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## INDUSTRIAL RELATIONS

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IR301\*

### INDUSTRIAL RELATIONS ACT 1979

#### INDUSTRIAL RELATIONS (PRE-STRIKE BALLOTS) REGULATIONS 1997

Made by The Western Australian Industrial Relations Commission.

#### Citation

1. These regulations may be cited as the *Industrial Relations (Pre-strike Ballots) Regulations 1997*.

#### Commencement

2. These regulations come into operation on the day on which Part 3 of the *Labour Relations Legislation Amendment Act 1997* comes into operation.

#### Interpretation

3. In these regulations, unless the contrary intention appears—

“polling place” means—

- (a) in the case of a pre-strike ballot at which the principal method of casting votes is by voting in person, a place at which votes are cast in person;
- (b) in the case of a pre-strike ballot at which the method of casting votes is by post, delivery or telephone, a place at which votes are delivered or recorded;

“scrutineer” includes a scrutineer appointed by the Commission under section 97H (3) of the Act.

#### Declaration of Branch as related Federal body

4. An application to the Full Bench for a declaration under section 97 (2)—

- (a) may be made by—
  - (i) the Registrar;
  - (ii) the Council, the Chamber, the Mines and Metals Association or the Minister;
  - (iii) any organization or association; or
  - (iv) any employer whose employees are members of the Branch;and
- (b) is to be in writing in the form of Form 1 in the Schedule to the Industrial Relations Commission Regulations, 1985 and is to set out in detail the grounds of such application.

#### Appointment of scrutineers and declarations by them

5. (1) An—

- (a) organization of employees whose members are entitled to vote in a pre-strike ballot; and
- (b) employer whose employees are entitled to vote in a pre-strike ballot,

may, by written notice given to the person conducting the pre-strike ballot in duplicate in the form of Form 1 Schedule 1, appoint one or more scrutineers to attend during a pre-strike ballot at any polling place specified in the notice.

(2) A person who has not reached the age of 18 is not to act as a scrutineer.

(3) The person conducting the pre-strike ballot is to endorse an acknowledgment of the appointment of a scrutineer on the duplicate notice of appointment and give it back to the person who made the appointment who is to give it to the person appointed.

(4) Before beginning to act as a scrutineer a person is to make a declaration on the duplicate notice of appointment given to him or her under subregulation (3) before—

- (a) a justice;
- (b) a person who has authority under the Declarations and Attestations Act 1913 to take statutory declarations; or
- (c) the person conducting the pre-strike ballot.

#### Verification of appointment

6. (1) When a scrutineer has arrived at a polling place the person conducting the pre-strike ballot may request the scrutineer to produce for inspection the duplicate notice of appointment given to the scrutineer under regulation 5 (3).

(2) A scrutineer is to comply with a request under subregulation (1).

(3) A scrutineer must wear a badge or other article that identifies him or her as a scrutineer at all times while acting as a scrutineer.

#### Rights of scrutineers

7. The rights of a scrutineer in relation to a pre-strike ballot are as follows—

- (a) to enter and be in any polling place specified in his or her notice of appointment at any time before the close of voting;

- (b) while in the polling place, to observe the conduct of the pre-strike ballot and ascertain whether the Act is being complied with;
- (c) to leave the polling place at any time;
- (d) to observe the checking of absent and postal voting papers and the recording of votes;
- (e) to be present after the close of voting when ballot boxes are opened and during the counting of the votes so as to observe all proceedings at the count.

#### Restrictions on scrutineers

##### 8. A scrutineer—

- (a) is not to be in any polling place specified in his or her notice of appointment if another scrutineer appointed by the same person is also there except where one of them is only there to cast or deliver his or her vote;
- (b) is not to take any part in the conduct of the pre-strike ballot;
- (c) is to comply with reasonable requests made by a person conducting the pre-strike ballot; and
- (d) in exercising the rights given by regulation 7 (d) and (e), is to comply with directions given by the person conducting the pre-strike ballot.

#### Declaration and notice of result

9. The person conducting a pre-strike ballot is to publicly declare the result of the ballot within the time and in the manner specified by the Commission at the time it ordered that the pre-strike ballot be held.

#### Notice of intention to strike

10. For the purposes of section 97I(4), notice under section 97I(2) or (3) of intention to participate in a strike is to be given at least 48 hours before participation in the strike by the member.

### SCHEDULE

#### Form. Appointment of Scrutineer - Original copy

*Industrial Relations (Pre-strike Ballots) Regulations 1997, reg. 5*

## APPOINTMENT OF SCRUTINEER

To be completed by person appointing scrutineer. See notes on how to complete this form.

Person appointing Scrutineer	Full name:
	Address:

Scrutineer	Full name:
	Address:
	Phone numbers (H): _____ (W): _____
	Fax Number: _____ Email: _____

Pre-strike ballot	Order of Commission
	Date of ballot:
	Polling place(s):

Signature of person appointing scrutineer:	Date:
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#### Notes

<b>Where to send this form</b>	When you have completed and signed your part of this form, send both copies of the form to the person conducting the pre-strike ballot or give them to that person.  You may send your form by post, by fax or by other electronic means so long as it is capable of being printed in its entirety, including signatures. If you send it by fax or electronically you should check that it has been received.
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<b>Duplicate copy of form</b>	You must complete 2 copies of this form. The original will be retained by the person conducting the pre-strike ballot. The duplicate will be returned and must be given to and retained by the scrutineer.
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**Form Appointment of Scrutineer - Duplicate copy***Industrial Relations (Pre-strike Ballots) Regulations 1997, reg. 5***APPOINTMENT OF SCRUTINEER**

To be completed by person appointing scrutineer. See notes on how to complete this form.

<b>Person appointing Scrutineer</b>	Full name:
	Address:

<b>Scrutineer</b>	Full name:
	Address:
	Phone numbers (H): _____ (W): _____
	Fax Number: _____ Email: _____

<b>Pre-strike ballot</b>	Order of Commission
	Date of ballot:
	Polling place(s):

<b>Signature of person appointing scrutineer:</b>	Date:
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**ACKNOWLEDGMENT OF APPOINTMENT**

<b>Person conducting pre-strike ballot</b>	Full name:
	Signature: _____ Date: _____

**DECLARATION BY SCRUTINEER**

To be completed after the notice of appointment has been acknowledged and returned.

<b>Declaration</b> (Making a false declaration is an offence)	I declare that I am at least 18 years of age and will comply with the provisions of the <i>Industrial Relations Act 1979</i> and the <i>Industrial Relations (Pre-strike Ballots) Regulations 1979</i> which relate to scrutineers.	
	Signature: _____	Date: _____

<b>Witness</b>	Full name:
	Office:
	Signature: _____ Date: _____

Dated 31st day of December 1997.

P. J. SHARKEY, President.  
W. S. COLEMAN, Chief Commissioner.  
G. L. FIELDING, Senior Commissioner.  
J. F. GREGOR, Commissioner.  
S. A. CAWLEY, Commissioner.  
R. N. GEORGE, Commissioner.  
A. R. BEECH, Commissioner.  
C. B. PARKS, Commissioner.  
P. E. SCOTT, Commissioner.