

IR301\*

Industrial Relations Act 1979

## Industrial Relations Commission Amendment Regulations 2002

Pursuant to the powers conferred by section 113 of the *Industrial Relations Act 1979* (as amended) the amendment regulations set forth below are hereby promulgated to take effect on and from the 2nd day of August 2002.

### 1. Citation

These regulations may be cited as the *Industrial Relations Commission Amendment Regulations 2002*.

2. The following amendments are made to the *Industrial Relations Commission Regulations 1985*.

3. After regulation 7 insert a new regulation 7A as follows—

#### 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.

4. Delete regulation 13 and insert in lieu thereof the following—

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

5. After regulation 21 insert a new regulation 21A as follows—

#### 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.

6. After regulation 21 insert a new regulation 21B as follows—

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

7. After regulation 94 insert a new regulation 94A as follows—

**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.

8. After regulation 13 insert a new regulation 13A as follows—

**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.

9. Part VIII repealed.

Part VIII is repealed.

10. Part XVI repealed.

Part XVI is repealed.

11. After regulation 94A insert a new regulation 94B as follows—

**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.
- (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 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
- (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.

W. S. COLEMAN, Chief Commissioner,  
Western Australian Industrial Relations Commission.

2 August 2002.

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)