



Western Australia

Industrial Relations Act 1979

**Industrial Relations Commission Amendment
Regulations 2025**

Industrial Relations Commission Amendment Regulations 2025

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Industrial Relations Commission Amendment Regulations 2025

Made by the Chief Commissioner of The Western Australian Industrial Relations Commission.

1. Citation

These regulations are the *Industrial Relations Commission Amendment Regulations 2025*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on 31 January 2025.

3. Regulations amended

These regulations amend the *Industrial Relations Commission Regulations 2005*.

4. Regulation 60AA inserted

After regulation 60 insert:

60AA. Industrial matter under *Public Sector Management Act 1994* s. 95 or s. 96A

- (1) In this regulation —
section 94 decision means a decision that may be referred to the Commission under the *Public Sector Management Act 1994* section 95(2);

section 95A decision means a decision that may be referred to the Commission under the *Public Sector Management Act 1994* section 96A(2).

- (2) This regulation applies if —
 - (a) an employee refers a section 94 decision to the Commission under the *Public Sector Management Act 1994* section 95(2); or
 - (b) an employee or former employee refers a section 95A decision to the Commission under the *Public Sector Management Act 1994* section 96A(2).
- (3) The referral must be made by application that —
 - (a) is in the approved form; and
 - (b) includes a statement that clearly and concisely sets out the grounds of the referral; and
 - (c) has attached to it the particulars approved by the Chief Commissioner from time to time.
- (4) If the decision is referred to the Commission after the time prescribed under the *Public Sector Management Act 1994* section 108, the application must also have attached to it a statement from the applicant setting out the facts on which the applicant relies to show why it would be unfair for the Commission not to accept the referral.
- (5) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after the application is made, serve a copy of the application and any accompanying documents on the employer of the applicant.
- (6) An employer that is served with a copy of the application and that wants to respond to the referral must file a response in the approved form within

21 days after being served with a copy of the application.

- (7) A response must, in summary form, specify the facts on which the respondent relies and specifically admit or dispute, either with or without qualification, each part of the application.
- (8) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after a response is filed, serve a copy of the response on the applicant.

5. Regulation 62 amended

(1) Delete regulation 62(1) and insert:

- (1) A stop bullying application made by a worker under section 51BJ(1) of the Act must —
 - (a) be in the approved form; and
 - (b) provide details of the following respondents to the application —
 - (i) the person conducting a business or undertaking for whom the worker carries out work;
 - (ii) each individual alleged to be bullying the worker at work;
 - (iii) if the behaviour of an individual referred to in subparagraph (ii) occurs in relation to that individual's work — the person conducting a business or undertaking for whom the individual carries out the work;

and

- (c) have attached to it the particulars approved by the Chief Commissioner from time to time.
- (1A) Subregulation (1)(b)(i) and (iii) do not apply if the worker is the person who conducts the business or undertaking referred to in those subparagraphs.
- (2) In regulation 62(2)(a) delete “(1)(a)(i)” and insert:
 - (1)(b)(i)
- (3) In regulation 62(2)(b) delete “(1)(a)(ii) and (iii)” and insert:
 - (1)(b)(ii) and (iii)
- (4) After regulation 62(2) insert:
 - (2A) However, if the Registrar cannot serve a copy of the application on a respondent as required under subregulation (2), the Registrar must —
 - (a) seek directions from the Chief Commissioner as to service of the application; and
 - (b) comply with the Chief Commissioner’s directions as to service of the application.
- (5) In regulation 62(5) delete “party.” and insert:
 - party to the application.

- (6) In regulation 62(6) delete “or sexual harassment”.

Note: The heading to amended regulation 62 is to read:

Stop bullying application

6. Regulations 62A to 62F inserted

After regulation 62 insert:

62A. Stop sexual harassment application

- (1) A stop sexual harassment application made by an aggrieved person under section 51BT(1)(a) of the Act must —
- (a) be in the approved form; and
 - (b) provide details of the following respondents to the application —
 - (i) the person conducting a business or undertaking for whom the aggrieved person carries out work or seeks to carry out work;
 - (ii) each individual alleged to be sexually harassing the aggrieved person in connection with work;
 - (iii) if the behaviour of an individual referred to in subparagraph (ii) occurs in relation to that individual’s work — the person conducting a business or undertaking for whom the individual carries out the work;
- and
- (c) have attached to it the particulars approved by the Chief Commissioner from time to time.
- (2) Subregulation (1)(b)(i) and (iii) do not apply if the aggrieved person is the person who conducts the

business or undertaking referred to in those subparagraphs.

- (3) Unless the Commission otherwise directs, the Registrar must serve a copy of the application and any accompanying documents on —
 - (a) the respondent referred to in subregulation (1)(b)(i) as soon as practicable after the application is made; and
 - (b) each respondent referred to in subregulation (1)(b)(ii) and (iii) within 1 day after a copy of the application is served under paragraph (a) or, if there is no respondent as referred to in subregulation (1)(b)(i), as soon as practicable after the application is made.
- (4) However, if the Registrar cannot serve a copy of the application on a respondent as required under subregulation (3), the Registrar must —
 - (a) seek directions from the Chief Commissioner as to service of the copy of the application; and
 - (b) comply with the Chief Commissioner's directions as to service of the copy of the application.
- (5) A respondent who is served with a copy of the application and who wants to respond to the application must file a response in the approved form within 7 days after being served with the copy of the application.
- (6) A response must, in summary form, specify the facts on which the respondent relies and specifically admit or dispute, either with or without qualification, each part of the application.
- (7) Unless the Commission otherwise directs, the Registrar must, within 7 days after a respondent files a response,

serve a copy of the response on each other party to the application.

- (8) At a hearing by the Commission of a stop sexual harassment application, a party who was served with a copy of the application and who did not file a response within the time allowed under these regulations may only be heard on the matters raised in the application and not on any other matter.

62B. Sexual harassment referral

- (1) This regulation applies if a person (the *aggrieved person*) refers a matter relating to the sexual harassment of the person in connection with work to the Commission under section 29(1)(f) of the Act.
- (2) The referral must be made by application that —
- (a) is in the approved form; and
 - (b) provides details of the following respondents to the application —
 - (i) the person conducting a business or undertaking for whom the aggrieved person carries out work or seeks to carry out work;
 - (ii) each individual alleged to be sexually harassing the aggrieved person in connection with work;
 - (iii) if the behaviour of an individual referred to in subparagraph (ii) occurs in relation to that individual's work — the person conducting a business or undertaking for whom the individual carries out the work;

and

- (c) has attached to it the particulars approved by the Chief Commissioner from time to time.
- (3) Subregulation (2)(b)(i) and (iii) do not apply if the aggrieved person is the person who conducts the business or undertaking referred to in those subparagraphs.
- (4) Unless the Commission otherwise directs, the Registrar must serve a copy of the application and any accompanying documents on —
 - (a) the respondent referred to in subregulation (2)(b)(i) as soon as practicable after the application is made; and
 - (b) each respondent referred to in subregulation (2)(b)(ii) and (iii) within 1 day after a copy of the application is served under paragraph (a) or, if there is no respondent as referred to in subregulation (2)(b)(i), as soon as practicable after the application is made.
- (5) However, if the Registrar cannot serve a copy of the application on a respondent as required under subregulation (4), the Registrar must —
 - (a) seek directions from the Chief Commissioner as to service of the copy of the application; and
 - (b) comply with the Chief Commissioner’s directions as to service of the copy of the application.
- (6) A respondent who is served with a copy of the application and who wants to respond to the application must file a response in the approved form within 7 days after being served with the copy of the application.
- (7) A response must, in summary form, specify the facts on which the respondent relies and specifically admit

or dispute, either with or without qualification, each part of the application.

- (8) Unless the Commission otherwise directs, the Registrar must, within 7 days after a respondent files a response, serve a copy of the response on each other party to the application.
- (9) At a hearing by the Commission of the application, a party who was served with a copy of the application and who did not file a response within the time allowed under these regulations may only be heard on the matters raised in the application and not on any other matter.

62C. Interpretation of conditions of service

- (1) This regulation applies if a public service officer refers a decision mentioned in section 36AA(2)(b) of the Act to the Commission under section 29(1)(g) of the Act.
- (2) The referral must be made by application that —
 - (a) is in the approved form; and
 - (b) includes —
 - (i) the facts giving rise to the referral; and
 - (ii) the question to which an answer is required, if any;and
 - (c) has attached to it the particulars approved by the Chief Commissioner from time to time.
- (3) If the decision is referred to the Commission after the time required by section 29(2)(b) of the Act, the application must also have attached to it a statement from the applicant setting out the facts on which the applicant relies to show why it would be unfair for the Commission not to accept the referral.

- (4) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after the application is made, serve a copy of the application and any attached documents on the public service officer's employing authority or former employing authority.
- (5) An employing authority or former employing authority that is served with a copy of the application and that wants to respond to the application must file a response in the approved form within 21 days after being served with a copy of the application.
- (6) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after a response is filed, serve a copy of the response on the public service officer.

62D. Reclassification claim

- (1) This regulation applies if a government officer refers a claim relating to the reclassification of an office held by the government officer to the Commission under section 29(1)(h) of the Act.
- (2) The referral must be made by application that —
 - (a) is in the approved form; and
 - (b) includes a statement that clearly and concisely sets out the grounds of the application; and
 - (c) is accompanied by any document or material provided to the employer for the government officer's reclassification claim; and
 - (d) has attached to it the particulars approved by the Chief Commissioner from time to time.
- (3) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after the application is made, serve a copy of the application and its

accompanying documents or materials on the government officer's employer.

- (4) An employer that is served with a copy of the application and that wants to respond to the application must file a response in the approved form within 21 days after being served with a copy of the application.
- (5) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after the response is filed, serve a copy of the response on the government officer.
- (6) Not more than 1 referral of a claim relating to the reclassification of an office held by a government officer may be made in relation to the same office within 12 months unless the duties and responsibilities of that office are altered within that period.

62E. Industrial matter under *Public Sector Management Act 1994* s. 78 or *Health Services Act 2016* s. 171

- (1) This regulation applies if an employee or former employee (the *applicant*) refers —
 - (a) an industrial matter under the *Public Sector Management Act 1994* section 78 that is a decision or finding to which Part 5 of that Act applies to the Commission under section 29(1)(i) of the Act; or
 - (b) an industrial matter under the *Health Services Act 2016* section 171 that is a substandard performance or disciplinary decision or finding to the Commission under section 29(1)(j) of the Act.
- (2) The referral must be made by application that —
 - (a) is in the approved form; and

- (b) includes a statement that clearly and concisely sets out the grounds of the referral; and
 - (c) has attached to it the particulars approved by the Chief Commissioner from time to time.
- (3) If the industrial matter is referred to the Commission after the time required by section 29(2)(c) of the Act, the application must also have attached to it a statement from the applicant setting out the facts on which the applicant relies to show why it would be unfair for the Commission not to accept the referral.
- (4) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after the application is made, serve a copy of the application and any accompanying documents on the employer of the applicant.
- (5) An employer that is served with a copy of the application and that wants to respond to the referral must file a response in the approved form within 21 days after being served with a copy of the application.
- (6) A response must, in summary form, specify the facts on which the respondent relies and specifically admit or dispute, either with or without qualification, each part of the application.
- (7) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after a response is filed, serve a copy of the response on the applicant.

62F. Flexible working arrangement dispute

- (1) In this regulation —
flexible working arrangement request has the meaning given in the *Minimum Conditions of Employment Act 1993* section 39F(1).

- (2) This regulation applies if an employee refers to the Commission an industrial matter relating to a flexible working arrangement dispute between an employer and an employee under section 29(1)(k) of the Act.
- (3) The referral must be made by application that —
 - (a) is in the approved form; and
 - (b) is accompanied by a copy of the relevant flexible working arrangement request; and
 - (c) if a written response to the flexible working arrangement request was given to the employee before the application is made — is accompanied by a copy of the response; and
 - (d) identifies whether the flexible working arrangement dispute relates to —
 - (i) a failure of the employer to respond to a flexible working arrangement request; or
 - (ii) the employer refusing the employee's flexible working arrangement request.
- (4) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after the application is made, serve a copy of the application and any accompanying documents on the employer.
- (5) An employer that is served with a copy of the application and that wants to respond to the referral must file a response in the approved form within 21 days after being served with a copy of the application.
- (6) A response must, in summary form, specify the facts on which the employer relies and specifically admit or dispute, either with or without qualification, each part of the application.

- (7) Unless the Commission otherwise directs, the Registrar must, as soon as practicable after a response is filed, serve a copy of the response on the employee.

7. Regulation 63A deleted

Delete regulation 63A.

8. Regulation 63 amended

- (1) In regulation 63(2) delete “(d) or (e)” and insert:

(d), (e), (f), (g), (h), (i), (j) or (k)

- (2) In regulation 63(5) delete “his or her” and insert:

the person’s

9. Regulation 64 amended

In regulation 64(1) delete “section 29(1)(c) or (d)” and insert:

section 29(1)(c), (d), (i) or (j)

10. Part 7 heading amended

In the heading to Part 7 delete “**industrial**”.

11. Part 7 Division 1 heading inserted

At the beginning of Part 7 insert:

Division 1 — Registration, status and coverage

12. Regulations 69 to 71 deleted

Delete regulations 69 to 71.

13. Regulation 77 amended

Delete regulation 77(4) and (5).

14. Part 7 Divisions 2 and 3 inserted

After regulation 77 insert:

Division 2 — Rules of organisations

77A. Alteration of rules

- (1) An application to alter the rules of an organisation or association must be made to —
- (a) the Commission in Court Session if the alteration relates to —
 - (i) the name of the organisation or association; or
 - (ii) the qualification of persons for membership of the organisation or association; or
 - (iii) the area of the State within which the organisation or association operates or intends to operate;

or

- (b) the Registrar if the alteration relates to a matter not mentioned in paragraph (a).
- (2) The application must be in the approved form and be lodged in the office of the Registrar with the following attachments —
 - (a) a copy of the registered rules of the organisation or association, incorporating and showing in distinctive characters each proposed alteration of the rules;
 - (b) a copy of each proposed alteration of the rules;
 - (c) a statement as to —
 - (i) the steps taken by the organisation or association to inform its members of the matters set out in section 62(3)(b) of the Act; and
 - (ii) the opportunity afforded to members to make an objection under section 62(3)(b) of the Act;
 - (d) a copy of any notice or other document given to the members of the organisation or association for the purposes of section 62(3)(b) of the Act;
 - (e) a copy of the resolution authorising the application.
- (3) A person who objects to an alteration of rules to which subregulation (1)(a) applies must lodge an objection in the approved form within 21 days after the publication of notice of the application under section 55(2) of the Act and otherwise the provisions of regulation 15 apply with respect to any objection to the alteration.

77B. Substitution of new set of rules

- (1) In this regulation —
new rules means rules of an organisation or association that are proposed to replace the current registered rules of the organisation or association;
previous rules, in relation to new rules, means the current registered rules of an organisation or association that are proposed to be replaced.
- (2) An application for the substitution of a new set of rules for the registered rules of an organisation or association must be made to —
 - (a) the Commission in Court Session if the substitution would have the effect of altering any of the following from the previous rules —
 - (i) the name of the organisation or association;
 - (ii) the qualification of persons for membership of the organisation or association;
 - (iii) the area of the State within which the organisation or association operates or intends to operate;or
 - (b) the Registrar if the substitution has any effect other than the effect mentioned in paragraph (a).
- (3) The application must be in the approved form and be lodged in the office of the Registrar with the following attachments —
 - (a) a copy of the previous rules, incorporating and showing in distinctive characters each

difference between the previous rules and the new rules;

- (b) a copy of the new rules certified as being correct by the principal executive officer or secretary of the organisation or association;
 - (c) a statement as to —
 - (i) the steps taken by the organisation or association to inform its members of the matters set out in section 62(3)(b) of the Act; and
 - (ii) the opportunity afforded to members to make an objection under section 62(3)(b) of the Act;
 - (d) a copy of any notice or other document given to the members of the organisation or association for the purposes of section 62(3)(b) of the Act;
 - (e) a copy of the resolution authorising the application.
- (4) A person who objects to a substitution of a new set of rules to which subregulation (2)(a) applies must lodge an objection in the approved form within 21 days after the publication of notice of the application under section 55(2) of the Act and otherwise the provisions of regulation 15 apply with respect to any objection to the substitution of a new set of rules.

77C. Change of name

- (1) An application to change the name of an organisation or association must be made to the Commission in Court Session.

- (2) The application must be in the approved form and be lodged in the office of the Registrar with the following attachments —
 - (a) a statement as to the steps taken by the organisation or association, and a copy of any notice or other document given to members of the organisation or association, to inform the members —
 - (i) about the proposal for the change of name and the reasons for the change of name; and
 - (ii) about the proposed new name; and
 - (iii) that the members may, collectively or individually, object to the making of the application by forwarding a written objection to the Registrar;
 - (b) a statement as to the opportunity afforded to members of the organisation or association to object to the making of the application;
 - (c) a copy of the proposed new name;
 - (d) a copy of the resolution authorising the application.
- (3) A person who objects to the change of name of the organisation or association must lodge an objection in the approved form within 21 days after the publication of notice of the application under section 55(2) of the Act and otherwise the provisions of regulation 15 apply with respect to any objection to the change of name.

77D. Certificate of registration after certain changes

- (1) If the Registrar registers an alteration of the rules of an organisation or association, the Registrar must give to the organisation or association a certificate in the

approved form stating that the alteration has been registered.

- (2) If the Registrar registers a change of name of an organisation or association, the Registrar must give to the organisation or association a certificate in the approved form stating that the change has been registered.

Division 3 — Right of entry

77E. Requirements for application for right of entry permit (Act s. 49N(2))

- (1) For the purposes of section 49N(2) of the Act, this regulation sets out the requirements for an application made under section 49N(1) of the Act by the secretary of an organisation of employees for an officer or employee of the organisation to be issued a right of entry permit.
- (2) The application must —
 - (a) be in the approved form; and
 - (b) include —
 - (i) the full legal name and address of the nominated official; and
 - (ii) a legible copy of the nominated official's signature;and
 - (c) be accompanied by —
 - (i) a current passport size and style photograph of the nominated official (the *accompanying photograph*); and

- (ii) evidence that the nominated official has completed appropriate training about the rights and responsibilities of an authorised representative;
 - and
 - (d) have attached to it the particulars approved by the Chief Commissioner from time to time.
- (3) If requested by the Commission, the application must also be accompanied by a document called a National Police Certificate that —
- (a) relates to the nominated official; and
 - (b) is issued by the Australian Federal Police or the Police Force of Western Australia not more than 30 days before the application is made.
- (4) The secretary must certify that the person in the accompanying photograph is the nominated official.
- (5) If the accompanying photograph is in printed form, the certification mentioned in subregulation (4) must be made on the back of the accompanying photograph.
- (6) The Commission may, before it considers the application, publish all of the following on the Commission's website —
- (a) the name of —
 - (i) the organisation that is applying for the right of entry permit; and
 - (ii) the nominated official for the application;
 - (b) a statement that the organisation has applied for the right of entry permit to be issued to the nominated official;

- (c) a statement that submissions may be made to the Commission, within a specified time, as to whether the nominated official is a fit and proper person to be issued the right of entry permit.

77F. Form of right of entry permit

- (1) This regulation applies if the Commission, on an application under section 49N of the Act, decides to issue a right of entry permit to a nominated official.
- (2) The right of entry permit must include a photograph of the nominated official and the signature of the nominated official.

Note for this regulation:

See section 49Q of the Act for the information that must be stated on a right of entry permit.

77G. When Commission may impose or change conditions, suspend or revoke right of entry permit

- (1) This regulation applies if the Registrar or another person applies to the Commission in Court Session for an order to be made under section 49T(1) of the Act.
- (2) The application must be made in the approved form and have attached to it the particulars approved by the Chief Commissioner from time to time.
- (3) The Registrar must, unless otherwise directed by the presiding commissioner, serve a copy of the application as soon as practicable after the application is made on —
 - (a) the organisation on whose behalf the right of entry permit was issued; and

- (b) the authorised representative for the right of entry permit.

77H. Revocation of right of entry permit on application of secretary of organisation

- (1) This regulation applies if —
 - (a) a right of entry permit is issued to an officer or employee of an organisation; and
 - (b) the secretary of the organisation of employees applies to the Commission for the right of entry permit to be revoked under section 49V(1) of the Act.
- (2) The application to revoke the right of entry permit must be made in the approved form.

77I. Register of right of entry permits

- (1) The Registrar must keep a register of right of entry permits issued by the Commission.
- (2) The register must be made available to the public on the Commission's website.

15. Part 7 Division 4 heading inserted

Before regulation 78 insert:

Division 4 — Records and accounts

16. Regulation 80 replaced

Delete regulation 80 and insert:

80. Inspection of documents

- (1) All documents filed with the Registrar under sections 63 and 65 of the Act may be inspected at the office of the Registrar during office hours.
- (2) Subject to subregulation (3), a person may obtain a copy of, or extract from, a document the person inspects under subregulation (1) on payment of the prescribed fee.
- (3) The Registrar may decide the format in which a copy of, or extract from, a document is provided to a person for the purpose of subregulation (2).

17. Regulation 82 replaced

Delete regulation 82 and insert:

82. Return about current right of entry permit holders

- (1) This regulation applies if the Commission issues a right of entry permit to an officer or employee of an organisation of employees.
- (2) The secretary of the organisation of employees must give to the Registrar a return every 6 months confirming the name of each officer or employee of the organisation who holds a right of entry permit at the time the secretary gives the return to the Registrar.

- (3) The return must be given to the Registrar on or before the date specified by the Registrar in a notice given to the secretary of the organisation of employees for that purpose.

18. Regulation 86 amended

In regulation 86(1)(a) delete “an intellectual” and insert:

a mental

19. Parts 12 to 14 replaced

Delete Parts 12 to 14 and insert:

Part 12 — Miscellaneous

105. Notice of certain orders

- (1) This regulation applies if the Commission in Court Session makes a General Order under section 50 of the Act that, under section 23(2)(b) of the Act, applies in substitution for, or in addition to, any decision specified in the order.
- (2) The Registrar must, as soon as practicable after the making of the order, give notice of the order in the *Industrial Gazette* and, in 2 consecutive weeks, in a newspaper having circulation throughout the State.

Part 13 — Transitional provisions for *Industrial Relations Legislation Amendment Act 2024*

106. Bullying and sexual harassment at work before 31 January 2025

- (1) This regulation applies if —
 - (a) on or after 31 January 2025, a person makes a stop bullying or sexual harassment application under section 123(3)(a) of the Act; or
 - (b) before 31 January 2025, a person makes a stop bullying or sexual harassment application and —
 - (i) the Commission had not finally dealt with the application; and
 - (ii) the application is not withdrawn.
- (2) Regulations 62, 62A and 62B do not apply in relation to the application.
- (3) Regulation 62, as in force on 30 January 2025, applies in relation to the application.

107. Office of public service arbitrator abolished

- (1) This regulation applies if an industrial matter is referred to an Arbitrator and section 124 of the Act applies in relation to the referral.
- (2) Regulations 105, 106 and 108, as in force on 30 January 2025, apply in relation to the referral despite the repeal of those regulations.

108. Public Service Appeal Board abolished

- (1) This regulation applies if an appeal is instituted under repealed section 80I of the Act and section 125 of the Act applies in relation to the appeal.

- (2) Regulations 105, 107 and 120, as in force on 30 January 2025, apply in relation to the appeal despite the repeal of those regulations.

Note: The heading to regulation 67 is to read:

Registration of association

Note: The heading to regulation 78 is to read:

Filing records of organisation or association

S. KENNER, Chief Commissioner
The Western Australian Industrial Relations Commission