

INDUSTRIAL RELATIONS

IR301

INDUSTRIAL RELATIONS ACT 1979

Industrial Relations Commission Amendment Regulations, 1991

Pursuant to the powers conferred by section 113 of the Industrial Relations Act 1979 and all other powers enabling the Western Australian Industrial Relations Commission hereby makes the following regulations:

1. (1) These regulations may be cited as the Industrial Relations Commission Amendments Regulations, 1992.
- (2) In these regulations the Industrial Relations Commission Regulations 1985* as amended are referred to as the principal regulations.

**Published in the Government Gazette 28 February 1985 at pages 3-50 and see amendments published in the Government Gazette on 16 August 1985, 1 November 1985, 19 August 1988 and 8 November 1991.*

2. Regulation 39 of the principal regulations is amended by repealing the existing regulation and substituting the following regulation:

“ 39. Other than appeals brought pursuant to section 78 (1) (b) (i) of the Act, the following is to apply to appeals brought pursuant to section 78 (1) (b) of the Act.

- (1) Within 21 days of service of such an appeal, the respondent shall give notice to the appellant in accordance with Form 25 filed with the Registrar requiring the appellant to admit any fact relative to the issue and further the respondent shall state in writing the reasons for the decision appealed against and shall attach such statement to the Form 25.
- (2) The appellant on whom a notice to admit has been served shall within 7 days serve upon the other party a notice in reply in writing admitting or denying the fact with or without qualification as the case may be and shall file the same with the Registrar.
- (3) Subject to subregulation (4) and (5) the procedure before the Tribunal for these appeals shall be as follows:
 - (a) The respondent shall make a brief statement outlining his case and describing the evidence he will bring;
 - (b) The respondent shall then call his witnesses;
 - (c) Unless the Tribunal otherwise permits, the examination in chief may be conducted by not more than one person on behalf of the respondent, and the cross examination may be conducted by not more than one person on behalf of the respondent;
 - (d) The respondent shall be allowed to re-examine but the re-examination shall be confined to matters arising out of the cross examination;

- (e) The appellant shall then make a brief statement outlining his case and describing the evidence he will bring;
 - (f) The appellant shall then call his witnesses and paragraphs (c) and (d) shall apply with modifications as necessary;
 - (g) The appellant shall then make submissions to the law;
 - (h) The respondent shall then make submissions to the law;
 - (i) The appellant shall have the right of reply but it shall be limited to any questions of law raised which could not reasonably have been anticipated.
- (4) The procedure in subregulation (3) may be modified or varied by the Tribunal when it considers it just or expedient to do so.
- (5) The procedure to be followed with respect to any intervenor shall be as directed by the Tribunal. ”.

3. Regulation 41 of the principal regulations is amended by repealing the existing regulation and substituting the following regulation:

- “ 41.(1) Subject to subregulation (2) and (3) the procedure in hearings before the Tribunal other than for matters brought pursuant to section 78 (1) (b) of the Act shall be as follows—
- (a) the applicant shall make a brief statement outlining his case and describing the evidence he will bring;
 - (b) the applicant shall then call his witnesses;
 - (c) unless the Tribunal otherwise permits, the examination in chief may be conducted by not more than one person on behalf of the applicant, and the cross examination may be conducted by not more than one person on behalf of the respondent;
 - (d) the applicant shall be allowed to re-examine but the re-examination shall be confined to matters arising out of the cross examination;
 - (e) the respondent shall then make a brief statement outlining his case including any counter proposal describing the evidence he will bring;
 - (f) the respondent shall then call his witnesses and paragraphs (c) and (d) shall apply with modifications as necessary;
 - (g) if the respondent has produced evidence in support of any counter proposal the applicant may be able to call witnesses in respect of such counterproposal;
 - (h) the applicant shall then make his submissions as to merit and the law;
 - (i) the respondent shall then make his submissions as to merit and the law;
 - (j) the applicant shall then have the right of reply but it shall be limited to any questions of law raised which could not reasonably have been anticipated and/or any counterproposal.
- (2) The procedure in subregulation (1) may be modified or varied by the Tribunal where it considers it just or expedient so to do.
- (3) The procedure to be followed with respect to any intervenor shall be as directed by the Tribunal. ”.

4. Regulation 42 of the principal regulations is deleted.

5. Form 8 of the principal regulations is amended by repealing the existing form and substituting the following form:

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 of 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.

Dated this 26th day of February 1992.

- P. J. SHARKEY, President.
- W. S. COLEMAN, Chief Commissioner.
- G. G. HALLIWELL, Senior Commissioner.
- G. L. FIELDING, Commissioner.
- O. K. SALMON, Commissioner.
- J. A. NEGUS, Commissioner.
- J. F. GREGOR, Commissioner.
- S. A. KENNEDY, Commissioner.
- R. N. GEORGE, Commissioner.
- A. R. BEECH, Commissioner.
- C. B. PARKS, Commissioner.