 4, 5, 14, 15, 16, 17 and 18 apply as if after “In the Western Australian Industrial Relations Commission” were inserted —

“

sitting as the Road Freight Transport Industry Tribunal

”; and

(b) Forms 9, 15, 16 and 17 apply as if the references in those Forms to “the Commission” (except those relating to the stamp of the Commission) were references to the Tribunal.

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5. Schedule 1 amended

After Schedule 1 Form 7 the following form is inserted —

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Form 7A — Notice of referral to the Road Freight Transport Industry Tribunal

[r. 99B]

Industrial Relations Act 1979

In the Western Australian Industrial Relations Commission sitting as the Road Freight Transport Industry Tribunal

No. RFT of 20.....

Notice of referral to the Road Freight Transport Industry Tribunal

TAKE NOTICE THAT

(state name and address of applicant — the categories of persons who may refer a dispute or matter are set out in the *Owner-Drivers (Contracts and Disputes) Act 2007* section 40)

has this day referred to the Tribunal —

.....

(state nature of dispute or matter and identify whether the dispute or matter arises under the *Owner-Drivers (Contracts and Disputes) Act 2007* section 40(a), (b) or (c) or more than one of those paragraphs)

The grounds on which the referral is made are —

.....

(state the names of owner-driver and hirer (if not set out above) and the details of the claim, including any relevant terms of the owner-driver contract; or any relevant terms of the code of conduct alleged to be breached; or any alleged circumstances of a breach of the *Owner-Drivers (Contracts and Disputes) Act 2007*; or any relevant conduct complained of in respect of negotiations for an owner-driver contract — attach schedule if necessary)

.....
(signature/seal of applicant or signature of applicant’s solicitor or agent)

(Stamp of Commission)

For endorsements see the back of this form or the attachment(s).

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Dated: 5th June 2008.

A. R. BEECH, Chief Commissioner,
Western Australian Industrial Relations Commission.