



Western Australia

INDUSTRIAL RELATIONS ACT 1979

## **Industrial Relations Commission Regulations 1985**

These regulations were repealed by the *Industrial Relations Commission Regulations 2005* r. 121 as at 1 Sep 2005 (see *Gazette* 12 August 2005 p. 3779).

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# Industrial Relations Commission Regulations 1985

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Western Australia

INDUSTRIAL RELATIONS ACT 1979

## **Industrial Relations Commission Regulations 1985**

PURSUANT to the powers conferred by section 113 of the *Industrial Relations Act 1979* and all other powers hereunto enabling, the Western Australian Industrial Relations Commission hereby:

- (1) revokes the following regulations:
  - (a) The *Industrial Commission Regulations 1980* as amended.
  - (b) The *Government School Teachers Arbitration and Appeal Regulations 1980* as amended.
  - (c) The *Public Service Arbitration Act Regulations 1978*.
  - (d) The regulations made under the provisions of the *Railways Classification Board Act 1920*, and published in the *Government Gazette* on the 25th February, 1921, and amended from time to time thereafter; and
  - (e) The *Government Employees (Promotions Appeal Board) Regulations*.

- (2) makes the regulations set forth in the Schedule below

so that the revocations referred to in paragraph (1) and the regulations referred to in paragraph (2) take effect on and from the 1st day of March, 1985.

## Part I — Preliminary

### 1. Citation

These regulations may be cited as the *Industrial Relations Commission Regulations 1985*.

### 2. Interpretation

In these regulations, unless the contrary intention appears —

“**form**” means a form in the Schedule to these regulations;

“**paragraph**” means a paragraph of the regulation or subregulation in which the term is used;

“**regulation**” means a regulation of these regulations;

“**subparagraph**” means a subparagraph of the paragraph in which the term is used; and

“**subregulation**” means a subregulation of the regulation in which the term is used.

## **Part II — The Registry**

### **3. Lodging documents**

- (1) All documents required to be filed or lodged under the Act or these regulations shall be filed or lodged as the case may be in office of the Registrar.
- (2) Documents required to be filed or lodged under the Act or these regulations shall, unless in any particular case the Registrar or Deputy Registrar otherwise expressly approves, be filed not earlier than 9.00am and not later than 4.00 p.m. on any day on which the office of the Registrar is open for business.
- (3) Where a document is required to be filed or lodged within a prescribed time and the office of the Registrar is not open for business on the last day on which it may be filed or lodged, it shall be deemed to have been filed or lodged within time if it is filed or lodged on the first day thereafter upon which the office of the Registrar is open for business.
- (4) Every document required to be filed or lodged under the Act or these regulations and copies thereof for service shall be in the form required by these regulations clearly written or typed or reproduced on one side only with an adequate margin.
- (5) The clerk receiving documents shall not accept any document unless it has been completed in accordance with the Act and these regulations. Provided that appeal books lodged in relation to appeals under section 49 and section 84 of the Act shall not be deemed documents for the purposes of this sub-regulation.
- (6) Except where otherwise provided by these regulations or otherwise directed by the Commission one copy of every document for the use of the Commission together with at least as many documents as there are parties shall be filed or lodged in the office of the Registrar.

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- (7) Subject to the provisions of regulation 111 and with the prior consent of the Registrar, documents to be lodged in the office of the Registrar may be lodged by means of electronic data transmission.

*[Regulation 3 amended by Gazettes 19 August 1987 p.2961; 20 May 1994 p.2114.]*

**3A. Registry opening hours**

- (1) Subject to sub-regulation (2), the registry shall be open to the public for the transaction of business from 9.00 am until 4.00 pm on Monday to Friday inclusive of each week, except on public holidays and on any other days on which public offices are closed.
- (2) A member of the Commission or the Registrar may, in special circumstances, direct that the registry be open at times outside those prescribed in sub-regulation (1).

*[Regulation 3A inserted by Gazette 20 May 1994 p.2114.]*

**4. Procedure by Registrar**

- (1) The Registrar shall issue all processes out of the Commission and each document presented to the Registrar at his office for filing or issue under the Act or these regulations shall be stamped with the stamp of the Commission endorsed with the date and time of filing.
- (2) The Registrar shall mark each originating process with a distinguishing number and all documents subsequently taken in the Commission and any award, order, declaration or direction made by the Commission in relation to the matter shall be distinguished by the same number.
- (3) The Registrar shall keep a register of all proceedings in and awards, orders and declarations made by the Commission and the entries in the records kept with regard to each matter shall be

entered together and kept separate from the entries with respect to any other matter.

- (4) Subject to these regulations upon documents being accepted for filing and the party lodging the documents completing the copies as endorsed by the Registrar the Registrar shall cause the copies to be stamped and returned to the party.

*[Regulation 4 amended by Gazette 19 August 1988 p.2961.]*

**5. Direction to Registrar to investigate and report**

A direction under section 93 (8) of the Act may be given orally or in writing, but if given orally the direction shall be confirmed in writing.

**6. Stamp of Commission**

- (1) There shall be a stamp which shall bear the words “The Stamp of the Western Australian Industrial Relations Commission” and which shall provide for a date and a facsimile of the signature of the Registrar.
- (2) The stamp shall be in the custody of the Registrar.
- (3) In addition to any other requirement of these regulations the stamp shall be affixed by the Registrar or at his direction to all documents issued in his name in relation to proceedings before the Commission.

**7. Seal of Commission**

- (1) The Seal of the Commission shall bear the Royal Arms and the words “The Seal of the Western Australian Industrial Relations Commission”.
- (2) The Seal shall be in the custody of the Registrar.
- (3) The Seal shall be affixed by the Registrar or at his direction to all awards and orders of the Commission and to such other documents as the Commission may direct.

**7A.      Publication of information and notices**

- (1) The Registrar may only publish on a website maintained by the Commission such material as is authorised by the Act, these regulations or by a member of the Commission.
- (2) Where pursuant to this regulation the Registrar publishes on a website maintained by the Commission a notice or other material the Registrar shall ensure that the notice or material clearly states the authorisation and the day on which the notice or material is first published on the website.

*[Regulation 7A inserted in Gazette 2 August 2002 p.3801.]*

### **Part III — Commission proceedings**

#### **8. Applications to the Commission**

- (1) Proceedings before the Commission however constituted, shall, except where it is otherwise provided by the Act or by these regulations, be commenced by Notice of Application in accordance with Form 1 to which shall be attached such statements, statutory or other declarations or other documents as are required by these regulations or as are directed by the Commission or by an officer authorized by the Commission, to be attached thereto.
- (2) A Notice of Application shall —
  - (a) be signed by the applicant or his agent and where necessary be sealed by the applicant;
  - (b) accurately describe all of the parties to the application, and their respective addresses for service; and
  - (c) have attached a written statement of claim which clearly and concisely specifies the exact nature of the relief sought and the purpose of the application.
- (3) Subject to these regulations on receiving an application the Registrar shall endorse on Form 1 whether an answering statement is required and if so in what time unless the applicant makes an application to the Commission for a shortened time for answers in which case the copies of the application required to be lodged by these regulations shall not be returned to the applicant until the application for shortened time for answers has been determined by the Commission.
- (4) Subject to these regulations the time required for filing any answering statement shall be 21 days from the date of being served with the Notice of Application.
- (5) The applicant may by separate application apply to the Commission to shorten the time required for filing an answer, in

which case the application shall be lodged at the same time as the substantive application.

- (6) An application to shorten the time for filing an answer need not be served on the respondent and shall be determined by the Commission after making such enquiries as it considers appropriate in the circumstances of the case.

**9. Duties of the Registrar in respect of applications**

- (1) The Registrar shall, upon and after the filing of an application take such action in respect of the application as the Chief Commissioner either generally or in the particular case may direct.
- (2) The Registrar shall keep a Register, which may be in a form of information stored on a computer, in which the Registrar is to enter each filed application, the action taken by him in relation to it, and the date on which the action is taken.
- (3) Unless in any particular case the Chief Commissioner otherwise directs, the Registrar shall present each application to the Chief Commissioner for allocation when he is satisfied that the procedures necessary to enable the matter to be listed for hearing, including, when appropriate, the procedures referred to in sections 29A (2), (3) and (4) of the Act, have been complied with.
- (4) Where the Chief Commissioner directs that before the matter is allocated the issues to be referred to the Commission for determination by arbitration be settled, those issues shall be settled before the Registrar unless the Chief Commissioner otherwise directs.

*[Regulation 9 amended in Gazette 24 Mar 2005 p. 1003.]*

**10. Application for Award**

- (1) An application for an award shall in addition to any other requirement imposed by the Act or these regulations clearly and concisely indicate:
  - (a) the area of operation and the scope of the proposed award; and
  - (b) where relevant the names of such number of employers as is reasonably representative of those who would by common rule be bound by the proposed award.
- (2) On filing the application the applicant shall through the Registrar seek directions from the Commission as to service of the application.
- (3) Upon the Commission giving directions as to service the Registrar shall forthwith inform the applicant who shall thereupon lodge with the Registrar for stamping as many copies of the application as there are persons directed to be served with the application.
- (4) The applicant shall upon the return to him of the stamped copies of the application for the award, serve a copy of the application together with its attachments on those persons directed by the Commission to be served with the application.
- (5) A respondent who is served with an application for an award and who desires to contest the claim or any provision sought by the applicant shall, within the time endorsed on Form 1 or within such additional time as may be allowed pursuant to these regulations, file an answering statement in the Commission.
- (6) An answering statement shall be attached to Form 3 and shall specifically admit or dispute, either with or without qualification, each part of the claim made by the applicant.
- (7) An answering statement may contain a counter proposal in which case the proposal shall be set out in such detail as to clearly specify the nature of the relief proposed.

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- (8) A respondent filing an answering statement shall file one copy for retention by the Commission and in addition at least as many copies as there are applicants.
- (9) A respondent shall, upon the return to him of stamped copies of the answering statement, serve a copy thereof upon the applicant.
- (10) The provisions of this regulation with respect to the time within which answering statements are to be filed apply, with such modifications as are necessary, with respect to replies to counter proposals and subject thereto the time to be endorsed on Form 3 shall be 14 days.
- (11) At any hearing by the Commission of an application for an award, a party who was served with a copy of the claims or a copy of any counter proposals and who did not file an answering statement or a reply to the counter proposals, as the case may be, within the times respectively allowed pursuant to these regulations shall be heard with respect to those claims or counter proposals only by leave of the Commission and then only on such conditions as the Commission may impose.
- (12)
  - (a) The information to be published pursuant to section 29A (2) of the Act shall be in a form approved by the Commission.
  - (b) The applicant in proceedings to which section 29A (2) of the Act applies shall if the Registrar so requests and in the time required by him lodge with the Registrar a draft for settlement of the notice to be published in the *Industrial Gazette* containing the information required by the Act.
- (13) An application to which this regulation applies shall not be listed for hearing until after the expiration of 14 days from the date of issue of the *Industrial Gazette* in which the matters referred to in subregulation (12) (a) are published unless the Commission otherwise directs.

*[Regulation 10 amended by Gazette 19 August 1988 p.2961.]*

**11. Application to vary area of operation of award**

- (1) An application to vary the area of operation or the scope of an award shall have attached a statement of —
  - (a) the persons whom the applicant seeks to affect by the proposed variation; and
  - (b) the grounds on which the application is made.
- (2) Subject to subregulation (1) regulation 10 shall apply with such modifications as may be necessary to an application of the kind herein mentioned.

**12. Application to vary award**

- (1) An application to vary an award which does not involve variation of the area of operation or the scope of the award shall have attached a statement of particulars of the cancellation, amendment or variation sought and when the application is made during the specified term of the award a short description of the circumstances which have arisen to cause the application.
- (2) Where the application seeks to vary the award with respect to a specified party or specified parties only, the application shall so state.
- (3) Where the award applies to more than one industry and the applicant seeks to vary the award in respect of a specified industry or specified industries only, the application shall so state.
- (4) The application shall be served on all the named parties to the award unless at the time of filing the application the applicant requests the Commission for directions as to service of the application in which case the Registrar shall not return to the applicant copies of the application until the Commission has given directions as to service of the application.

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- (5) Where the Commission gives directions as to service, the Registrar shall forthwith inform the applicant who shall thereupon lodge with the Registrar for stamping as many copies of the application as there are persons directed to be served with the application.
- (6) A respondent who is served with an application to vary an award and who desires to contest the claim or any provision sought by the applicant shall, within the time endorsed on Form 1 or within such additional time as may be allowed pursuant to these regulations, file an answering statement in the Commission.
- (7) An answering statement shall be attached to Form 3 and shall specifically admit or dispute, either with or without qualification, each part of the claim made by the applicant.
- (8) An answering statement may contain a counter proposal in which case the proposal shall be set out in such detail as to clearly specify the nature of the relief proposed.
- (9) A respondent filing an answering statement shall file one copy for retention by the Commission and in addition at least as many copies as there are applicants.
- (10) A respondent shall, upon the return to him of stamped copies of the answering statement, serve a copy thereof upon the applicant.
- (11) The provisions of this regulation with respect to the time within which answering statements are to be filed apply, with such modifications as are necessary, with respect to replies to counter proposals and subject thereto the time to be endorsed on Form 3 shall be 14 days.
- (12) At any hearing by the Commission of an application for a variation of award, a party who was served with a copy of the claims or a copy of any counter proposals and who did not file an answering statement or a reply to the counter proposals, as

the case may be, within the time allowed pursuant to these regulations shall be heard with respect to those claims or counter proposals only by leave of the Commission and then only on such conditions as the Commission may impose.

- (13) (a) The information to be published pursuant to section 29A (2) of the Act shall be in a form approved by the Commission.
- (b) The applicant to proceedings to which section 29A (2) of the Act applies shall if the Registrar so requests and in the time required by him lodge with the Registrar a draft for settlement of the notice to be published in the *Industrial Gazette* containing the information required by the Act.

**13. Application for joinder of party to award**

- (1) (a) There shall be attached to an application to add any employer, organization of employees or association as a named party to an award a written statement of the grounds on which the application is made and facts to show that the applicant is entitled to make the application.
- (b) The statement is to include whether or not the addition may have the effect of extending the award to employees to whom another award already extends.
- (2) On filing the application the applicant shall through the Registrar seek directions from the Commission as to service of the application.
- (3) Unless in any particular case the Chief Commissioner directs otherwise, the Registrar shall give notice of the application in the prescribed manner and such notice shall advise that the application may be inspected by any interested person without charge and that any such person may, by giving written notice of objection to the Commission and to the applicant within 28

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days of publication of the notice, appear and be heard on the hearing of the application.

*[Regulation 13 inserted in Gazette 2 August 2002 p.3801.]*

**13A. Application to incorporate industrial agreement provisions into award**

- (1) When filing an application under section 40A(1)(b), the applicant shall lodge with the Registrar 4 copies of the application for stamping and return to the applicant.
- (2) Upon return of the stamped copies, the applicant shall serve a stamped copy on—
  - (a) the Council;
  - (b) the Chamber;
  - (c) the Mines & Metals Association; and
  - (d) the Minister.

*[Regulation 13A inserted in Gazette 2 August 2002 p.3802.]*

**14. Application for interpretation of award, and industrial agreement**

- (1) There shall be attached to an application for interpretation of an award within the meaning of section 46 (5) of the Act a statement of—
  - (a) the number and title of the award and the number of the clause or clauses under which the question arises;
  - (b) the facts giving rise to the application; and
  - (c) the question to which an answer is desired.
- (2) An application under subregulation (1) shall be served on each named party to the award unless the Commission considers that service on every party to the award is not necessary and directs the applicant to give notice of the application in such terms as

the Commission may direct in a newspaper circulating in the locality where the award applies.

- (3) It shall not be necessary to file an answer to the application but the application shall not be listed for hearing until proof of service of the application on each of the parties required to be served has been filed in accordance with Form 2.

*[Regulation 14 amended by Gazette 19 August 1988 p.2961.]*

**15. Application for industrial agreement**

- (1) An application for registration of an industrial agreement shall be accompanied by —
- (a) the agreement executed by all of the parties thereto; and
  - (b) a statement which summarises any changes which the agreement effects in the relevant rates of pay and conditions of employment of the employees to whom the agreement relates and which states the grounds upon which it is contended that the agreement satisfies the requirements of section 41 (2) of the Act.
- (2) (a) The information to be published pursuant to section 29A (2) of the Act shall be in a form approved by the Commission.
- (b) The applicant to proceedings to which section 29A (2) of the Act applies shall if the Registrar so requests and in the time required by him lodge with the Registrar a draft for settlement of the notice to be published in the *Industrial Gazette* containing the information required by the Act.
- (3) An application to which this regulation applies shall not be listed for hearing until after the expiration of 14 days from the date of issue of the *Industrial Gazette* in which the matters referred to in subregulation (2) (a) are published unless the Commission otherwise directs.

- (4) Upon the registration of an industrial agreement the Registrar shall enter the agreement in the Register of Industrial Agreements.

*[Regulation 15 amended by Gazette 19 August 1988 p.2961.]*

**16. Retirement from industrial agreement**

The notice signifying intention to retire from an industrial agreement shall be in accordance with Form 4 and be filed in the office of the Registrar and be served forthwith by the party retiring on each other party to the agreement.

**17. Concurrence with industrial agreement**

- (1) The notice signifying concurrence with an industrial agreement shall be in accordance with Form 5 and shall be filed in the office of the Registrar.
- (2) A separate form shall be so filed by each organization, association or employer, so concurring.

**18. Application for joinder of party to industrial agreement**

- (1) There shall be attached to an application to join any employer or organization of employees as a party to an industrial agreement a statement specifying the grounds on which the application is made and the facts to show that the applicant is entitled to make the application.
- (2) On filing the application the applicant shall through the Registrar seek directions from the Commission as to service of the application.
- (3) Unless in any particular case the Chief Commissioner directs otherwise, the Registrar shall give notice of the application in the *Industrial Gazette* and such notice shall advise that the application may be inspected by any party to the agreement without charge and that any such party may, by giving written notice of objection to the Commission and to the applicant

within 28 days of publication of the notice, appear and be heard on the hearing of the application.

*[Regulation 18 amended by Gazette 16 August 1985 p.298.]*

**19. Variation of industrial agreement by consent**

- (1) Subject to this regulation the provisions of regulation 15 with such modifications as may be necessary apply to any industrial agreement which varies, renews, or cancels another industrial agreement.
- (2) Where a party to the agreement which is being varied, renewed or cancelled is not a party to the amending agreement, that party shall be named in a schedule to the amending agreement.

**20. Application to Commission to amend industrial agreement**

- (1) An application by any party to an industrial agreement to cancel, amend or vary any provision thereof shall include particulars of the cancellation, amendment or variation sought and a short description of the circumstances which have arisen to warrant the application.
- (2) The applicant shall upon the return to him of the stamped copies of the application, serve a copy together with its attachments on each other party to the agreement.
- (3) A respondent who is served with an application and who desires to contest the claim or any provision sought by the applicant shall, within the time endorsed on Form 1 or within such additional time as may be allowed pursuant to these regulations, file an answering statement in the Commission.
- (4) An answering statement shall be attached to Form 3 and shall specifically admit or dispute, either with or without qualification, each part of the claim made by the applicant.

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- (5) An answering statement may contain a counter proposal in which case the proposal shall be set out in such detail as to clearly specify the nature of the relief proposed.
- (6) A respondent shall, upon the return to him of stamped copies of the answering statement, serve a copy thereof upon the applicant.
- (7) The provisions of this regulation with respect to the time within which answering statements are to be filed apply, with such modifications as are necessary, with respect to replies to counter proposals and subject thereto the time to be endorsed on Form 3 shall be 14 days.
- (8) At any hearing by the Commission of an application, a party who was served with a copy of the claims or a copy of any counter proposals and who did not file an answering statement or a reply to the counter proposals, as the case may be, within the time allowed pursuant to these regulations shall be heard with respect to those claims or counter proposals only by leave of the Commission and then only on such conditions as the Commission may impose.

**21. Applications by individual employees**

- (1) An application for relief under section 29 (b) of the Act shall include a statement in summary form of the material facts on which the applicant relies, and shall specify the nature of the relief sought.
- (2) The applicant shall upon the return to him of the stamped copies of the application serve a copy of the application together with its attachments on each respondent.
- (3) A respondent who is served with an application made under section 29(1)(b) and who desires to contest the claim shall file an answering statement in the Commission, within 21 days of being served with the application.

- (4) An answering statement shall be attached to Form 3 and shall in summary form specify the facts on which the respondent relies and admit or dispute, either with or without qualification, each part of the claim made by the applicant.
- (5) A respondent shall, upon the return to him of stamped copies of the answering statement serve a copy thereof upon the applicant.
- (6) At any hearing by the Commission of an application a party who was served with a copy of the application and who did not file an answering statement within the time allowed pursuant to these regulations shall be heard on such conditions as the Commission may impose.

*[Regulation 21 amended in Gazette 19 August 1988 p.2961; 24 July 1998 p.3895.]*

**21A. Application pursuant to section 49I(7)**

- (1) An application pursuant to section 49I(7) by an authorised representative to waive the requirement to give an employer notice of an intended exercise of a power under section 49I(6) of the Act shall be made by Notice of Application in accordance with Form 1 to which shall be attached a statutory declaration by the applicant setting out the grounds upon which the waiver is sought.
- (2) It shall not be necessary to serve the application and the application shall be dealt with by the Commission ex parte in Chambers.

*[Regulation 21A inserted in Gazette 2 August 2002 p.3801.]*

**21B. Application pursuant to section 29(1)(b)(i) out of time**

- (1) A referral by an employee under section 29(1)(b)(i) that is outside the time prescribed by section 29(2) of the Act shall have attached a statement from the applicant setting out the facts upon which the applicant relies to show why it would be unfair for the Commission not to accept the referral.

**r. 21B**

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- (2) The referral shall otherwise be dealt with in accordance with regulation 21 of these regulations.

*[Regulation 21B inserted in Gazette 2 August 2002 p.3802.]*

## Part IV — Conferences

### 22. Orders under section 32

A direction or an order made by the Commission under section 32 (3) or section 44 (6) (ba) of the Act when given or committed to writing shall be under Seal and shall be served by the Registrar or by such other person as the Commission may direct, on such person or persons as the Commission may direct.

*[Regulation 22 amended by Gazette 19 August 1988 p.2961.]*

### 23. Compulsory conference

- (1) An application for a conference under section 44 of the Act shall set out the reasons for which the conference is sought.
- (2) No answering statement need be filed to an application for a conference under section 44.
- (3) A summons to a conference under section 44 of the Act may be given by a Commissioner or by any officer of the Commission at the direction of a Commissioner, orally, in writing, by telephone, by telex, by telegram or by any electronic means.

### 24. Memorandum following compulsory conference

Where at the conclusion of a conference under section 44 of the Act a matter is to be heard and determined by the Commission, the Commissioner presiding over the conference shall draw up or cause to be drawn up and sign, a memorandum of the matter requiring hearing and determination and for that purpose may direct parties to file in the Commission, statements of claim, answers, counterproposals and replies in such manner and within such time as the Commission sees fit.

## **Part V — Boards of Reference**

### **25. Boards of Reference**

- (1) Nomination of an employees' representative by an organization or association of employees shall be made to the Chief Commissioner in writing.
- (2) Nomination of an employers' representative shall be made in writing by not less than three employers concerned or by the actual number concerned if less than three.
- (3) Where more than one organization of employees is a party to the award, the manner of nomination and appointment of employee's representatives shall be as directed by the Chief Commissioner.
- (4) Where an award applies to more than one location application may be made to the Chief Commissioner to limit the appointment of representatives or any of them to a specified location or locations.

### **26. Appeals from Boards of Reference**

- (1) An appeal from a decision of a Board of Reference shall be in accordance with Form 6 and forthwith after being filed, shall be served by the appellant on every other party to the proceedings before the Board of Reference or on the agent who represented that party.
- (2) Subject to subregulation (3), the filing of an appeal under subregulation (1) shall stay the operation of the decision which is the subject of the appeal.
- (3) Upon application made by any person referred to in subregulation (1) the Commission may, subject to such conditions as it may determine, direct that a decision which is subject to an appeal shall continue to operate according to its tenor pending the determination of the appeal.

- (4) An application under subregulation (3) shall, after being filed, be served forthwith on each other person referred to in subregulation (1) but before effecting service the applicant shall ascertain the date of hearing and endorse it on Form 1.

## **Part VI — General Orders**

### **27. Notice of General Orders**

Where, pursuant to section 50 (5) of the Act the Commission in Court Session makes a General Order which applies in substitution for, or in addition to, or operates to vary provisions of any Act specified in the General Order, the Registrar shall give notice forthwith to that effect in the *Industrial Gazette* and, in two consecutive weeks, in a newspaper having circulation throughout the State.

### **28. General Orders and minimum wages**

The provisions of regulation 27 with such changes as are necessary apply with respect to any General Order to the extent that the General Order prescribes a minimum wage which is payable to employees who are not employed under awards.

## Part VII — Appeals

### 29. Appeals to Full Bench

- (1) An appeal to the Full Bench from a decision of the Commission shall be filed in accordance with Form 7 and be accompanied by a statement specifying briefly, but specifically, the grounds relied upon in support of the appeal, and what decision the appellant seeks in lieu of that appealed from.
- (2) Without affecting the specific provision of the foregoing subregulation, it is not sufficient to allege that a decision or part of it is against the evidence or the weight of evidence or that it is wrong in law; the notice must specify the particulars relied on to demonstrate that it is against the evidence and the weight of evidence and the specific reasons why it is alleged to be wrong in law.
- (3) In the case of an appeal from a decision which is a finding the statement setting out the grounds of appeal shall in addition briefly state the reasons why it is considered that the matter is of such importance that in the public interest an appeal should lie.
- (4) The appellant shall upon the return to him of the stamped copies of the notice of appeal serve a copy of the notice on each person who was a party to the proceedings before the Commission or on the agent or solicitor who represented that party.
- [(5) repealed]*
- (6) Upon application made by any person who has a sufficient interest the President may, subject to such conditions as he determines, order that the operation of the decision appealed against be stayed wholly or in part pending the hearing and determination of the appeal.
- (7) An application under subregulation (6) shall be filed in the office of the Registrar and be in accordance with Form 1.

- (8) Before returning the stamped copies of the application for an order staying the operation of a decision the Registrar shall ascertain the date of hearing from the President and endorse it on Form 1.
- (9) The applicant shall, on the return to him of the stamped copies of the application, serve it on each person referred to in subregulation (4).
- (10) The appellant shall, within 14 days of filing a notice of appeal, lodge three copies of an appeal book prepared and bound in such manner as the Registrar may approve and unless in any particular case the Registrar directs otherwise, each appeal books all contain —
  - (a) a copy of the notice of appeal;
  - (b) a copy of the application or reference instituting the proceedings before the Commission;
  - (ba) a copy of any answer or counter proposal filed in such proceedings;
  - (c) where applicable, a copy of that part or those parts of the settled issues containing the matters relevant to the appeal which were before the Commission;
  - (d) a copy of the decision which is the subject of the appeal and the Commission's reasons therefor;
  - (e) a list of the page numbers of the transcript of the proceedings at which reference is made to the subject matter of the appeal; and
  - (f) a copy of all relevant exhibits tendered during those proceedings.
- (11) The Registrar shall not accept an appeal book unless all documents contained therein are clearly legible.
- (12) The appellant shall, after lodging the appeal books, serve a copy on each person referred to in subregulation (4).

- (13) The provisions of these regulations relating to appeals to the Full Bench from a decision of the Commission shall apply, so far as is practicable and with such modifications to forms as are necessary, to and in relation to appeals to the Full Bench from a decision of an Industrial Magistrate.

*[Regulation 29 amended by Gazette 20 May 1994 p. 2114;  
24 Mar 2005 p. 1003.]*

**29A. Procedure for listing matters before Full Bench**

The procedure for the listing of matters before the Full Bench in proceedings under section 49 of the Act, shall be as follows: —

- (1) (a) The Registrar shall, upon proof of service of the notice of appeal on the parties required to be served, and after satisfying himself and certifying that regulations 29 (10), (11), and (12) have been complied with, transmit the file and all relevant documents as required by the President to the President.

Provided that the Registrar may be satisfied that regulation 29 (10) (e) and (f) have been complied with, and to so certify, upon the appellant expressly stating, in writing, that there has been full compliance with regulation 29 (10) (e) and (f).

- (b) At the same time as such file is transmitted to the President aforesaid, the Registrar shall advise the President in writing as to the estimated length of hearing and dates when counsel, solicitors, agents, or the parties in person are available.
- (c) Notwithstanding (1) (a) hereof, the Registrar may forward such file and documents to the President for listing where any time limit imposed by the Act or regulation 29 has not been complied with,

and an application to extend time for such compliance has been filed and served.

- (2)
  - (a) Before the President lists the matter for hearing he will advise the Chief Commissioner of the proposed date or dates of hearing of such appeal and request the Chief Commissioner to allocate two Commissioner members to the Full Bench for such hearing.
  - (b) The Chief Commissioner shall allocate two Commissioner members as aforesaid and the President shall list the appeal for hearing.
  - (c) The President shall cause the parties to be notified of the date of hearing in accordance with Form 24.
- (3) After any such appeal is listed for hearing, a party may upon an application to the Full Bench in accordance with Form 1 and these regulations apply to expedite the hearing of the appeal.

*[Regulation 29A inserted by 20 May 1994 p.2114.]*

**30. Appeals from decision of Director of Industrial Training**

- (1) An appeal against a decision of the Director of Industrial Training under section 37C of the *Industrial Training Act 1975* shall be initiated in accordance with regulation 23 of the *Industrial Training (General Apprenticeship) Regulations 1981* as amended.
- (2) The Registrar of Industrial Training shall provide to the Commission —
  - (a) proof that all parties to the appeal have been notified of the appeal and have received a copy of the notice of appeal;
  - (b) copies of the decision and reasons for decision, the subject of the appeal; and

- (c) any papers relevant to the appeal which are held by the Registrar of Industrial Training or by the Director of Industrial Training.
- (3) The Commission shall give notice to the parties to the appeal of the time and date fixed for the hearing of the appeal, which notice shall not, except with the agreement of all parties, be less than 7 days before the day fixed for the hearing.
- (4) On determination of the appeal the Registrar shall notify the Registrar of Industrial Training and the parties to the appeal of the Commission's decision and shall return to the Registrar of Industrial Training all papers provided to the Commission by him.

**31. Review of decisions of the Western Australian Coal Industry Tribunal**

- (1) An application to the Commission in Court Session for a review of any decision or settlement given or effected by Western Australian Coal Industry Tribunal shall be in accordance with Form 1.
- (2) Three copies of the application shall be filed in the office of the Registrar and there shall be attached to each such copy a statement specifying briefly, but specifically, the grounds relied upon in support of the application and what determination the applicant seeks in lieu of that made by the Tribunal.
- (3) Without affecting the specific provisions of the foregoing subregulation, it is not sufficient to allege that a decision or part of it is against the evidence or the weight of evidence or that it is wrong in law; the notice must specify the particulars relied on to demonstrate that it is against the evidence and the weight of evidence and the specific reasons why it is alleged to be wrong in law.
- (4) Where the statement of grounds of the application for review do not in the opinion of the Registrar comply with this regulation

the Registrar shall before returning the stamped copies of the application refer the question to the Chief Commissioner for his direction.

- (5) The application, after being filed, shall, together with the attachments, be served forthwith upon each other party to the proceedings before the Tribunal and on the clerk to the Western Australian Coal Industry Tribunal.
- (6) The applicant shall, within 7 days of filing an application for review, lodge in the Commission three copies of an appeal book prepared and bound in such manner as the Registrar may approve and unless in any particular case the Registrar directs otherwise, each book shall contain —
  - (a) a copy of the application or reference instituting proceedings before the Tribunal;
  - (b) where applicable, a copy of that part or those parts of the transcript containing the matters relevant to the review which were before the Tribunal;
  - (c) a copy of the decision or settlement which is the subject of the application and the Tribunal's reasons therefore; and
  - (d) a copy of all relevant exhibits tendered during those proceedings.
- (7) The receiving clerk shall not accept an appeal book unless all documents contained therein are clearly legible.
- (8) The applicant shall after lodging the appeal books, serve a copy on each other party to the proceedings before the Tribunal.
- (9) Upon proof of service of the notice of appeal on the parties required in subregulation (5) the Registrar shall transmit the application to the Chief Commissioner to be listed for hearing.
- (10) On determination of the application to review the Registrar shall notify the clerk to the Tribunal of the Commission's decision.

*[Part VIII (r. 32-42) repealed in Gazette 2 August 2002 p.3802.]*

## **Part IX — Public Service Arbitration**

### **43. Interpretation of this Part**

In this part of these regulations the terms “**Arbitrator**”, “**Association**”, “**Board**”, “**employer**” and “**Government officer**” shall, unless the context otherwise requires have the same meaning as is attributed to those terms in Division 2 of Part II A of the Act.

### **44. Reclassification appeals**

- (1) An application in respect of a claim under sections 80E (2) (a) and 80E (2) (b) of the Act shall be commenced by filing a Notice of Appeal in accordance with Form 9.
- (2) The notice of appeal shall clearly and concisely set out the grounds of appeal and shall be signed by the appellant or his agent.
- (3) A claim under section 80E (2) (a) or 80E (2) (b) of the Act may be made at any time, provided however that in respect of a claim under section 80E (2) (a) not more than one claim shall be made in relation to the same office within a period of 12 months unless the duties and responsibilities of that office are altered within this period.
- (4) The appellant shall upon the return to him of the stamped copy of the notice of appeal serve or cause it to be served on his employer, and if the employer is not the Public Service Board, one copy on the Public Service Board.
- (5) Upon proof of service of the notice of appeal on the employer and the Public Service Board as the case may be the appellant may apply to the Registrar for a date of hearing.
- (6) An appellant shall lodge with the Registrar a written resume of the evidence he intends to adduce in support of his appeal at

least three working days before the date fixed for hearing the appeal

*[Regulation 44 amended by Gazette 19 August 1988 p.2961.]*

**45. Public Service Appeal Board**

- (1) An appeal to the Board under section 80I (1) of the Act shall be commenced by filing a Notice of Appeal in accordance with Form 10.
- (2) An appeal shall be commenced within 21 days after the date of the decision, determination or recommendation in respect of which the appeal is made or where that decision, determination or recommendation is published in the *Government Gazette* within one month of the date of that publication.
- (3) A notice of appeal shall clearly and concisely set out the grounds of appeal and be signed by the appellant.
- (4) The appellant shall at the time of filing the notice of appeal lodge with the Registrar at least three copies of the notice for use of the Board and at least as many additional copies as there are respondents to the appeal.
- (5) The appellant shall on return to him of the stamped copy of the notice of appeal serve it on the respondent.
- (6) Upon proof of service of the notice of appeal on the respondent the appellant may request that the appeal be set down for hearing.
- (7) The Chairman shall fix the date, time and place for the hearing of the appeal and shall cause the Registrar to arrange a sitting of the Board and notify the parties.
- (8) The parties shall be given not less than 14 days notice of the hearing of the appeal, unless the Chairman otherwise directs.
- (9) No appeal shall be heard by the Board unless the appellant supplies the Board at least 4 days prior to the hearing with three

copies of a statement in writing of the facts on which the appellant relies and also serves a copy of the same statement on the other party to the appeal or his representative.

## Part X — Railways Classification Board

### 46. Interpretation of this Part

In this Part of these regulations the terms “**Board**”, “**head of branch**”, “**member**”, “**Minister for Railways**”, “**Railways Commission**”, “**salaried position**” and “**sub-head of branch**” shall, unless the context otherwise requires have the same meaning as is given to those terms in Division 3 of Part IIA of the Act.

### 46A. Nomination of agent for appeal of claim under section 80E (2)

Where an appellant in the Notice of Appeal nominates a person to act as his agent that person shall be deemed to be appointed as his agent in accordance with the provisions of regulation 88 and the provisions of that regulation shall otherwise apply *mutatis mutandis* to a claim made under sections 80E (2) (a) and 80E (2) (b).

*[Regulation 46A inserted by Gazette 19 August 1988 p.2916.]*

### 47. Number of copies of documents for Board

Except where otherwise provided by these regulations or otherwise directed by the Chairman of the Board three copies of every document for the use of the Board together with at least as many documents as there are parties shall be filed or lodged with the Registrar.

### 48. Classification appeals

- (1) An application in respect of a matter referred to in section 80R (2) of the Act shall be commenced by Notice of Appeal in accordance with Form 9.

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- (2) The notice of appeal shall clearly and concisely set out the grounds of appeal and shall be signed by the appellant or his agent.
- (3) An application may be commenced at any time but not more than one application shall be made concerning the classification or reclassification of the same salaried position within a period of 12 months unless the duties and responsibilities of that position have altered within that period.
- (4) The appellant shall upon the return to him of the stamped copy of the notice of appeal serve or cause it to be served on the Railways Commission.
- (5) Upon proof of service of notice of appeal the appellant may apply to the Registrar for a date of hearing.
- (6) An appellant shall lodge with the Registrar three copies of a written resume of the evidence he intends to adduce in support of his appeal at least three working days before the date fixed for hearing the appeal.

*[Regulation 48 inserted by Gazette 19 August 1988 p.2916.]*

**48A. Nomination of agent for appeal of claim under section 80R (2)**

Where an appellant in the Notice of Appeal nominates a person to act as his agent that person shall be deemed to be appointed as his agent in accordance with the provisions of regulation 88 and the provisions of that regulation shall otherwise apply *mutatis mutandis* to a claim made under section 80R (2).

*[Regulation 48A inserted by Gazette 19 August 1988 p.2962.]*

**49. Conferences**

A conference held pursuant to section 32 or 44 of the Act shall be convened by and held before the Chairman who may exercise all of the powers therein vested in the Commission.

**50. Chambers**

An application required by these regulations to be made in Chambers shall be made before the Chairman and be determined by him.

**51. Service on Railways Commission**

Service of any document or notice for the purposes of the Act or these regulations may in addition to any other method of service prescribed by these regulations be effected by personal delivery to the head of branch to whom the railway officer is ultimately responsible, or by post to the address of the Railways Commission.

**52. Directions**

The Chairman shall give all such directions and do all such things as he deems necessary or expedient to give effect to the intention of the Act and these regulations.

*[Part XI (regulations 53 to 72 inclusive) Repealed by Gazette 24 November 1995 p.5487.]*

**Part XIA — Applications under section 66**

*[Heading inserted by Gazette 20 May 1994 p.2114.]*

**72A. Section 66 applications and directions**

- (1) Applications made under section 66 of the Act shall be commenced with an application in accordance with Form 1.
- (2) The application, after it has been filed in the registry, shall be transmitted to the President's Associate to be endorsed with directions given by the President as to service, a date of hearing, or any directions hearing.
- (3) The matter will then proceed in accordance with those directions.

*[Regulation 72A inserted by Gazette 20 May 1994 p.2114.]*

## **Part XII — Enforcement of Act**

### **73. Proceedings before the Full Bench for enforcement of the Act**

- (1) An application for enforcement under section 84A of the Act shall be made by filing a Notice of Application in accordance with Form 21.
- (2) Where the application is made by the Registrar or a Deputy Registrar to enforce a direction, order or declaration made under section 32 (3), or in respect of a contravention or failure to comply with section 44 (3) a copy of the direction given to the Registrar shall be attached to the summons.
- (3) A direction to the Registrar or Deputy Registrar referred to in sections 84A (2) and 93 (9) of the Act shall be given by a Commissioner in writing.
- (4) Where the application is made other than by the Registrar or a Deputy Registrar at the direction of the Commissioner there shall be attached to the application a statement in summary form of the circumstances giving rise to the application.
- (5) The Registrar shall ascertain from the President a date to be specified in the summons endorsed on the notice of application and that date shall not without good cause be less than 14 days from the date on which the notice of application is filed in the Registrar's office.
- (6) The Registrar shall forthwith cause the notice of application to be served on the respondent and in any event not less than 7 days before the date set for hearing of the application.
- (7) The applicant shall appear in person or be represented at the hearing of the application.

## **Part XIII — Procedure generally**

### **73A. Notice of answer and counter proposal**

A notice of answer and counter proposal will specify with particularity the answer and counter proposal and the basis on which the answer and counter proposal is made.

*[Regulation 73A inserted by Gazette 20 May 1994 p.2114.]*

### **74. General form of objection**

- (1) A person who is entitled to be heard in objection to any application and who desires to be so heard shall, except where the Act or these regulations provide otherwise, file a notice of objection in the Commission in accordance with Form 22 and serve it on the person to whom the objection is directed not less than 7 days before the hearing of the matter which is the subject of the objection.
- (2) The notice shall state clearly the grounds of objection and shall specify with particularity the manner in which the objector is or is likely to be affected by the application.
- (3) At the hearing of the application an objector is restricted to the grounds set out in his notice of objection.

### **75. Discontinuance of application**

- (1) Subject to subregulation (3) an applicant may withdraw or wholly discontinue an application against any respondent or withdraw any part of the claim contained in the application at any time before it has been set down for hearing by filing a notice in accordance with Form 23 in the office of the Registrar.
- (2) A copy of the notice shall after being filed be served on every respondent directly affected by it.
- (3) Where a counterproposal has been filed in answer to an application the application may only be withdrawn under the

provisions of subregulation (1) with the consent of the respondent making the counter-proposal endorsed on Form 23.

- (4) Save as in this regulation otherwise provided it shall not be competent for an applicant to withdraw or discontinue the application without leave of the Commission but the Commission may before, at or after the hearing, order the application be discontinued or dismissed or any part of it be struck out.

**76. Application for and notice of hearing**

- (1) Where all necessary procedure has been completed, any party to an application may apply in writing to the Registrar for a date and place to be fixed for the hearing of the application.
- (2) Except where otherwise provided in the Act or in these regulations, each party to any proceedings shall be given at least 7 days' notice (or such shorter notice as the Commission may direct) in accordance with Form 24 of the time and place fixed for hearing.
- (3) Notwithstanding subregulation (1), a matter may be listed for hearing by the Commission without a request from any party where the Commission considers it appropriate in the circumstances of the case to do so.

**77. Procedure before Commission**

- (1) Subject to subregulations (2) and (3), the procedure before the Commission, except upon an appeal to be heard by the Full Bench or the Commission in Court Session, shall be as follows —
  - (a) the applicant shall state his case and then call his witnesses;
  - (b) unless the Commission otherwise permits, the examination in chief may be conducted by not more than one person on behalf of the applicant, and the

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- cross-examination may be conducted by not more than one person on behalf of each respondent;
- (c) the applicant shall be allowed to re-examine but the re-examination shall be confined to matters arising out of the cross-examination;
  - (d) the case for the applicant shall then close;
  - (e) the respondent shall then state his case and call his witnesses and paragraphs (b), (c) and (d) shall apply with such modifications as are necessary; and
  - (f) the applicant may then address and call witnesses in respect of any counter-proposal of the respondent.
- (2) The procedure in subregulation (1) may be modified or varied by the Commission where the Commission considers it just or expedient so to do.
  - (3) The procedure to be followed with respect to any intervener shall be as directed by the Commission.
  - (4) In proceedings in the nature of an appeal against promotion heard before a constituent authority the procedure shall be as follows —
    - (a) the promoting authority shall state its case and shall then call witnesses to support its recommendation;
    - (b) each appellant in order of time of lodging his appeal shall be entitled to cross-examine witnesses called by the promoting authority and the promoting authority shall be entitled to re-examine its witnesses on the same terms and conditions as set out in subregulations (1) (b) and (1) (c) hereof;
    - (c) the case for the promoting authority shall then close; and
    - (d) each appellant in order of time of lodging his appeal shall state his case and call witnesses in support thereof and the provisions of subparagraph (b) shall apply with such modifications as are necessary.

*[Regulation 77 amended by Gazette 20 May 1994 p.2115.]*

**78. Extension or abridgment of time**

- (1) A party to any matter before the Commission may apply to the Commission to extend or abridge the time prescribed for doing any act or thing.
- (2) An application to extend or abridge the time for doing any act or thing shall unless the Commission otherwise directs be made to the Commission in Chambers.
- (3) An application to extend the time for the doing of any act or thing shall be made to the Commission before that time has expired.
- (4) The applicant shall attach to his application a written statement specifying the period of extension or abridgment as the case may be which is sought and the grounds on which the application is made.
- (5) Unless the Commission otherwise directs it shall not be necessary to serve the application which may be determined by the Commission after making such enquiries as it considers appropriate to the circumstances of each case.
- (6) Subregulation (4) does not apply if all of the persons concerned consent to the extension of time and endorse the application accordingly.

**79. Notice to admit**

- (1) In relation to any matter before the Commission any party to a matter before the Commission may, at least 10 days (or such other time as may be fixed by the Commission) before the date fixed for the hearing thereof, give notice to any other party in accordance with Form 25 filed with the Registrar requiring that party to admit any fact relative to the issue.

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- (2) A party on whom a notice to admit has been served shall, within 7 days or such other time as the Commission, on the application of that party, may direct, serve upon the party giving the notice a reply in writing admitting or denying the fact with or without qualification, as the case may be.
- (3) On receiving the reply referred to in subregulation (2), the party giving the notice shall forthwith file the reply with the Registrar.
- (4) In the case of a failure to reply to a notice to admit within the time prescribed or directed the Commission may direct the party in default to pay the costs of establishing the fact referred to in the notice.

**80. Production of documents**

- (1) A party to any proceedings before the Commission may apply to the Commission in Chambers for an order directing any other party to the proceedings to produce for inspection by the applicant any book, paper or other document in the possession, power or control of the party against whom the order is sought relating to or containing anything relative to the matters in issue between them.
- (2) There shall be attached to the application a written statement of the grounds on which the application is made.
- (3) It shall not be necessary for the respondent to file an answer to the application but the application shall not be listed for hearing until proof of service on the party to whom the application is directed has been filed in accordance with Form 2.
- (4) Notwithstanding the provisions of the foregoing subregulations the Commission may at any stage during the hearing of any matter before it permit an application to be instituted orally for the production of documents upon such terms as the Commission thinks just.

**81. Further particulars**

- (1) A party to any matter before the Commission or a person intending to become a party thereto may apply to the Commission in Chambers for an order that any other party to the matter furnish further and better particulars of any claim, answer, counter proposal or any other matter stated in or in relation to the matter.
- (2) The application shall detail the nature of the particulars sought.
- (3) It shall not be necessary to file an answer to the application but the application shall not be listed for hearing until proof of service on the other party has been filed in accordance with Form 2.
- (4) Notwithstanding the provisions of the foregoing regulations the Commission may at any stage during the hearing of any matter before it permit an application to be instituted orally for further and better particulars of the kind referred to in subregulation (1) or of its own motion direct that the same be furnished upon such terms as the Commission thinks just.

**82. Application for examination of witness**

- (1) An application for an order for the examination of any witness or person under section 33 (1) (d) of the Act shall be made to the Commission in Chambers.
- (2) It shall not be necessary for the respondent to file an answer to the application but the application shall not be listed for hearing until proof of service of the application on the other parties to the substantive matter before the Commission has been filed in accordance with Form 2.
- (3) Any examination referred to in subregulation (1) shall take place in the presence of the parties or their representatives, or of such of them as shall appear, and the witness may be cross-examined and re-examined.

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- (4) The deposition taken on any examination referred to in subregulation (1) shall be taken down in writing by or in the presence of the examiner so as to represent as nearly as may be the statement of the witness, and when completed shall be read over to the witness and signed by him in the presence of the parties or such of them as attend.
- (5) If any person duly summoned by subpoena to attend for examination refuses to attend, or if having attended he refuses to be sworn or affirmed, or refuses to answer any lawful question, application may be made to the Commission in Chambers *ex parte*, or on notice, for an order directing such witness to pay the costs occasioned by his refusal or objection.
- (6) The original depositions authenticated by the signature of the examiner shall be transmitted by him to the office of the Registrar and there filed.
- (7) Unless otherwise directed by the Commission, no deposition shall be given in evidence at the hearing without the consent of the party against whom the deposition may be offered in evidence unless the Commission is satisfied that the deponent is dead or beyond the jurisdiction of the Commission or unable from sickness or other cause to attend the hearing; in any of which cases the depositions certified under the hand of the person taking the examination shall be admissible in evidence without proof of the signature to such certificate.

**83. Summons to witness**

- (1) A summons to witness shall be in accordance with Form 26.
- (2) A summons shall be directed to one witness only.
- (3) Each summons shall be prepared in duplicate by the party requesting it and be filed with the Registrar and the Registrar shall retain the original and sign and affix the stamp of the Commission to the duplicate and issue it to the party applying for the purpose of service.

- (4) Service of a summons shall be effected by serving it personally on the person named in the summons.
- (5) At the time of service, the person serving the summons shall tender to the person named in the summons sufficient money to enable him to travel between his place of residence or employment (whichever is appropriate) and the place of hearing mentioned in the summons.

**84. Application to set aside witness summons**

- (1) An application to the Commission under section 33 (2) of the Act for cause to be shown why a person served with a summons to witness should appear and give evidence before the Commission shall be made to the Commission in Chambers.
- (2) The application shall be served on the party on whose application the summons issued.
- (3) No answer need be filed to the application but the application shall not be listed for hearing until proof of service is filed in accordance with Form 2.

**85. Exhibits**

A party to any proceeding before the Commission may not remove any exhibit put in during the proceedings without the leave of the Commission.

**86. Declarations and affidavits**

- (1) Any declaration or affidavit shall be filed with the Registrar before being used in any proceedings and except where these regulations otherwise provide, shall be served on each other party to the proceedings not less than twenty-four hours before the time fixed for the hearing.
- (2) Any declaration required to be made in pursuance of these regulations may be declared before a justice of the peace or any person authorized to take declarations under section 2 of the

*Declarations and Attestations Act 1913* in consequence of this provision.

**87. Intervention**

- (1) Where pursuant to the Act a person intends to intervene or, as the case may be, intends to seek leave to intervene in any proceedings before the Commission, he shall give notice accordingly to the Commission and to the parties to that proceeding.
- (2) Where practicable, a notice under subregulation (1) —
  - (a) shall be in writing;
  - (b) shall be given not less than 2 days before the day on which the intervener intends to appear in those proceedings; and
  - (c) shall state the grounds on which intervention is made or intended.

**88. Warrant to appear as agent**

- (1) Subject to this regulation a person shall not be recognised as agent for a party to any proceeding in the Commission unless he is appointed in writing in accordance with Form 27 filed in the Commission.
- (2) A person may, in writing filed in the Commission, give to any other person or to any member of a class of persons a continuing authorization to act or appear for him, or to act and appear for him, in all matters in the Commission.
- (3) An authorization given pursuant to subregulation (2) may be for a specified period of time or indefinitely and may be withdrawn by writing filed in the Commission at any time, but shall remain in force unless and until it is so withdrawn.
- (4) Where a person appoints another person as his agent in respect of any matter in the Commission an at the time at which he

signs Form 27 expressly validates any action taken in respect of that matter prior to the time of that signing by the person appointed agent, all such prior action shall be deemed to have been taken by the principal.

- (5) A document instituting a proceeding or any subsequent document therein may be signed as necessary and lodged for filing by the duly appointed agent of a party on whose behalf it is filed.
- (6) Any document lodged for filing by an agent for a party shall be lodged and filed in the name of the party and bear upon it endorsement of the name of the agent and the fact that he is acting as the agent of his principal.

**89. Service**

- (1) The party by or on behalf of whom any notice or document is filed or issued in a proceeding before the Commission shall forthwith thereafter, effect service upon other parties entitled to be served unless the Commission otherwise directs.
- (2) Where any notice or document is required to be served under the Act or these regulations such service may be effected —
  - (a) in the case of an organization in the manner prescribed by section 60 (3) of the Act;
  - (b) in the case of a corporation (other than an organization), by leaving it at, or sending it by prepaid post to, its principal place of business or principal office in the State or the registered office of the corporation;
  - (c) in the case of a partnership, firm or unincorporated company or body, by leaving it at, or sending it by prepaid post to the principal place of business thereof in Western Australia; or
  - (d) in the case of any other person, by delivering it to him personally, or by leaving it for him at his usual or last known place of abode, or if he is a principal of a

business at his usual or last known place of business; or by sending it by prepaid post to his usual or last known place of abode, or if he is a principal of a business, to his usual or last known place of business.

**90. Substituted service**

- (1) Where provision is made for personal or other service of any notice or document in or in relation to proceedings before the Commission, the Commission may subject to the Act, make such order for substituted or other service or for the substitution, for the service otherwise required, of notice by letter, telegram, public advertisement or otherwise, as it thinks just.
- (2) An application for substituted service shall be dealt with *ex parte* in Chambers unless the Commission otherwise directs.
- (3) An application for substituted service shall set out in detail the grounds on which it is based.
- (4) Where the Commission orders that notice by telegram or public advertisement be substituted for the service otherwise required, the notice shall contain such particulars as the Commission directs.

**91. Proof of service**

- (1) Where service of any document is required under the Act or these regulations proof of such service shall be given by statutory declaration in accordance with Form 2 filed in the office of the Registrar within 7 days of the date upon which service is effected unless the date given for the hearing of the matter is within that time in which case the proof of such service shall be given not later than the date for the hearing of the matter to which the document relates.
- (2) The declaration of service shall state with particularity the full name and the address of each person or party served, and the method by which service was effected.

- (3) When service of any document is effected by prepaid post, unless the contrary is proven such service shall be deemed to have been effected at the time at which the letter containing the document would be delivered in the ordinary course of post.

**92. Waiver of procedural regulations**

The Commission may, in relation to any proceedings before it, and the Registrar may, in relation to any proceeding before him, in special circumstances, and either absolutely or subject to conditions, exempt any person from compliance with any procedural requirement of these regulations.

**93. Non-compliance with regulations**

Non-compliance with any of these regulations shall not render void any proceedings before the Commission or the Registrar, but the proceedings may be set aside either wholly or in part as irregular, or amended or otherwise dealt with in such manner and upon such terms as the Commission or the Registrar, as the case may be, thinks fit.

**94. Practice**

- (1) Where in any particular case the provisions of the Act and these regulations do not make any or adequate provision for a procedure to be followed and there is no established practice or usage of the Commission or where a difficulty arises or doubt exists as to the procedure to be followed the Commission may give such directions with respect to the procedure to be followed as it considers necessary.
- (2) Directions under this regulation shall be directed to providing a speedy and inexpensive determination of the proceedings and shall be consistent with these regulations.
- (3) Practice notes published by the Commission in the *Industrial Gazette* with respect to any matter or class of matters shall become effective 14 days after publication therein.

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**94A. Delegation of certain functions to Registrar**

- (1) Registrar shall undertake a review of all awards pursuant to S.40B of the Act with respect to matters set out in subsection 40B(1)(a) to (d).

The review shall be completed and submitted to the Chief Commissioner by 31<sup>st</sup> August 2002.

- (2) In identifying matters which may need to be addressed in subsections 40B(1)(a) to (d), the Registrar shall confer with the parties set out in subclause 40B(2) and relevant registered organisations and employer associations.
- (3) The Registrar shall publish in a newspaper circulating throughout the State and on the website maintained by the Commission a notice listing the awards of the Commission and advertising the terms of S.40B of the Act. Parties with an interest in these awards are to be invited to provide written comments on matters relevant to the review of awards generally or to an award or awards in particular.
- (4) With respect to subclause 40B(1)(e) the Registrar shall, after reviewing all awards and conferring with parties set out in subclause 40B(2) and relevant registered organisations and employer associations, recommend the format for a Standard Arrangement Clause to be applied to awards to facilitate the efficient application of awards by electronic technology for employees, employers, registered organisations and employer associations.

*[Regulation 94A inserted in Gazette 2 August 2002 p.3802.]*

**94B. Right of Entry—Authority for Representatives**

- (1) The secretary of a registered organisation of employees shall make an application for the Registrar to issue an Authority, pursuant to S.49J of the Act on Form 49J<sup>2</sup>.

- (2) The secretary of a registered organisation shall advise the address of the representative to whom an authority is to be issued.
- (3) The application is to be accompanied by a current passport size & style photograph of the nominated person. The secretary of the registered organisation of employees filing the application shall certify on the back of the photograph that this is the person nominated in the application.
- (4) On receipt of (1) to (3) above and before an Authority can issue, the Registrar shall satisfy himself or herself that the nominated person is not a person who previously held an Authority which has been revoked under subsection 49J(5) and has not had that Authority re-issued by order of the Commission in Court Session under subsection 49J(2) of the Act. If the nominated person is such a person the Registrar shall not issue an Authority.

In the absence of this impediment, the Registrar shall issue an Authority to the nominated person.

- (5) The Authority which the Registrar issues shall be in the form of a laminated card and shall include all of the information set out hereunder—
  - (a) The words, as a heading, “Authorised Representative, Right of Entry & Inspection, Section 49J Industrial Relations Act”
  - (b) Name of person nominated
  - (c) The words, appropriately completed, “ (full name of person to whom the authority is issued) whose photograph and signature appear below, is appointed as an Authorised Representative of (name of registered organisation) for the purposes of Right of Entry and Inspection of any premises during working hours where relevant employees work. This Authority shall be executed in accordance with the powers and limitations

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under sections 49H and 49I of the Industrial Relations Act 1979.”

- (d) A photograph of the person to whom the authority is issued
  - (e) Signature of and date of issue by Registrar
  - (f) Signature of authorised representative
  - (g) The Commission’s website address
- (6) An application to the Commission under subclause 49J(5) by any person to revoke an Authority issued by the Registrar shall be filed in the Registry on a Form 1. The grounds on which the application is made is to be set out in the application.
- (7) An application to the Registrar under subclause 49J(6) by the secretary of the organisation of employees to revoke the Authority of the Authorised Representative shall be filed in the Registry on a Form-49J6<sup>2</sup>
- (8) An application to the Commission in Court Session by any person to issue an Authority revoked under subsection 49J(5) shall be filed in the Registry on a Form 1.
- (9) A person to whom an Authority has been issued under section 49J must, within 14 days after revocation of the Authority, return the Authority to the Registrar.
- (10) The secretary of the employee organisation on whose behalf the nominated person was issued with an Authority to represent that organisation, shall remit to the Registrar a return every six months confirming the name of the person(s) who currently hold(s) authorisation to represent the organisation under S.49J.
- (11) The Registrar shall keep a register of authorities issued under this Division and such register shall be a public register and made available via the Commission’s website.

*[Regulation 94B inserted in Gazette 2 August 2002 p.3802-3.]*

## Part XIV — Organizations and industrial associations

### 95. Registration of organization

- (1) An application to register an organization shall be made in triplicate to the Full Bench in accordance with Form 28.
- (2) The application shall be lodged in the office of the Registrar with the following attachments —
  - (a) three copies of a list containing the full names of the officers of the organization with their respective addresses;
  - (b) three printed or type-written copies of the rules of the organization, certified as being correct by the president or secretary of the organization;
  - (c) three copies of the notice given to members in accordance with section 55 (4) (b) of the Act, including a statement as to how such notice was disseminated to members; and
  - (d) three copies of the resolution of the organization authorizing the application.
- (3) Any person who objects to the registration of the organization shall give notice of that objection in accordance with Form 22 within 21 days of the publication of the *Industrial Gazette* in which notice of the application is advertised and otherwise the provisions of regulation 74 apply with respect to any objection to the registration.

### 96. Registration of council as industrial association

- (1) An application to register a council or other body as an association shall be made in triplicate to the Full Bench in accordance with Form 28.
- (2) The application shall be lodged in the office of the Registrar with the following attachments —

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- (a) three copies of a list containing the full names of the organizations which are represented on the council;
  - (b) three copies of a list containing the full name and address of each person representing those organizations on the council;
  - (c) three copies of a list containing the full names of the officers of the council with their addresses;
  - (d) three printed or type-written copies of the rules of the council, certified as being correct by the president or chairman and secretary of the council;
  - (e) three copies of the notice given to members of the council in accordance with section 55 (4) (b) of the Act as applied by section 67 (3) of the Act, including a statement as to how such notice was disseminated to members; and
  - (f) three copies of the resolution authorizing the application.
- (3) Any person who objects to the registration of the council or other body as an association shall give notice of that objection in accordance with Form 22 within 21 days of the publication of the *Industrial Gazette* in which notice of the application is advertised and otherwise the provisions of regulation 74 apply with respect to any objection to the registration.

**97. Amalgamation of organizations**

- (1) All application to register as an organization a proposed new organization to be formed by the amalgamation of two or more organizations shall be made in triplicate to the Full Bench in accordance with Form 28.
- (2) The application shall be made under the seals of the amalgamating organizations and be signed by the secretary and principal executive officer of each of the amalgamating organizations.

- (3) The application shall be lodged in the office of the Registrar with the following attachments —
- (a) three copies of a list containing the full names of the officers of the proposed new organization with their respective addresses;
  - (b) three printed or type-written copies of the rules of the proposed new organization certified as being correct by the president or secretary of the new organization;
  - (c) three copies of the notice given to the members of each amalgamating organization in accordance with section 55 (4) (b) of the Act as applied by section 72 (3) of the Act, including a statement as to how such notice was disseminated to members; and
  - (d) three copies of the resolution of such amalgamating organization authorizing the application.
- (4) Any person who objects to the registration of the organization shall give notice of that objection in accordance with Form 22 within 21 days of the publication of the *Industrial Gazette* in which notice of the application is advertised and otherwise the provisions of regulation 74 apply with respect to any objection to the registration.

*[Regulation 97 amended by Gazette 19 August 1988 p.2962.]*

**98. Alteration of rules**

- (1) An application to alter the rules of an organization or association with respect to the qualification of persons for membership or the area of the State within which the organization or association operates or intends to operate shall be made in triplicate to the Full Bench in accordance with Form 29.
- (2) An application to alter the rules of an organization or association which does not relate to its name and where the alteration would not have the effect of altering the qualification

of persons for membership or the area of the State within which the organization or association operates, or intends to operate, shall be made to the Registrar in accordance with Form 29.

- (3) An application under subregulation (1) shall be lodged in the office of the Registrar with the following attachments —
  - (a) three printed or type-written copies of the registered rules of the organization or association incorporating and showing in distinctive characters, each alteration of the rules of which registration is sought;
  - (b) three printed or type-written copies of each alteration;
  - (c) three copies of the notice given to members in accordance with section 62 (3) (b) of the Act including a statement as to how such notice was disseminated to members; and
  - (d) three copies of the resolution authorizing the application.
- (4) An application under subregulation (2) shall be lodged in the office of the Registrar together with one printed or type-written copy of the attachments specified in subregulation (3).
- (5) Any person who objects to the alteration of a rule referred to in subregulation (1) shall give notice of that objection in accordance with Form 22 within 21 days of the publication of the *Industrial Gazette* in which notice of the application is advertised and otherwise the provisions of regulation 74 apply with respect to any objection to the alteration.

*[Regulation 98 amended by Gazette 19 August 1988 p.2962.]*

**99. Substitution of new set of rules**

- (1) An application for the substitution of a new set of rules for the registered rules of an organization or association, where the substitution alters the name of the organization or association, the rules of the organization or association with respect to the qualification of persons for membership or the area of the State within which the organization or association operates or intends

to operate shall be made in triplicate to the Full Bench in accordance with Form 29.

- (2) An application for the substitution of a new set of rules for the registered rules of an organization or association, where the substitution does not alter the name of the organization or association, the rules of the organization or association with respect to the qualification of persons for membership or to the area of the State within which the organization or association operates or intends to operate shall be made to the Registrar in accordance with Form 29.
- (3) The provisions of regulation 98 apply, with such modifications as are necessary, to and in relation to an application for the substitution of a new set of rules, but in addition if the application is made to the Full Bench it shall be accompanied by three printed or type-written copies and if made to the Registrar shall be accompanied by one printed or type-written copy of the new rules certified as being correct by the president or secretary of the organization or association.

*[Regulation 99 amended by Gazette 19 August 1988 p.2962.]*

**100. Change of name**

- (1) An application to change the name of an organization or association shall be made in triplicate to the Full Bench in accordance with Form 29.
- (2) The application shall be lodged in the office of the Registrar and with the following attachments —
  - (a) three copies of the notice given to members informing them —
    - (i) of the proposal for the change of name and the reasons therefor;
    - (ii) of the proposed new name; and
    - (iii) that the members or any of them may object to the making of the application by forwarding a

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- written objection to the Registrar and affording members a reasonable opportunity to object, including a statement as to how such notice was disseminated to members;
- (b) three copies of the proposed new name; and
  - (c) three copies of the resolution authorizing the application.
- (3) Any person who objects to the change of name of the organization shall give notice of that objection in accordance with Form 22 within 21 days of the publication of the *Industrial Gazette* in which notice of the application is advertised and otherwise the provisions of regulation 74 apply with respect to any objection to the change of name.

**101. Counterpart certificates**

An application to the Full Bench for a declaration in accordance with section 71 (2) of the Act shall be accompanied by three copies of —

- (a) the rules of the organization and of its Counterpart Federal Body;
- (b) a statement comparing the rules relating to the qualifications of persons for membership of the organization and of its Counterpart Federal Body;
- (b) a statement comparing the offices which exist within the organization, and the offices which exist within the Branch of the Counterpart Federal Body;
- (c) a statement indicating the number of persons currently members of the organization and the number of persons currently members of the Branch of the Counterpart Federal Body; and
- (d) a statement indicating the number and categories of persons affected by sections 71 (3) (a) and (b) of the Act.

*[Regulation 101 amended by Gazette 19 August 1988 p.2962.]*

**101A. Order under section 72A**

- (1) An application to the Full Bench for a declaration in accordance with section 72A shall be in writing, shall set out in detail the grounds of such application, and shall be in accordance with Form 1.
- (2) A person who wishes to be heard in relation to such application shall file a notice of application to be heard in triplicate and in accordance with Form 1, and shall at least seven days before the date fixed for hearing of such application serve a copy of the same upon the applicant.
- (3) Such notice shall set out the grounds upon which the person claims sufficient interest to be heard in relation to such application.

*[Regulation 101A inserted by Gazette 20 May 1994 p.2115.]*

**102. Summons for cancellation of registration of organization**

- (1) A request for a direction under section 73 (1) of the Act shall be in writing and shall set out in detail the circumstances giving rise to the request.
- (2) A summons under section 73 (1) of the Act shall be in accordance with Form 30.
- (3) A copy of the direction to the Registrar to issue the summons shall be attached to the summons and served therewith.
- (4) On ascertaining the return date to be included in the summons the Registrar shall cause the summons to be served on the organization the registration of which is sought to be cancelled or suspended not less than 14 days before the return date.
- (5) Unless the Full Bench otherwise directs the Registrar shall appear personally or be represented before the Full Bench on the return of the summons.

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- (6) After hearing the organization and any evidence it wishes to offer, the Full Bench may make such order in accordance with section 73 of the Act as it thinks fit.

**103. Request by organization or association for cancellation of registration**

- (1) A request by an organization or association to cancel its registration shall be made to the Registrar in accordance with Form 31.
- (2) The request shall state clearly the grounds on which the request is made and contain sufficient evidence to satisfy the Registrar that the cancellation has the consent of a majority of the total number of members of the organization or association.

**104. Application by Registrar for cancellation of registration**

- (1) Where an application is made by the Registrar pursuant to section 73 (12) of the Act to cancel the registration of an organization or association it shall be made in triplicate to the Full Bench in accordance with Form 32.
- (2) The application shall state clearly the grounds on which it is made and the application shall be accompanied by a statutory declaration setting forth the facts on which the Registrar relies.
- (3) The application shall be served upon the organization or association the registration of which is sought to be cancelled.
- (4) Where the respondent organization or association intends to oppose the application it shall give notice of that objection in accordance with Form 7 within 14 days of being served with the application, and otherwise the provisions of regulation 74 apply with respect to any such objection.
- (5) Where the respondent organization or association intends to admit the facts (or any of them) on which the Registrar relies it shall, within 14 days of being served with the application, advise the Registrar in writing accordingly.

- (6) After the expiration of the time prescribed in subregulations (4) and (5) the Registrar shall ascertain from the President a date for hearing the application and shall forthwith notify the organization or association of the hearing.

**105. Certificates of registration**

- (1) Where the Registrar is authorized by the Full Bench to register an organization he shall give to the organization a certificate in accordance with Form 33.
- (2) Where the Registrar is authorized by the Full Bench to register a council or other body as an association he shall give to the association a certificate in accordance with Form 34.
- (3) Where the Registrar is authorized by the Full Bench to register an organization formed by the amalgamation of two or more organizations he shall give to the organization a certificate in accordance with Form 35.
- (4) When the Registrar registers an alteration of the rules of an organization or association he shall give to the organization a certificate in accordance with Form 36.
- (5) When the Registrar registers a change of name of an organization or association he shall give to the organization or association a certificate in accordance with Form 37.

**106. Filing of records of organization or industrial association**

- (1) The list of names, residential addresses and occupations of persons holding office and a record of the number of members in an organisation or association required to be filed with the Registrar pursuant to section 63 (2) and section 72B (6) of the Act shall be so filed during the month of January in each year and be current as at the first day of that month.
- (2) The statutory declaration required by section 63 (2) and section 72B (6) of the Act may be made by the President or Secretary of the organisation or association.

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- (3) Notification of any change in the holding of office in an organisation or association pursuant to section 63 (3) and section 72B (6) of the Act shall be filed with the Registrar in writing within 14 days of the date of the change.

*[Regulation 106 inserted in Gazette 1 November 1996 p.5769.]*

**107. Balance sheet etc. of organization**

- (1) The balance sheet and statement of receipts and expenditure of an organization or association required to be delivered to the Registrar under section 65 of the Act, shall be itemised with sufficient particularity to show that the financial affairs of the organization or association have been conducted in accordance with the rules of the organization or association.

- (2) The balance sheet and statement of receipts and expenditure shall be accompanied, when delivered to the Registrar, by a statutory declaration made by the secretary of the organization or association to the effect that he placed at the disposal of the auditor all relevant books and documents in relation to the financial affairs of the organization or association.

Penalty — \$40.00.

- (3) The statement required under section 97T of the Act shall be delivered to the Registrar within 6 months of the end of the organisation's financial year.

- (4) If the statutory declaration required under section 97T of the Act is not made by the secretary, it may be made by the president or an officer of the organisation authorised under its rules, or in the event that the organisation's rules do not provide for by such authorisation, such person as may be delegated by the secretary of the organisation so to do.

*[Regulation 107 amended in Gazette 1 November 1996 p.5769.]*

**108. Inspection of document**

All documents filed with the Registrar under sections 63, 65 and 97T of the Act may be inspected at the office of the Registrar during office hours on payment of the prescribed fee.

*[Regulation 108 amended in Gazette 1 November 1996 pp.5769-70.]*

**109. Notification of change of address**

Notification of every change of address of the registered office of an organization or association shall be notified to the Registrar, by the secretary of the organization or association, in writing, within 14 days of the date of change.

Penalty — \$40.00.

## **Part XV — Remuneration for members of constituent authorities**

### **110. Remuneration and reimbursement of expenses for members of constituent authorities**

- (1) The remuneration payable to a member of a constituent authority shall be the same as that payable to members of Category C Government Boards, Committees and other agencies.
- (2) No remuneration shall be payable to a member of a constituent authority for his services as a member where he is employed (whether in a permanent capacity or not) by a public authority and he continues to receive his usual rate of remuneration from his employer in respect of that employment while attending on the constituent authority in the course of his employment.
- (3) Where a member of a constituent authority is employed (whether in a permanent capacity or not) by a public authority and he attends on the constituent authority outside his normal work hours as an extraneous duty but the remuneration paid to him by his employer in his normal employment is not affected by his attendance on the constituent authority, the remuneration payable to him for his services as a member shall be 50 per cent of the remuneration prescribed in subregulation (1).
- (4) Where a member of the constituent authority is employed (whether in a permanent capacity or not) by a public authority and he does not continue to receive his usual rate of remuneration for his services in attending a sitting of the constituent authority at the direction of the Chairman, the member may be paid an amount equal to the amount he would otherwise not receive.
- (5) A secretary or official of an organization who is remunerated by the organization for the time his services are used as a member of the constituent authority shall not be remunerated in

accordance with subregulation (1) unless, in the discretion of the Chairman, the circumstances are such that full or part remuneration should be so payable by the constituent authority.

- (6) Reimbursement for out of pocket expenses incurred by a member of a constituent authority attending a sitting of the constituent authority including reimbursement for travelling expenses shall be in accordance with the Public Service Miscellaneous Allowances Award and the Public Service Motor Vehicle Allowance Award respectively.
- (7) In this regulation the expression “**member**” of a constituent authority includes his deputy when and so often as the deputy acts in the place of that member.
- (8) The provisions of this regulation do not apply to a member of a constituent authority who is a Commissioner.

**Part XVA — Applications and appeals under Part VID  
Division 9 of the Act**

*[Heading inserted in Gazette 13 September 2002 p.4649.]*

**Division 1 — Applications**

*[Heading inserted in Gazette 13 September 2002 p.4649.]*

**110A. Establishing that proposed representative is qualified and consents to an application under section 97WV or 97XM**

- (1) Where an application is made under section 97WV or 97XM of the Act the Registrar is to meet with the person sought to be approved as a representative for the purpose of satisfying himself that the person —
  - (a) fulfils the requirements of section 97WY; and
  - (b) consents to the application being made.
- (2) The consent of the person that forms part of the application is to be signed by him in the presence of the Registrar and the Registrar is to sign an attestation on the application form that this has occurred.
- (3) The person must also supply such information and evidence for the purposes of subregulation (1)(a) as the Registrar may request.

*[Regulation 110A inserted in Gazette 13 September 2002 p.4649-50.]*

**110B. Notice of application for approval to be given to employer**

- (1) If an application under section 97WV of the Act identifies a person who will be the employer of the person with a mental disability if a proposed EEA takes effect, the Registrar must give notice in writing to that prospective employer of the making of the application.

- (2) If an application under section 97XM of the Act identifies a person who —
- (a) is the employer of the person with a mental disability under an EEA; or
  - (b) will be the employer of the person with a mental disability if a proposed EEA takes effect,

the Registrar must give notice in writing to that employer or prospective employer of the making of the application.

- (3) A notice under subregulation (1) or (2) is to be given within 7 days after the application is filed.

*[Regulation 110B inserted in Gazette 13 September 2002 p.4650.]*

**110C. Application to Guardianship and Administration Board for revocation of approval**

- (1) An application to the Guardianship and Administration Board for a revocation order under section 97XI of the Act is to be made in accordance with this regulation, and not otherwise.
- (2) A completed application in accordance with Form 38 is to be lodged in the office of the Registrar.
- (3) The Registrar is to send to the Guardianship and Administration Board —
- (a) the application referred to in subregulation (2);
  - (b) the Registrar's file relating to the making of the order that is sought to be revoked; and
  - (c) any other document in the possession of the Registrar that he considers relevant.
- (4) The Registrar is to ensure that the documents referred to in subregulation (3) are received by the Guardianship and Administration Board not later than the fifth day after the

application was lodged on which the office of the Registrar is open to the public for the transaction of business.

- (5) The application is made to the Guardianship and Administration Board when it receives the documents referred to in subregulation (3).

*[Regulation 110C inserted in Gazette 13 September 2002 p.4650-1.]*

**110D. Notice of application for revocation of approval to be given to employer**

- (1) If an application under section 97XI of the Act identifies a person who is the employer of the person with a mental disability, the Registrar must give notice in writing to that employer of the making of the application to the Guardianship and Administration Board.
- (2) A notice under subregulation (1) is to be given within 7 days after the Registrar is informed that the application has been received by the Board.

*[Regulation 110D inserted in Gazette 13 September 2002 p.4651.]*

**110E. Notice of order or refusal to make order to be given to employer**

- (1) If notice of an application was required to be given to an employer or a prospective employer under regulation 110B or 110D, the Registrar must give notice in writing to that employer or prospective employer of —
- (a) the making of an order under section 97WZ(1), 97XK(1) or 97XN(1) on the application; or
  - (b) a refusal under section 97XA, 97XK(3) or 97XP to make an order on the application.

- (2) A notice under subregulation (1) is to be given within 7 days after the order is made or refused.

*[Regulation 110E inserted in Gazette 13 September 2002 p.4651.]*

### **Division 2 — Appeals**

*[Heading inserted in Gazette 13 September 2002 p.4651.]*

#### **110F. Appeal against refusal to give approval**

An appeal to the Commission under section 97XB or 97XQ is to be commenced by the filing in the office of the Registrar of an appeal notice in the form of Form 39.

*[Regulation 110F inserted in Gazette 13 September 2002 p.4651.]*

#### **110G. Service of appeal notice**

- (1) If an appeal notice is filed the Registrar is to serve a copy of the notice on each of the following persons (“**an interested person**”) —
- (a) the person with a mental disability if he is not the appellant;
  - (b) the applicant in the application to which the appeal relates if he is not the appellant;
  - (c) the proposed representative; and
  - (d) an employer or a prospective employer to whom notice of the application to which the appeal relates was given.
- (2) The appeal is not to be listed for hearing until each interested person has been served with a copy of the appeal notice.

*[Regulation 110G inserted in Gazette 13 September 2002 p.4651-2.]*

**110H. Person served entitled but not required to be heard**

- (1) An interested person is entitled to be heard at the hearing of the appeal, but it is not necessary for him to file any document in the proceedings or to appear or be heard at the hearing unless he wishes to do so.
- (2) If an interested person wishes to be heard at the hearing of the appeal he must —
  - (a) file a notice of intention to be heard; and
  - (b) serve a copy of the notice on the appellant and any other interested person,

within 14 days after he is served with a copy of the appeal notice.

- (3) An interested person who has not given notice under subregulation (2) is not to be heard at the hearing of the appeal without leave of the Commissioner hearing the appeal.

*[Regulation 110H inserted in Gazette 13 September 2002 p.4652.]*

**110I. Registrar to provide records to Commissioner**

Where an appeal is brought against the refusal of the Registrar to approve a representative, the Registrar is to give to the Commissioner hearing the appeal the Registrar's file relating to the application to which the appeal relates.

*[Regulation 110I inserted in Gazette 13 September 2002 p.4652.]*

## **Part XVB — Occupational Safety and Health Tribunal**

*[Heading inserted in Gazette 24 Mar 2005 p. 1003.]*

### **110J. Interpretation**

- (1) In this Part —  
“**Tribunal**” has the meaning given to that term in the *Occupational Safety and Health Act 1984* section 51G(2).
- (2) In this Part a reference to the referral of a matter includes a reference to the following —
  - (a) the referral of a claim under —
    - (i) the *Mines Safety and Inspection Act 1994* section 68C; or
    - (ii) the *Occupational Safety and Health Act 1984* section 35C;
  - (b) an appeal under the *Mines Safety and Inspection Act 1994* section 52 or 86.

*[Regulation 110J inserted in Gazette 24 Mar 2005 p. 1003.]*

### **110K. Referrals to the Tribunal**

- (1) The referral of a matter to the Tribunal for determination is to be by way of Notice of Referral in the form of Form 1A.
- (2) Subregulation (1) does not apply to —
  - (a) a reference under the *Mines Safety and Inspection Act 1994* section 31BA(1); or
  - (b) a reference under the *Occupational Safety and Health Act 1984* section 51A(1).

*[Regulation 110K inserted in Gazette 24 Mar 2005 p. 1003-4.]*

**r. 110L**

---

**110L. Application of certain regulations**

- (1) The provisions of these regulations that are set out in the Table to this subregulation apply to the referral, hearing and determination of matters to the Tribunal as if the references in the provisions to the Commission were references to the Tribunal.

**Table**

Part II	r. 29A
r. 8(2)(b), (c)	r. 75 to 90 inclusive
r. 9(2)	r. 92 to 94 inclusive
r. 29	

- (2) Subregulation (1) applies —
- (a) except as otherwise provided by this Part; and
  - (b) in a particular case subject to the direction of the Tribunal.

*[Regulation 110L inserted in Gazette 24 Mar 2005 p. 1004.]*

**110M. 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) After allocation of a matter the Tribunal is to give directions, by way of endorsement on the reverse of the Notice of Referral, as to service of copies of the Notice.
- (4) Proof of service of a Notice of Referral is to be given by statutory declaration in the form of Form 2 filed in the office of

the Registrar within 2 days of the day on which service was effected.

- (5) Where service of any other document is required by the Tribunal proof of such service is to be given by statutory declaration in the form of Form 2 filed in the office of the Registrar within 7 days of the day on which service was effected.
- (6) A direction, order or declaration of the Tribunal under the *Occupational Safety and Health Act 1984* section 51J(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.

*[Regulation 110M inserted in Gazette 24 Mar 2005 p. 1004.]*

**110N. Forms modified**

For the purposes of this Part —

- (a) Forms 2, 23, 24, 25, 26 and 27 apply as if after “In the Western Australian Industrial Relations Commission” were inserted —

“

sitting as the Occupational Safety and Health Tribunal  
”;

- (b) Forms 7, 24, 25 and 26 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.

*[Regulation 110N inserted in Gazette 24 Mar 2005 p. 1005.]*

**Part XVI — Miscellaneous**

*[Heading inserted in Gazette 17 Dec 2002 p. 5920.]*

**111. Delegation to Registrars — claims under section 29(1)(b)**

A claim under section 29(1)(b) of the Act may be referred by the Chief Commissioner, or by the Commissioner to whom the claim has been allocated, to the Registrar for resolution by conciliation under section 32 of the Act by the Registrar or a Deputy Registrar.

*[Regulation 111 inserted in Gazette 17 Dec 2002 p. 5920.]*

**112. Delegation to Registrars — claims under section 29(1)(b) — time limits for review of decisions of Registrars**

- (1) For the purposes of section 96(9) of the Act, a party to a proceeding in which a Registrar has performed a function delegated under regulation 111 may apply to the Commission to review a decision made by the Registrar within 7 days of the making of the decision, or such further time as is allowed by the Chief Commissioner.
- (2) For the purposes of section 96(12) of the Act, a review referred to in section 96(11) of the Act in respect of a function delegated under regulation 111 is to be carried out within 14 days of the Chief Commissioner assigning a Commissioner to undertake the review or deciding to undertake the review himself or herself, or such further time as is allowed by the Chief Commissioner.
- (3) In this regulation —  
“**decision**”, made by a Registrar, means a direction, determination or order made by the Registrar in the performance of the delegated function.

*[Regulation 112 inserted in Gazette 17 Dec 2002 p. 5920.]*

**Schedule**

**Form 1**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**NOTICE OF APPLICATION**

To .....

(name and address of respondent/s — attach schedule if space insufficient)

Take notice that .....

(name and address of applicant/s — attach schedule if necessary)

has this day applied to the Commission (if to a constituent authority, state which  
..... ) for .....

(state object of application — for example, conference, award, amendment or  
interpretation of a specified award or as the case may be)

The grounds on which the application is made are .....

(give details — attach schedule if necessary)

.....  
Applicant's signature

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this application

This notice must be completed by the applicant, signed and, where  
necessary, sealed by him, and a written statement of claim or other  
adequate description of the subject matter of the application must be  
attached.

For endorsements see back hereof

*[Form 1 inserted by Gazette 19 August 1988 p.2962.]*

---

**Form 1A**

In the Western Australian Industrial Relations Commission  
sitting as the  
Occupational Safety and Health Tribunal

No. OSHT of 20

**NOTICE OF REFERRAL**  
**TO THE OCCUPATIONAL SAFETY AND HEALTH TRIBUNAL**

Take notice that .....  
.....  
.....  
.....  
(name and address of applicant/s — attach schedule if necessary)

has this day referred to the Tribunal —  
.....  
.....  
.....  
(state nature of matter e.g. review, appeal, claim)

The grounds on which the referral is made are —  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
(give details — attach schedule if necessary)

.....  
Signature/seal of applicant  
or Signature of applicant's solicitor or agent

(Affix Stamp of Commission)

For endorsements see back hereof

*[Form 1A inserted in Gazette 24 Mar 2005 p. 1005-6.]*

---

**Form 2**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

No.                      of 19  
IN THE MATTER of the  
*Industrial Relations*  
*Act 1979* and  
IN THE MATTER of \* .....

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

\* State nature of  
proceedings.

DECLARATION OF SERVICE

I, .....  
(Full name in Block Letters)

of ..... in the State of  
(Address)

Western Australia ..... do solemnly  
and

(Occupation)

sincerely declare that on the ..... day of .....  
19 ....., I did serve .....  
(Description of document served)

.....



**Form 3**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**NOTICE OF ANSWER AND COUNTER PROPOSAL**

To .....

.....  
(name and address of applicant/s — attach schedule if space insufficient)

Take notice that .....

.....  
(name and address of respondent/s — attach schedule if necessary)

has this day filed in the Commission a statement in answer to the claims made by you in the above number matter.

The particulars to the answer and counter proposal are: .....

.....  
(give details — attach schedule if necessary)

.....  
Respondent's signature

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this notice

This notice must be completed by the respondent/s, signed and, where necessary, sealed and a written statement admitting or disputing each claim made by the applicant/s must be attached.

\_\_\_\_\_

**Form 4**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**NOTICE OF RETIREMENT FROM INDUSTRIAL AGREEMENT**

To .....

.....

.....

(name of party/ies being given notice)

Take notice that .....

.....

(name of party giving notice)

being a party to Agreement No ..... of ..... has this day given notice of intention to retire from and cease to be a party to the said agreement at the expiration of 30 days from the date of this notice.

.....

Signature of party giving notice

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgment of this notice

Note: This form is to be completed by the person giving notice of intention to retire from the agreement, signed and, where necessary, sealed by him.

\_\_\_\_\_

**Form 5**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

**NOTICE OF CONCURRENCE IN INDUSTRIAL AGREEMENT**

To the Registrar

Take notice that .....  
hereby signifies concurrence with the Industrial Agreement dated the  
..... day of ..... 19 ....., made between  
..... and ..... filed in the Western  
Australian  
Industrial Relations Commission and numbered .....of 19 .....

Dated at Perth this ..... day of ..... 19.....

.....  
Signature of concurring party.

[L.S.]

The original parties to the Industrial Agreement hereby consent to .....  
becoming a party thereto.

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

[L.S.]

Signatures of each original party

Filed in my office this ..... day of ..... 19 .....

.....  
Registrar

The appropriate fee is to be paid upon lodgement of this notice.

\_\_\_\_\_

**Form 6**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**NOTICE OF APPEAL FROM BOARD OF REFERENCE**

To .....  
(name of respondent/s)

Take notice that .....  
(name of appellant/s)

has this day instituted an appeal to the Commission in Court Session against the decision given on the ..... day of ..... 19 ..... by the Board of Reference constituted for the purposes of .....

.....  
(state name and number of award, order, or General Order)

in respect of .....  
.....  
.....  
(state briefly the subject matter of the Board's decision)

on the ground/s set forth in the attached schedule

.....  
Signature of appellant

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this appeal

Note: This form is to be completed by the appellant, sealed and, where necessary, sealed by him and a statement of the grounds of appeal must be attached.

*[Form 6 inserted by Gazette 19 August 1988 p.2964.]*

\_\_\_\_\_

**Form 7**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**NOTICE OF APPEAL TO FULL BENCH**

To .....

.....  
(name of respondent/s)

Take notice that .....

.....  
(name of appellant/s)

has this day instituted an appeal against the decision of the Commission constituted by .....

(name of Commissioner, Government School Teachers Tribunal, Public Service Arbitrator, Railways Classification Board)

given on ..... day of ..... 19 ..... in matter numbered ..... of ..... or the following parts or parts of the said decision namely .....

.....  
.....  
on the ground/s set forth in the attached schedule

.....  
Signature of appellant

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this appeal

Note 1:....This form is to be completed by the appellant, signed and, where necessary, sealed by him and a statement of the grounds of appeal must be attached.

Note 2:....An appeal book in accordance with the *Industrial Relations Commission Regulations 1985*, shall be filed in the Commission and served on the respondent/s within fourteen (14) days of the filing of this notice.

*[Form 7 inserted by Gazette 19 August 1988 pp.2963-4; amended by Gazette 24 February 1995 p.639.]*

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**Form 8**

*INDUSTRIAL RELATIONS ACT 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

No.                      of 19

**NOTICE OF APPEAL BY GOVERNMENT SCHOOL TEACHER**

TO: .....  
(name and address of respondent)

TAKE NOTICE that .....  
.....  
.....  
(full name and address for service of appellant)

has this day instituted an appeal against the decision to: (here state subject  
matter of decision appealed against)

.....  
.....  
.....  
notice of which was given on: .....  
(date)

on the grounds or for the reasons which follow: (here set forth clearly and  
concisely the grounds of appeal — attach schedule if necessary)

.....  
.....  
.....  
DATED at ..... this ..... day ..... 19 .....

.....  
Signature of appellant

(Affix Stamp of Commission)

THE APPROPRIATE FEE IS TO BE PAID UPON LODGEMENT OF THIS  
APPEAL

- NOTE:
- ....The appellant is required to sign this notice.
  - ....The appellant shall upon the return to him of the stamped copy of appeal serve or cause to be served a copy of this notice on the cited respondent.
  - ....Upon proof of service of this notice of appeal the Registrar shall remit the appeal for hearing.

*[Form 8 inserted by Gazette 6 March 1992 pp.1125-6.]*

---

**Form 9**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No. \_\_\_\_\_ of 19 \_\_\_\_\_

**NOTICE OF APPEAL TO PUBLIC SERVICE  
ARBITRATOR/RAILWAY CLASSIFICATIONS BOARD**

To: .....  
[name and address of respondent (employer)]

..... Postcode: .....

Take notice that: .....  
(full name of appellant)

of: ..... Postcode: .....  
(address of appellant for service of notices)

has this day instituted an appeal against the salary/range of salary/title\* of the office occupied by me. (\*delete whichever is inapplicable)

Particulars of office to which appeal relates	Position No	Classification	Title
	Section	Branch	Division
	Dept./Authority	Departmental Address	
Claim			
Grounds of Appeal			

Tick the box if the statement is appropriate

.....An appeal relating to the above position has not been lodged within the last 12 months:

.....I wish to represent myself

or

.....I authorise the following organisation/person\* to act as my agent:

.....  
(name and address of agent)

..... Postcode: .....

(A copy of this form should be forwarded to your agent  
forthwith)

.....  
Signature of appellant

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this appeal

Note: The Appellant is required to complete and sign this notice.

*[Form 9 inserted by Gazette 19 August 1988 p.2965.]*

---

**Form 10**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

Before the Public Service Appeal Board

**NOTICE OF APPEAL TO PUBLIC SERVICE APPEAL BOARD**

To: .....  
.....  
(name of address of respondent)

Take notice that .....  
.....  
(name and address of appellant)

has this day instituted an appeal against the decision .....  
.....  
(give details of the decision)

made on the ..... day of ..... 19 .....  
on the following grounds: .....  
.....  
(attach schedule if necessary)

.....  
Signature of appellant

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this appeal

Note: The appellant is required to sign this notice.

*[Form 10 inserted by Gazette 19 August 1988 p.2965.]*

\_\_\_\_\_

*[Forms 11 – 20 inclusive deleted by Gazette 24 November 1995  
p.5487.]*

\_\_\_\_\_

**Form 21**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**NOTICE OF APPLICATION TO ENFORCE INDUSTRIAL  
RELATIONS ACT**

To .....  
of .....

Take notice that .....

(Minister, Registrar, Deputy Registrar,  
Industrial Inspector or interested party)

of .....

has this day applied to the Full Bench of the Western Australian Industrial  
Relations Commission for the enforcement of

.....  
(specify part of the Act, direction, order or declaration alleged to be  
breached)

You are therefore summoned to appear before the Full Bench of the Western  
Australian Industrial Relations Commission at Supply House, 815-823 Hay  
Street, Perth, in Court No ..... on the .....  
day of ..... 19 ..... at ..... o'clock  
in the ..... noon there to answer the application for  
enforcement of the said .....

(order, Act, etc.)

pursuant to section 84A of the said Act.

DATED at Perth this ..... day of ....., 19 .....

.....  
Signature of applicant

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this application

Note 1: Where the application is initiated other than by the Registrar it shall be  
signed and where necessary sealed by the applicant.

*[Form 21 inserted by Gazette 19 August 1988 p.2967.]*

---

**Form 22**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

In the matter of the *Industrial Relations Act 1979* and

In the matter of .....

.....

.....

---

NOTICE OF OBJECTION

Name of Objector .....

The abovenamed objector hereby objects to the whole (or part) of the abovementioned application .....

.....

(If part only, specify part objected to)

The grounds of objection are: — .....

.....

The objector is or is likely to be affected by the application in the following manner, namely: — .....

.....

Dated this ..... day of ....., 19 .....

.....

Signature of objector

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this notice

*[Form 22 inserted by Gazette 19 August 1988 p.2967.]*

---

**Form 23**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

No.                      of 19

**NOTICE OF DISCONTINUANCE OF APPLICATION**

TO: .....  
(Respondent)

of .....

TAKE NOTICE THAT the applicant wishes to discontinue the application and  
hereby withdraws the application (or as the case may be)

DATED at Perth this ..... day of ..... 19 .....

.....  
Signature of applicant.

(Affix Stamp of Commission)

---

**Form 24**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

No.                      of 19

IN THE MATTER OF .....

.....

BETWEEN: .....

.....

.....

Applicant

AND: .....

.....

.....

Respondent

NOTICE OF HEARING

TO: .....

TAKE NOTICE that the Full Bench/Commission in Court Session/Commission  
(Mr. Commissioner ....., ) Government School Teachers  
Tribunal, Public Service Arbitrator, Railways Classification Board Promotions  
Appeal Board will sit at 815 Hay Street (Cnr. Hay and King Streets), Perth, in  
Court No....., or at ..... on the .....  
day of ..... 19 ..... at ..... o'clock in the .....  
noon to hear the abovementioned matter.

(Affix Stamp of Commission)

\_\_\_\_\_

**Form 25**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

Between

.....

.....

Applicant

and

.....

.....

Respondent

**NOTICE TO ADMIT**

To .....

of .....

take notice that you are required within seven days of receiving this notice to admit or deny in writing the following facts —

.....

.....

.....

.....

and take further notice that should you fail to reply to this notice within seven days or such other time as the Commission upon your application may direct you may be liable to pay the costs of establishing such facts before the Commission.

Dated this ..... day of ....., 19 .....

.....

Signature

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this notice

Note:....This form is to be completed and signed by the party requesting the admission or denial of the abovementioned facts.

*[Form 25 inserted by Gazette 19 August 1988 p.2968.]*

\_\_\_\_\_

**Form 26**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No. of 19

Between

.....

.....

Applicant

and

.....

.....

Respondent

**SUMMONS TO WITNESS**

To .....

.....

.....

Name in full, occupation and address

You are hereby summoned to appear before the abovenamed Commission at .....

.....

on ..... the..... day of ..... 19 .....

at ..... o'clock in the ..... noon, and thereafter from day to day until

discharged from attendance, to give evidence concerning the abovementioned

matter on behalf of .....

.....

(name and address of party taking out summons)

And you are also required to have and produce at the same time and place all books, papers, or other documents in your possession or under your control in any way relating to the proceedings in the said matter and in particular (but not exclusively) the following: —

.....

.....

If you fail or neglect to comply with this summons you are liable to a penalty.

(Affix Stamp of Commission)

The appropriate fee is to be paid upon lodgement of this summons

*[Form 26 inserted by Gazette 19 August 1988 p.2968.]*



**Form 28**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**APPLICATION FOR REGISTRATION  
OF ORGANIZATION/ASSOCIATION**

To the Registrar

.....  
.....

(set out name of organization/association)

hereby makes application for registration under Part II Division 4 of the  
*Industrial Relations Act 1979*.

The following documents are lodged in support of this application —

- (1) A list containing the full names and addresses of officers of the organization;
- (2) Certified copy of the rules of the organization;
- (3) Copy of the resolution authorising the application.

The registered office of the organization will be situated at.....

.....  
Dated at Perth this ..... day of ....., 19 .....

.....  
for and on behalf of the  
organization/association

The appropriate fee is to be paid upon lodgement of this application

*[Form 28 inserted by Gazette 19 August 1988 p.2969.]*

\_\_\_\_\_

**Form 29**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**APPLICATION TO REGISTER ADDITIONS TO AND/OR  
ALTERATIONS AND/OR REVISIONS OF RULES OF A REGISTERED  
ORGANIZATION OR ASSOCIATION**

To the Full Bench or Registrar (as the case may be)

Application is hereby made by .....

.....  
.....

(insert name of organization or association)

an organization/association registered under the Industrial Relations Act for the registration or alteration to the name/rules of the organization/association particulars of which are attached hereto.

The alterations were proposed by the organization/association in accordance with its rules and the Industrial Relations Act on the ..... day of ..... 19 .....

Dated at Perth this ..... day of ....., 19 .....

.....

for and on behalf of the  
organization/association

The appropriate fee is to be paid upon lodgement of this application

*[Form 29 inserted by Gazette 19 August 1988 p.2969.]*

\_\_\_\_\_

**Form 30**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

No.                      of 19

**SUMMONS FOR CANCELLATION OR SUSPENSION  
OF REGISTRATION OF ORGANIZATION**

TO: .....  
(organization)

of .....

**TAKE NOTICE:**

YOU ARE HEREBY REQUIRED to appear before the Full Bench of the Western Australian Industrial Relations Commission at Supply House, 815-823 Hay Street, Perth in Court No. .... on the ..... day of ..... 19 ..... at ..... o'clock in the ..... noon and thereafter as required to show cause why the registration of the organization should not be cancelled or suspended under section 73 of the *Industrial Relations Act 1979*.

DATED at Perth this ..... day of ..... 19 .....

.....  
REGISTRAR

---

**Form 31**

*Industrial Relations Act 1979*

In the Western Australian Industrial Relations Commission

No.                      of 19

**REQUEST BY ORGANIZATION/ASSOCIATION TO  
CANCEL ITS REGISTRATION**

To the Registrar

Request is hereby made by .....

(organization/association)

an organization/association registered under the Industrial Relations Act for an application to cancel its registration.

The grounds on which the request is made are

.....  
(set out in detail — attach schedule if necessary)

The number of members whose names are at present lawfully on the register of members kept by the organization/association is .....

The number of members present at the meeting which resolved to seek the cancellation/suspension of the organization/association was .....

..... and the number in favour of this action was .....

Dated at Perth this ..... day of ....., 19 .....

.....  
for and on behalf of the  
organization/association

The appropriate fee is to be paid upon lodgement of this request

*[Form 31 inserted by Gazette 19 August 1988 p.2969.]*

**Form 32**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

No.                      of 19

**APPLICATION TO CANCEL REGISTRATION OF  
ORGANIZATION/ASSOCIATION**

TO .....

(name of organization/association)

TAKE NOTICE that the Registrar has this day applied to have the  
registration of .....

.....

.....

(organization/association)

cancelled, on the following grounds:

.....

(give particulars)

AND TAKE NOTICE that notice of any objection to the cancellation  
must be given in writing in accordance with Form 22 within 14 days of  
the service of this application.

DATED at Perth this ..... day of ....., 19 .....

.....

REGISTRAR

---

**Form 33**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

**CERTIFICATE OF REGISTRATION AS AN ORGANIZATION**

I hereby certify that the organization called .....

.....

whose registered office is at .....

has this day been duly registered as an organization under the *Industrial Relations Act 1979*, and, pursuant to section 60 of that Act, is a body corporate.

Given under my hand this ..... day of ....., 19.....

.....  
REGISTRAR

---

**Form 34**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

**CERTIFICATE OF REGISTRATION AS AN  
INDUSTRIAL ASSOCIATION**

I certify that the council called .....

.....

whose registered office is at .....

has this day been duly registered as an industrial association under the *Industrial Relations Act 1979*, and that association is, pursuant to sections 60 and 67 of that Act, a body corporate.

Given under my hand this ..... day of ....., 19.....

.....  
REGISTRAR

**Form 35**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

**CERTIFICATE OF REGISTRATION AS AN ORGANIZATION  
FORMED BY AMALGAMATION**

I hereby certify that the organizations formerly registered under the names

(1).....

.....

(2).....

.....

have this day been duly registered under the *Industrial Relations Act 1979*, as  
one organization by the name .....

.....

.....

and that organization is, pursuant to section 60 of that Act, a body corporate.

The registrations of the aforementioned organizations, namely

(1).....

.....

(2).....

.....

are this day cancelled.

Given under my hand this .....day of ....., 19.....

.....

REGISTRAR

\_\_\_\_\_

**Form 36**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

**CERTIFICATE OF REGISTRATION OF  
ALTERATION OF RULES**

I hereby certify that the annexed alteration of rules of .....

.....  
has this day been duly registered at my office under the provisions of the  
*Industrial Relations Act 1979*.

Rules referred to .....

Given under my hand this ..... day of ....., 19.....

.....  
REGISTRAR

---

**Form 37**

*Industrial Relations Act 1979*

IN THE WESTERN AUSTRALIAN INDUSTRIAL RELATIONS  
COMMISSION

**CERTIFICATE OF REGISTRATION OF  
CHANGE OF NAME**

I hereby certify that on the .....day of ..... 19 .....  
on the hearing of an application duly made on behalf of the  
organization/association formerly registered under the title of .....

.....  
the Full Bench consented to the name of the organization/association being  
changed to read, and that name is accordingly now registered as .....

.....  
Given under my hand this .....day of ....., 19.....

.....  
REGISTRAR

---

**Form 38**

[r. 110C]

*Industrial Relations Act 1979*  
*Part VID — Employer-employee agreements*  
*section 97XI*

**APPLICATION FOR AN ORDER REVOKING THE  
APPROVAL OF A REPRESENTATIVE [AND REQUEST  
FOR APPROVAL OF NEW REPRESENTATIVE]<sup>1</sup>**

<sup>1</sup> delete words in brackets if approval of a new representative is not sought

To the Guardianship and Administration Board

**SECTION A: APPLICATION**

1. I HEREBY —

- (a) APPLY for an order under section 97XK of the Act revoking the order made —
- by the Registrar on ..... under section [97WZ(1)] [97XN(1)] of the Act;
  - by the Guardianship and Administration Board on ..... in exercise of the power in section 97XK(2) of the Act, approving the representative specified in Section D to act for [the represented person specified in Section E] *or* [for me];
- and
- (b) <sup>2</sup>REQUEST the Guardianship and Administration Board to exercise its jurisdiction under section 97XK(2) to appoint a new representative [for the represented person] *or* [for me].

2. I am making this application as the represented person.

OR

I am making this application on behalf of the represented person; and my relationship with him/her is .....

OR

<sup>3</sup>I am making this application as a person having a sufficient interest in the matter, *namely* .....  
.....

*(set out the nature of the interest)*

and accordingly I ALSO APPLY for a determination under section 97XI(2)(b) that I have a sufficient interest to make this application.

3. <sup>4</sup>I [have] [have not] informed the represented person that I am making this application.
4. The represented person [supports] [does not support] this application.
5. <sup>5</sup>The consent of the person proposed for approval as the new representative is attached.
6. The person proposed for approval is —
  - (a) the spouse or de facto partner<sup>8</sup> of; or
  - (b) closely associated with<sup>6</sup>,the represented person specified in Section E.  
OR *(if application is made by the represented person)* —  
The person proposed for approval is —
  - (a) my spouse or de facto partner<sup>8</sup>; or
  - (b) closely associated with me<sup>7</sup>.
7. I certify that the information and details given in this application are true and correct.

Signature of applicant .....

<sup>2</sup> delete if approval of a new representative is not sought

<sup>3</sup> this paragraph does not apply if the application is made by the represented person or a person acting on his or her behalf

<sup>4</sup> delete this and the following paragraph if the application is made by the represented person

<sup>5</sup> delete if a request is not made under paragraph 1(b)

<sup>6</sup> paragraph (b) only applies if the proposed representative —

(a) regularly provides or arranges for domestic services or support to; or

(b) maintains a close personal relationship with,

the represented person (see s. 97XN(1)(d)(i) and 97WY(1)(b) and (2) of the Act)

<sup>7</sup> see footnote 5

<sup>8</sup> a de facto partner must have reached 18 years of age

**SECTION B: GROUND(S) AND REASONS<sup>8</sup>**

1. The application for a revocation order is made on the following ground(s)<sup>9</sup> —
  - (a) that [the represented person is] *or* [I am] no longer a person who is in general incapable, because of a mental disability, of making reasonable decisions on matters pertaining to an employer-employee relationship;
  - (b) that the representative has failed to act in [the best interests of the represented person] *or* [my best interests];
  - (c) that it is for some other reason no longer in [the interests of the represented person] *or* [my best interests] for the representative to act on [his or her] *or* [my] behalf.
2. The reason(s) for my belief that the ground(s) exist(s) (is) are — <sup>10</sup>  
.....  
.....

<sup>8</sup> see section 97XI(3) of the Act

<sup>9</sup> delete any provision(s) that is (are) not applicable

<sup>10</sup> state the reason(s) briefly and attach relevant documents if desired

**SECTION C: DETAILS OF APPLICANT**

Full name .....

Address .....

Date of birth<sup>11</sup> .....

Tel no ..... Fax no .....

Email address .....

<sup>11</sup> only required if the represented person is the applicant

**SECTION D: DETAILS OF REPRESENTATIVE**

Full name .....

Address .....

Tel no ..... Fax no .....

Email address .....

**SECTION E: DETAILS OF REPRESENTED PERSON<sup>12</sup>**

Full name .....  
Address .....  
Date of birth .....  
Male/female .....  
Tel no ..... Fax no .....  
Email address .....

<sup>12</sup> delete this section if the application is made by the represented person

**SECTION F: DETAILS OF PROPOSED NEW REPRESENTATIVE<sup>13</sup>**

Full name .....  
Address .....  
Date of birth .....  
Male/female .....  
Tel no ..... Fax no .....  
Email address .....

<sup>13</sup> delete this section if approval of a new representative is not sought

**SECTION G: DETAILS OF EMPLOYER<sup>14</sup>**

Full name .....  
Address .....  
Tel no ..... Fax no .....  
Email address .....

<sup>14</sup> delete if there is no EEA in force

**SECTION H: DETAILS OF ANY OTHER INTERESTED PERSON<sup>15</sup>**

Full name .....

Address .....

Tel no ..... Fax no .....

Email address .....

Relationship to the represented person .....

Have you informed the person of this application? yes/no

Does the person support the application? yes/no/don't know

<sup>15</sup> this applies to any other person who has an interest in or close involvement with the represented person so that the Guardianship and Administration Board can consider if the person should receive notice of the hearing before the Board; if there is more than one such person attach a separate sheet

*[Form 38 amended in Gazette 13 September 2002 p.4652-5;  
30 June 2003 p.2607.]*

**Form 39**

[r. 110F]

*Industrial Relations Act 1979*

*Part VID — Employer-employee agreements*

*sections 97XB and 97XQ*

In the Western Australian Industrial Relations Commission

No. of 20

**APPEAL AGAINST REFUSAL OF APPROVAL**

To the Western Australian Industrial Relations Commission

I, .....  
*(name of appellant)*

HEREBY APPEAL to the Commission against the refusal of the Registrar on  
the ..... day of ..... 20 .....

to approve .....  
*(full name of proposed representative)*

to act as [my representative] [the representative of

.....]  
*(full name of person with a mental disability)*

for the purposes of Part VID Division 9 of the Act.

This appeal is brought on the following grounds —

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

*(State the grounds relied on in support of the appeal; attach a separate page if necessary;*

*THE GROUNDS MUST BE RELATED TO, AND ADDRESS, THE REASONS GIVEN BY THE REGISTRAR FOR THE REFUSAL).*

..... Date: .....  
*(signature of appellant)*

A copy of this appeal notice is to be served on the following persons under regulation 110G of the *Industrial Relations Commission Regulations 1985* —

- the person with a mental disability named above<sup>1</sup>
- .....<sup>2</sup>  
*(name of applicant in the application to which the appeal relates)*
- the proposed representative named above
- .....  
*(name of any [prospective] employer who was given notice of the application to which the appeal relates)*

<sup>1</sup> delete if the person with a mental disability is the appellant

<sup>2</sup> delete if the person who applied for approval is the appellant

.....  
Registrar

**Industrial Relations Commission Regulations 1985**  
**Schedule**

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*[Form 39 amended in Gazette 13 Sep 2002 p. 4655-6.]*

*[Schedule amended in Gazette 13 Sep 2002 p. 4652-6; 30 Jun 2003  
p. 2607; 24 Mar 2005 p. 1005-6.]*

**Notes**

- <sup>1</sup> This is a compilation of the *Industrial Relations Commission Regulations 1985* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Industrial Relations Commission Regulations 1985</i>	28 Feb 1985 p. 719-46 16 Aug 1985 p. 2985 1 Nov 1985 p. 4228 19 Aug 1988 p. 2961-70 8 Nov 1991 p. 5731-3 6 Mar 1992 p. 1124-6 13 Aug 1993 p. 4371	
<i>Industrial Relations Commission Amendment Regulations 1994</i>	20 May 1994 p. 2113-5	20 May 1994
<i>Industrial Relations Commission Amendment Regulations (No. 2) 1994</i>	24 Feb 1995 <sup>3</sup> p. 639	24 Feb 1995
<i>Public Sector Management (Review Procedures) Regulations 1995, Part 4</i>	24 Nov 1995	Correction to reprint to be published
<i>Industrial Relations Commission Amendment Regulations 1996</i>	1 Nov 1996 p. 5769-70	1 Nov 1996
<i>Amending Regulations</i>	24 Jul 1998 p. 3894-5	24 Jul 1998
<i>Industrial Relations Commission Amendment Regulations 2002<sup>2</sup></i>	2 Aug 2002 p. 3801-4	2 Aug 2002
<i>Industrial Relations Commission Amendment Regulations (No. 2) 2002</i>	13 Sep 2002 p. 4649-56	15 Sep 2002 (see r. 2 and <i>Gazette</i> 6 Sep 2002 p. 4487)
<i>Industrial Relations Commission Amendment Regulations (No. 3) 2002</i>	17 Dec 2002 p. 5919-20	17 Dec 2002
<i>Equality of Status Subsidiary</i>	30 Jun 2003	1 Jul 2003 (see r. 2 and <i>Gazette</i> )

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<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Legislation Amendment Regulations 2003 Pt. 17</i>	p. 2581-638	30 Jun 2003 p. 2579)
<i>Industrial Relations Commission Amendment Regulations 2005</i>	24 Mar 2005 p. 1002-6	4 Apr 2005 (see r. 2)

**These regulations were repealed by the *Industrial Relations Commission Regulations 2005 r. 121 as at 1 Sep 2005 (see Gazette 12 August 2005 p. 3779)***

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<sup>2</sup> Forms 49J and 49J(6) are not in these regulations but are in the *Industrial Relations Commission Amendment Regulations 2002*. They read as follows:

“

FORM 49J

*Industrial Relations Act*

(Section 49J)

**(Right of Entry and Inspection)**

**APPLICATION BY SECRETARY FOR AUTHORITY TO BE ISSUED**

Application Number .....

Application by .....  
(Full name of Organisation Secretary)

Secretary of .....  
(Name of Employee Organisation)

I hereby request that the Registrar issue an authority pursuant to section 49J of the Industrial Relations Act to the following person;

Full Name of Person .....

Address .....

.....  
(Signature of Organisation Secretary)

.....  
(Date)

FORM 49J6

*Industrial Relations Act*

Section 49J(6)

**(Right of Entry and Inspection)**

**APPLICATION BY SECRETARY FOR REVOCATION OF AN  
AUTHORITY**

Application Number .....

Application by .....  
(Full name of Secretary of Organisation)

Secretary of .....  
(Name of Employee Organisation)

I hereby request that the Registrar REVOKE the authority issued to the following persons pursuant to section 49J of the Industrial Relations Act.

Full Name of Person .....

Address .....  
.....  
.....

.....  
(Signature of Organisation Secretary)

.....  
(Date)

”

<sup>3</sup> The *Industrial Relations Commission Amendment Regulations (No. 2) 1994* were published on 24 Feb 1995 p. 639 and again on 10 Mar 1995 p. 901-2. The publication of 10 Mar 1995 has no effect.

Defined terms

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**Defined terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
an interested person .....	110G(1)
decision .....	112(3)
Tribunal.....	110J(1)