

# INDUSTRIAL ARBITRATION

## (No. 2).

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No. 114 of 1976.

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**AN ACT to amend the Industrial Arbitration Act,  
1912-1976.**

[Assented to 1st December, 1976.]

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Industrial Arbitration Act Amendment Act (No. 2), 1976.*

Short title  
and  
citation.

(2) In this Act the Industrial Arbitration Act, 1912-1976 is referred to as the principal Act.

Reprinted  
as  
approved  
for reprint  
16th May,  
1974 and  
amended  
by Acts  
Nos. 79, 81,  
and 92 of  
1975 and 11  
of 1976.

(3) The principal Act as amended by this Act may be cited as the Industrial Arbitration Act, 1912-1976.

Commence-  
ment.

2. The provisions of this Act shall come into operation, on such date or dates as is or are respectively, fixed by proclamation.

Section 2  
amended.

3. Section 2 of the principal Act is amended by adding after the passage "*Division III.—Disputed Elections. Ss. 36A-36N.*" in line eight the passage "*Division IIIA.—Special Rules and other Requirements relating to Elections. Ss. 36NA-36ND.*"

Section 9B  
amended.

4. Section 9B of the principal Act is amended by adding after subsection (9) the following subsection—

(10) The provisions of this section shall be read subject to and not in derogation of the provisions of section thirty-six M and Division IIIA of this Act.

Section 36M  
amended.

5. Section 36M of the principal Act is amended—

(a) by deleting the words "with a view to ensuring that no irregularity occurs in or in connection with the election" in lines four and five of subsection (1);

(b) by deleting paragraph (b) of subsection (2) and substituting the following paragraph—

(b) by not less than one-twentieth of the members of, or two hundred and fifty of the members of, the industrial union, whichever is the lesser number. ;

(c) by repealing and re-enacting subsection (5) as follows—

(5) Where the Registrar decides that a request has been duly made under this section, he shall inform the industrial union accordingly, and may conduct the election, direct the Assistant Registrar or other officer employed under the supervision of the Registrar to conduct the election, or may make arrangements with

the Chief Electoral Officer appointed under the Electoral Act, 1907 for the conduct of the election by an officer holding office under that Act or by some other person authorised in writing by the Chief Electoral Officer. ; and

(d) by repealing subsection (10) and substituting the following subsections—

(10) The expense of any election conducted under this section shall be borne by the Crown.

(10a) In this section “office” has the same meaning as in Division IIIA of this Act. .

6. The principal Act is amended by adding immediately after section 36N the following heading and section.

Heading and section 36NA added.

*Division IIIA.—Special Rules and other Requirements relating to Elections.*

36NA. (1) In this Division—

Interpretation, etc.

“collegiate electoral system”, in relation to an election for an office in an industrial union, means a method of election comprising a first stage, at which persons are elected to a number of offices by a direct voting system, and a subsequent stage or subsequent stages at which persons are elected by secret ballot by and from the persons elected at the next preceding stage;

“direct voting system”, in relation to an election for an office in an industrial union, means a method of election by secret postal ballot at which all financial members, or all financial members included in such branch, section or other division, or in such class, as is appropriate, having regard

to the nature of the office, are, subject to reasonable provisions with respect to enrolment, eligible to vote;

“office”, in relation to an industrial union means—

- (a) the office of a member of the committee of management of the industrial union;
- (b) the office of president, vice president, secretary, assistant secretary or other executive officer by whichever name called of the industrial union;
- (c) the office of a person holding, whether as trustee or otherwise, property of the industrial union, or property in which the industrial union has any beneficial interest; and
- (d) any other office, by whichever name called, which is for the time being declared by the Commission to be an office to which the provisions of this Division and section thirty-six M of this Act shall apply,

but does not include any office which is for the time being declared by the Commission to be an office to which the provisions of this Division and section thirty-six M of this Act shall not apply;

“one-tier collegiate electoral system” means a collegiate electoral system comprising only one stage after the first stage;

“postal ballot” means a ballot for the purposes of which a ballot paper is to be sent by prepaid post to each person entitled to vote and facilities are to be provided for the return of the completed ballot paper by post by the voter without expense to him.

(2) An application for a declaration by the Commission that—

- (a) an office be declared by the Commission to be an office to which the provisions of this Division and section thirty-six M of this Act shall apply; or
- (b) an office be declared to be an office to which the provisions of this Division and section thirty-six M of this Act shall not apply,

may be made by or on behalf of the committee of management of the industrial union concerned or by the Registrar.

7. The principal Act is amended by adding the following new section—

Section  
36NB  
added.

36NB. (1) In addition to any other requirement of this Act, the conditions to be complied with by any society applying after the coming into operation of this section for registration as an industrial union include a condition that the rules of the society—

Rules to  
provide for  
secret  
ballots,  
etc.

- (a) shall provide for the conduct of every election to an office within the industrial union (including the acceptance or the rejection of nominations) by a returning officer, not being the holder of any other office in, and not being an employee of, the industrial union;
- (b) shall provide that, if the returning officer conducting such election finds a nomination to be defective, he shall before rejecting the nomination, notify the person concerned of the defect, and where it is practicable to do so, give him the opportunity of remedying the defect within such period as is applicable under the rules, which shall, where practicable be not less than seven days after his being so notified;

- (c) shall provide for the election of the holder of each office within the industrial union, such election to be either by—
  - (i) a direct voting system; or
  - (ii) a collegiate electoral system being, in the case of an office the duties of which are of a full-time nature, a one-tier collegiate electoral system; and
- (d) shall not permit a person to be elected to hold an office within the industrial union for a period exceeding four years without being re-elected.

(2) An industrial union which was registered on or before the date on which this section comes into operation shall be allowed a period of twelve months after that date, or such longer period as the Registrar determines, within which to bring its rules into conformity with the requirements of subsection (1) of this section other than paragraph (c) thereof.

(3) If the rules of an industrial union to which subsection (2) of this section applies do not, at the expiration of the period allowed by that subsection, in the opinion of the Registrar, conform with the requirements of subsection (1) of this section, the Registrar may, after inviting the industrial union to consult with him on the matter, determine such alterations of the rules as will in his opinion bring them into conformity with those requirements.

(4) An industrial union which was registered on or before the date on which this section comes into operation shall be allowed a period of two years after that date, or such longer period as the Registrar determines, within which to bring its rules into conformity with the requirements of paragraph (c) of subsection (1) of this section.

(5) If the rules of an industrial union to which subsection (4) of this section applies do not, at the expiration of the period allowed by that subsection, in the opinion of the Registrar, conform with the requirements of paragraph (c) of subsection (1) of this section, the Registrar may, after inviting the industrial union to consult with him on the matter, determine such alterations of the rules as will, in his opinion, bring them into conformity with those requirements. .

(6) The Registrar shall register the alterations determined by him in accordance with subsection (3) or subsection (5) of this section and thereupon the rules shall be deemed to be altered accordingly. .

8. The principal Act is amended by adding the following new section—

Section  
36NC  
added.

36NC. (1) Every election by a direct voting system for an office in an industrial union shall be by secret postal ballot.

Elections  
to be by  
secret  
postal  
vote.

(2) The regulations may make provision for and in relation to the conduct of an election in accordance with the requirements of this section.

(3) Where the rules of an industrial union as in force at the date of the coming into operation of this section provide for an election or elections to which this section applies to be by a secret ballot other than a secret postal ballot, the Registrar may, upon application by the industrial union in accordance with the regulations, by instrument in writing under his hand, exempt the industrial union in respect of an election from the application of this section if he is satisfied that the conduct of the election in accordance with those rules—

(a) is likely to result in a fuller participation by members of the industrial union in the ballot than would result from a postal ballot; and

(b) will afford members entitled to vote an adequate opportunity of voting without intimidation.

(4) This section, and the regulations made for the purposes of this section, have effect notwithstanding anything contained in the rules of an industrial union.

(5) This section does not apply to an election any step in which was taken, in accordance with the rules of the industrial union, before the date of the coming into operation of this section. .

Section  
36ND  
added.

9. The principal Act is amended by adding the following new section—

Regulations.

36ND. (1) The Governor may make regulations, not inconsistent with this Division, prescribing all matters which by this Division are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Division.

(2) The regulations made under subsection (1) of this section may impose a penalty not exceeding one hundred dollars for any breach thereof.

(3) Where there is any inconsistency between a provision of the regulations made for the purposes of this Division and a provision of any other regulations made under this Act, the first-mentioned provision shall prevail and the second-mentioned provision, to the extent of the inconsistency, shall be of no effect. .

Section 167  
amended.

10. Subsection (4) of section 167 of the principal Act is amended by deleting the words "regularly published at intervals of less than one month" in lines two and three and substituting the words "published at least once in each calendar month".