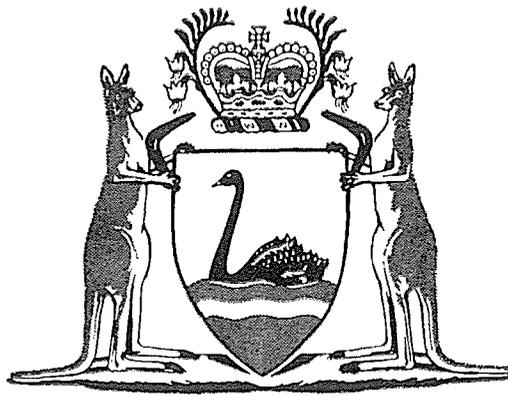


[7071]



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WESTERN AUSTRALIA

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PERTH, TUESDAY, 4th MARCH

[1980

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INDUSTRIAL ARBITRATION ACT, 1979.

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INDUSTRIAL ARBITRATION ACT  
(WESTERN AUSTRALIAN INDUSTRIAL  
APPEAL COURT) REGULATIONS, 1980.

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INDUSTRIAL COMMISSION  
REGULATIONS, 1980.

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INDUSTRIAL ARBITRATION  
(UNION ELECTIONS) REGULATIONS, 1980.

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INDUSTRIAL ARBITRATION (INDUSTRIAL  
MAGISTRATES) REGULATIONS, 1980.



## INDUSTRIAL ARBITRATION ACT, 1979.

PURSUANT to the powers conferred by section 113 of the Industrial Arbitration Act, 1979 and all other powers hereunto enabling, the Western Australian Industrial Appeal Court hereby makes the following regulations.

REGULATIONS OF WESTERN AUSTRALIAN INDUSTRIAL  
APPEAL COURT.

## Division 1—Preliminary.

## Citation.

1. These regulations may be cited as the Industrial Arbitration Act (Western Australian Industrial Appeal Court) Regulations, 1980.

## Interpretation.

2. In these regulations unless the context requires otherwise—

“Clerk” means the Clerk of the Court appointed pursuant to Section 85(7) of the Act;

“Commission in Court Session” has the same meaning as that expression has in and for the purposes of the Act;

“Court” means the Western Australian Industrial Appeal Court established under the Act;

“Full Bench” has the same meaning as that expression has in and for the purposes of the Act;

“President” means the President appointed under Section 9 of the Act;

“the Act” means the Industrial Arbitration Act, 1979;

words and expressions used in these regulations have when so used the same respective meanings as are given to them in and for the purposes of the Act.

## Division 2—Appeals.

## Notice of Appeal.

3. (1) Every appeal to the Court under the provisions of the Act shall be by notice of appeal filed with the Clerk of the Court and served as required by these regulations.

(2) The notice of appeal shall be in accordance with Form 1 and shall specify the grounds upon which the appeal is brought.

(3) As soon as reasonably practicable after filing the notice of appeal, the appellant shall serve a copy thereof on each of the other parties to the decision.

## Hearing of Appeal.

4. The Clerk shall give to each party at least seven days' notice (or such less notice as the Court may direct) of the date and place of hearing, the notice to be in accordance with Form 2.

## Appeal Book.

5. At least twentyone days prior to the date of the hearing of the appeal, the appellant shall file with the Clerk three certified suitably bound copies of an appeal book, each containing—

(a) a copy of the notice of appeal;

(b) a copy of the document instituting the proceedings before the President, Full Bench, or Commission in Court Session;

(c) a copy of the decision the subject of the appeal and the reasons therefor;

(d) a list of the page numbers of the transcript of the proceedings at which reference is made to the subject matter of the appeal; and the pages thereof necessary for the appeal;

(e) an index of the documents contained in the appeal book

and shall serve one copy on each of the parties to the appeal.

## Stay of Proceedings.

6. The institution of an appeal under these regulations shall operate as a stay of proceedings on the judgment or order the subject of the appeal, but any judge of the Court may on application made to him in Chambers by any party to the appeal, direct that the proceedings shall not be so stayed.

## Division 3—Applications.

## Notice of Motion.

7. Applications to the Court, except where some other method or form is prescribed, shall be by notice of motion in Form 3 and be filed with the Clerk.

## Division 4—General Provisions.

## Service.

8. Service of any notice or other document under the Act or these Regulations may be effected:—

- (1) in the case of an industrial union, in accordance with section 60(3) of the Act;
- (2) in the case of a company or other corporation, by leaving it at, or sending it by post in a prepaid registered letter to the registered office of the company or corporation;
- (3) in the case of a partnership, firm or unincorporated company or body, by leaving it at, or sending it by post in a prepaid letter to the partnership, firm or unincorporated company or body at the principal place of business thereof in the State;
- (4) in the case of any other person by delivering it to him personally, or by leaving it for him at his usual or last known place of abode, or if he is in business, at his usual or last known place of business, or sending it by post in a prepaid letter addressed to him at his usual or last known place of abode, or if he is in business, at his usual or last known place of business: Provided that no place shall be deemed the place of business of any person unless he is a principal in the business.

## Proof of Service.

9. Service may be proved by a statutory declaration made before the Clerk, a Justice of the Peace, or Commissioner for Declarations, in accordance with Form No. 4 and filed with the Clerk.

## Rules for Conduct of Proceedings before Court.

10. (1) All applications made to the Court or to any judge of the Court shall be lodged with the Clerk who shall issue all processes out of the Court, keep a register of all proceedings in and orders made by the Court, and affix the seal of the Court to all necessary documents.

(2) Except where otherwise provided by these regulations or where otherwise directed by the Clerk, all documents for the use of the Court shall be lodged in triplicate, but one copy only need be lodged of documents for use before a judge of the Court.

(3) Every matter brought into the Court under the Act or these regulations shall be marked by the Clerk with a distinguishing number, and all documents filed and subsequent proceedings taken in the Court with reference to that matter shall be distinguished by the same number, and the entries in the records kept with regard to that matter shall be entered together and kept separate from the entries with respect to any other matter.

(4) Any Act or thing required by the Act or these regulations to be done by the Clerk may be done on his behalf by a Deputy Registrar or the person for the time being performing the duties of the Clerk.

(5) Every notice of appeal to the Court and all subsequent proceedings on the appeal shall be entitled, "In the Western Australian Industrial Appeal Court, on appeal from" (naming the authority from which the appeal is brought), and shall also be entitled as between the party appellant and the party respondent; and every other proceeding in the Court shall be entitled as in Form 5.

(6) Where no form of motion, summons, application, order, notice, or other document or instrument is prescribed, or where no adequate or suitable form is prescribed, the form shall be such as the Registrar, under the direction of the Court, directs or approves.

(7) Where anything is required to be in any of the forms prescribed, it shall be sufficient if it is to the like effect, and any such forms may be modified by the authority of the Registrar to meet any particular case.

#### Documents.

11. (1) Unless the nature of the document renders it impracticable, every document prepared by a party for use in the Court shall, subject to any directions given from time to time by the Clerk, under the direction of the Court, direct or approve—

- (a) be legibly and clearly typewritten or printed without blotting, erasure or such alterations as cause material disfigurement;
- (b) have a space of not less than six millimetres between each line;
- (c) be upon white paper of good and durable quality and capable of receiving ink writing and of such size as the Clerk from time to time directs;
- (d) be upon one side only of the paper with a quarter margin upon the left hand side of each sheet;
- (e) have each page numbered;
- (f) have a cover sheet upon which appears the number and a short title of the proceedings, a short description of the document (including, in the case of an affidavit, the name of the deponent and the date of swearing) and the name, address and telephone number of the solicitor (if any) filing, delivering or serving the document or, if the person on whose behalf the document is filed, delivered or served is not represented by a solicitor, the name, address for service and telephone number (if any) of that person.

(2) The Clerk may refuse to file or accept a document to which paragraph (1) applies if it does not comply with the provisions of that paragraph, and the costs of the document may be disallowed.

(3) A typewritten copy of a document to which paragraph (1) applies shall not be filed, registered or marked as an office copy unless it is a first black ink copy.

(4) Any notice, request or consent required or allowed by these Rules may not be given orally except with the leave of the Court.

(5) The Court may require any document required for use in the Court to be printed or otherwise produced in any particular manner that it thinks fit.

#### Affidavits.

12. (1) All affidavits filed with the Clerk shall be drawn up and signed so as to comply with the requirements of Order 37 of the Supreme Court Rules.

(2) All affidavits intended to be used on any proceeding shall, before being used, be filed with the Clerk, and any party intending to adduce as evidence an affidavit shall furnish the opposing party or parties with a copy thereof at least three days before the date fixed for hearing.

#### Non Acceptance of Documents.

13. The Clerk may refuse to file or accept an affidavit or document if it does not comply with the provisions of regulations 11 and 12 of these regulations and the costs of the affidavit or document may be disallowed.

#### Exhibits.

14. No party to any proceeding before the Court or any judge of the Court shall be at liberty to remove any exhibits without first obtaining leave of the Court or the judge, as the case may be.

#### Applications to the Presiding Judge.

15. (1) Applications to the Presiding Judge or any authorised member, except where some other method or form is prescribed, shall be by summons in accordance with Form 6 supported by a statutory declaration of the facts, which shall be filed with the summons.

(2) The summons shall be presented to the Clerk in duplicate, and the said Clerk shall affix the seal of the Court thereto and shall sign a memorandum thereon setting forth the fact and date of such sealing, and shall return one duplicate summons to the person having charge thereof, who shall forthwith cause a copy thereof together with a copy of the declaration in support, to be served upon the other party or parties affected.

#### Orders.

16. All orders issued by the Court or any judge of the Court shall be signed by the Clerk and sealed by him with the seal of the Court, and in each case shall be filed with the Clerk, and any order obtained on an *ex parte* application shall as soon as reasonably practicable be served by the applicant on all other parties thereto.

17. Where an order is made by the Presiding Judge of the Court directing the payment of any fine, sum of money or costs, he may direct that such order shall be enforced by means of a warrant of execution in the manner hereinafter in regulation 18 provided.

#### Execution.

18. (1) Before issuing a warrant of execution or a warrant of commitment the person issuing the warrant may require the person applying for its issue to furnish to him a *praecipe* in accordance with the form or to the effect of Form 7 in these regulations.

(2) Any fine, cost or fees directed to be levied by execution shall be recoverable by warrant of execution in accordance with Form 8 directed to the sheriff.

(3) The sheriff, under a warrant of execution, may seize and take and cause to be sold any goods (which term shall include cheques, bills of exchange, promissory notes, specialties, or other securities for money) which the person against whom the warrant was issued is or may be possessed of or entitled to or which he has power to assign or dispose of excepting so much of the goods as are protected from seizure under the "Local Courts Act, 1904".

(4) The sheriff shall hold any cheques, bills of exchange, promissory notes, specialties, or other securities for money which are seized or taken under the warrant of execution, as a security for the amount directed to be levied under the warrant, or so much thereof as has not been otherwise levied or raised for the benefit of the execution creditor, and may receive any moneys payable by virtue of any such instrument from the person liable under it.

The sheriff may sue in the name of the person against whom the warrant of execution was issued, or in the name of any person in whose name the debtor might sue, for the recovery of the sums secured or made payable by any such instrument when the time of payment thereof arrives.

Any money paid to the sheriff or recovered in an action brought by him in respect of any such instrument shall be paid into the Court by him.

(5) A sale of goods which are taken in execution shall not, unless the goods are of a perishable nature, be made until after the expiration of the five days at least next following the day on which the goods were taken, except upon the request in writing of the person whose goods are taken.

Until the sale, the goods must be deposited by the sheriff in some fit place or they may remain in the custody of a fit person approved by the sheriff to be put in possession by the sheriff.

(6) The sheriff may deduct out of the amount realised by such sale, the costs incurred in the execution of any warrant of execution and all costs and charges actually incurred in effecting such sale, and shall render to the owner the surplus (if any) after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.

(7) A written account of the costs and charges incurred in respect of the execution of any warrant of execution shall be sent by the sheriff to the Clerk and the person against whom the warrant was issued may, at any time within one month after the levy, inspect such account at any reasonable time and take a copy thereof.

(8) (a) A warrant of execution issued under the Act shall have the same effect against any property (including land under "The Transfer of Land Act, 1893") as a writ of *feri facias* issued out of the Supreme Court.

(b) Section 133 of "The Transfer of Land Act, 1893" shall apply to a sale under a writ or warrant of execution issued under the Act, and that section and the schedules therein referred to shall, in relation to any such sale, be read as if the words "warrant of execution issued out of the Court" were inserted in place of "writ of *feri facias* issued out of the Supreme Court".

Commitment.

19. (1) When the sheriff has returned that he can find no goods or no sufficient goods to satisfy a warrant of execution issued under the preceding regulation, and that the sum to be levied remains wholly or partially unsatisfied, then a warrant may be issued in accordance with Form 9 for the imprisonment of the offender in accordance with the scale set forth in section 167 of "The Justices Act, 1902".

(2) Where the Court has ordered that a person be committed to prison, then a warrant shall be issued in accordance with Form 10.

(3) The person to whom a warrant is directed shall convey the person therein named or described to the prison or other place mentioned in the warrant and there deliver him, together with the warrant, to the superintendent or keeper of such prison or place, who shall thereupon give the person delivering the prisoner into his custody a receipt for such prisoner in accordance with Form 11 setting forth the state and condition in which such prisoner was when he was delivered into the custody of such superintendent or keeper.

(4) The superintendent of any prison to which any person has been committed under a warrant in accordance with Form 9 shall discharge such person—

- (a) on payment to him of the costs or penalty, or such part thereof as remains unpaid;
- (b) on receipt of a certificate from the Clerk that the costs or penalty, or the part remaining unpaid, has been paid or realised;
- (c) if the costs or penalty or any part thereof remains unpaid or unrealised after he has suffered the period of imprisonment set forth in the warrant of commitment or such portion thereof correspondent with the unpaid part of the fine or penalty.

20. All warrants of execution and commitment shall be prepared by the person seeking to issue same, and shall be presented in duplicate to the Clerk who shall procure the necessary signature, or sign the same, and shall affix the seal of the Court thereto, and issue a duplicate for lodgment with the sheriff, police officer, or other official to whom the same may be directed.

21. Nothing in the foregoing Regulations, numbered 18 to 20 inclusive, shall be deemed to apply to the Crown.

Fees.

22. The following fees shall be paid to the Clerk on the filing of notices, applications and documents under the Act or these regulations and for the supply of documents, authentications and other services specified in this regulation—

Affidavits—	\$
For filing any affidavit, statutory declaration, or any other document not otherwise provided for herein	.25
Applications—	
For filing any application or notice of motion	.50
Notice of Appeal—	
For filing notice of appeal	.50
Orders—	
For sealing any order	1.00
Summons—	
On issue of any Chamber summons or summons to witness	.50

	\$
Warrants—	
For issuing any warrant of execution or commitment .....	.50
For every document required to be authenticated by the Clerk or other officer .....	.50
For every inspection on the same day of one or more documents in the custody of the Court or the Clerk .....	.25
For supplying a certified copy of any order or other document not exceeding 216 words .....	.25
If exceeding 216 words, for each folio of 72 words (in addition to the certification fee)—per folio .....	.05

#### Costs.

23. Where the Court or any judge of the Court orders any costs of any proceedings to be paid to a party thereto, there shall be allowed to that party—

- (a) the amount of court fees paid by that party;
- (b) such further sums in respect of the trouble and loss of time of the party as indicated by the following items—
  - (i) for preparing any document, 5 cents per folio, with a minimum of 25 cents;
  - (ii) copies thereof, 3 cents per folio, with a minimum of 12 cents;
  - (iii) attendance filing documents, 25 cents;
  - (iv) service of any document, where personal service necessary, in addition to necessary fares, 25 cents;
  - (v) such further allowances as in the opinion of the court or any judge of the Court may reasonably be charged.

#### Seal of Court.

24. (1) There shall be a seal of the Court bearing the Royal Arms with the words, "The Seal of the Western Australian Industrial Appeal Court".

(2) The seal shall be in the custody of the Clerk and shall be affixed by him to orders, warrants and processes as provided in these regulations, and to such other documents as the Court or any judge of the Court may direct.

#### Where no Procedure Prescribed.

25. Where no procedure has been prescribed by the Act or under these regulations, any party or person concerned may make application *ex parte* to any judge of the Court for directions, and such judge may direct the procedure to be followed.

#### Power to Waive Procedural Requirements.

26. (1) The Court may, in relation to any proceeding before it and the Presiding Judge may, in relation to any proceeding before him, in special circumstances, and either absolutely or subject to conditions, exempt any person from compliance with any procedural requirement of these regulations.

(2) Non-compliance with any of these regulations shall not render void any proceedings before the Court, or the Presiding Judge, but the proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Court, or the Presiding Judge, as the case may be, thinks fit.

#### Forms.

27. The forms in the schedule may be modified to meet the special circumstances of any case. Any reference in these regulations to a form shall be read as a reference to a form in the schedule hereto.

#### Vacations.

28. The vacations and holidays of the Court shall be the same as those of the Supreme Court.

Schedule.

Form 1 (Reg. 3).

NOTICE OF APPEAL FROM DECISION OF PRESIDENT, FULL BENCH OR COMMISSION IN COURT SESSION OF THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

In the Western Australian Industrial Appeal Court.

No. .... of 19.....,

On Appeal from \* .....

Between .....

....., Appellant

and

.....

....., Respondent.

TAKE notice that .....

the abovenamed Appellant, hereby appeals against the decision of the President/Full Bench/Commission in Court Session of The Western Australian Industrial Commission numbered No. .... of 19....., dated the ..... day of ....., 19....., given in the above-mentioned matter.

The following are the matters appealed against:—

.....  
.....  
.....  
.....  
.....

(Here set out whether the appeal is against the whole of the decision, award, or order, or against only part thereof, in the latter case specifying the part or parts appealed against.)

The grounds on which this appeal is made are as follows:—

.....  
.....  
.....  
.....  
.....

(Here set out with particularity the grounds of the Appeal.)

Dated at ..... this ..... day of ..... 19.....

.....  
Appellant  
(or Solicitor for Appellant).

\* Name of authority from which the appeal is brought.

This notice of appeal was received in my office on the ..... day of ....., 19.....

.....  
Clerk of the Court.

Schedule—continued.

Form 2 (Reg. 4).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No..... of 19.....

[ To ]  
[ ]

IN THE MATTER OF .....

Between .....

and ..... Appellant.

..... Respondent.

NOTICE OF HEARING.

Take notice that the Court will sit at .....

on the ..... day of ....., 19....., at ..... o'clock in the  
noon to hear the abovementioned matter.

Dated at ..... this ..... day of ..... 19.....

Clerk of the Court.

Form 3 (Reg. 7).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No..... of 19.....

[ To ]  
[ ]

IN THE MATTER OF .....

Between .....

and ..... Appellant.

..... Respondent.

NOTICE OF MOTION.

Take notice that this Honourable Court will be moved by .....

acting herein on behalf of .....

on ..... the ..... day of ....., 19....., or so soon  
thereafter as he may be heard, for an order that .....

Dated at ..... this ..... day of ..... 19.....

Complainant  
(or Solicitor for Complainant).

Filed in my office this ..... day of ....., 19.....

Clerk of the Court.

Schedule—continued.

Form 4 (Reg. 9).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No. .... of 19.....

IN THE MATTER OF\* .....  
.....  
.....

\* State nature  
of proceedings.

DECLARATION OF SERVICE.

I, .....  
(Full name in Block Letters)  
of ..... in the State of  
(Address)  
Western Australia ..... do solemnly and  
(Occupation)  
sincerely declare that on the ..... day of .....  
19....., I did serve .....  
(Description of documents served)  
upon .....  
(Name of person or party served)  
by .....  
(State method of service—refer Reg. 9)  
at .....  
(Place of service or in case of service by post address  
of person or party served)

And I make this solemn declaration by virtue of section 106 of the Evidence Act, 1906.

Declared at .....  
in the State of Western Australia,  
this ..... day of .....  
19.....  
before me—  
.....  
Clerk of the Court, J.P., Commissioner  
for Declarations or other authorised  
persons.

Filed in my office this ..... day of ....., 19.....

.....  
Clerk of the Court.

Schedule—continued.

Form 5 (Reg. 10).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No. .... of 19.....

IN THE MATTER OF (state matter in which the proceedings are taken) .....

Between .....

Appellant.

and .....

Respondent.

TITLE OF PROCEEDINGS.

Form 6 (Reg. 15).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No. .... of 19.....

[ To ]  
[ ]

IN THE MATTER OF .....

Between .....

Appellant.

and .....

Respondent.

SUMMONS.

You are hereby summoned to appear before the Presiding Judge of this Honourable Court at .....

on ..... the ..... day of ..... 19....., at ..... o'clock in the ..... noon or so soon thereafter as the Presiding Judge may hear this summons upon the application of .....

for an order that .....

Dated at ..... this ..... day of ..... 19.....

Clerk of the Court.

Schedule—continued.

Form 7 (Reg. 18).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No. .... of 19.....

IN THE MATTER OF .....

Between .....

and ..... Appellant. .... Respondent.

PRAECIPE FOR WARRANT OF EXECUTION OR COMMITMENT.

PLEASE ISSUE a Warrant of Execution (or Commitment) against the above-named appellant (or respondent) for the sum of \$..... as under, being the amount of Order or part of same made the ..... day of ....., 19....., before the Western Australian Industrial Appeal Court at .....

Dated at ..... this ..... day of ..... 19..... Appellant or Respondent.

Amount directed to be paid under order or judgment .... \$ Paid into Court .. Remaining due ..... \$

Received at ..... a.m./p.m. on the ..... day of ..... 19..... Warrant issued ...../...../19..... Clerk of the Court.

Form 8 (Reg. 18).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No..... of 19.....

Address to the Sheriff of Western Australia. [ To ]

IN THE MATTER OF .....

Between .....

and ..... Appellant. .... Respondent.

Schedule—continued.

WARRANT OF EXECUTION (AGAINST RESPONDENT OR DEFENDANT).

WHEREAS on the ..... day of ....., 19....., the (1) ..... obtained an order (or judgment) in this Court against the (2) ..... for payment of the sum of \$ ..... for penalty and costs, and it was thereupon ordered by the Court that the (2) ..... should pay the same to the (1) ..... forthwith (or on the ..... day of ....., 19.....). And whereas default has been made in payment according to the said order (or judgment), these are therefore to require and order you forthwith to make and levy by distress and sale of the goods of the (2) ..... wheresoever they may be found (excepting so much of the goods of the (2) ..... as are protected from seizure under the Local Court Act, 1904) the sum stated at the foot of this warrant being the amount due to the (1) ..... under the said order (or judgment) including the costs of this execution; and to pay what sum you shall have so levied to the Registrar, and make return of what you have done under this warrant immediately upon the execution thereof.

Dated at ..... this ..... day of ..... 19.....

By the Court,

.....  
Clerk of the Court.

Amount directed to be paid under order (or judgment) ....	\$
Paid into Court .....	_____
Remaining due .....	_____
Fee for issuing this warrant with Sheriff's fee for executing this warrant .....	_____
Total amount to be levied	\$ _____

Note.—The goods are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature, or at the request of the respondent or defendant.

Application was made to the Clerk of the Court for this warrant ..... minutes past the hour of ..... in the ..... noon of the ..... day of ....., 19.....

.....  
Clerk of the Court.

- (1) Applicant or complainant.
- (2) Respondent or defendant.

Form 9 (Reg. 19).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No. .... of 19.....

IN THE MATTER OF .....

Between .....

.....  
Appellant.

and .....

.....  
Respondent.

Schedule—continued.

WARRANT OF COMMITMENT FOR WANT OF EXECUTION.

TO the principal police officer at ..... in the State of Western Australia and to all other police officers in the said State and to the Superintendent of Her Majesty's Prison at ..... in the said State.

Whereas ..... of ..... in the State of Western Australia was on the ..... day of ..... 19....., convicted before the Court at ..... for that he did\* .....

\*State offence for which convicted.

and it was adjudged that the said for his said offence should forfeit and pay the sum of \$....., and should pay to the said ..... the sum of \$..... costs.

And whereas a warrant of execution was issued against the said ..... and the officer entrusted with its execution has returned the warrant with a report that he was unable to find sufficient goods and chattels of the said ..... whereon to pay the sum therein mentioned which said sums (or \$..... being portion thereof) still remain due and owing.

These are therefore to command you the said Police Officers to apprehend the said ..... and convey him to the Prison at ..... aforesaid, and deliver him to the Superintendent thereof together with this warrant, and you the said Superintendent of the said Prison are hereby commanded to receive the said ..... into your custody in the said Prison there to imprison him (and keep him to hard labour) for the term of ..... unless the said several sums and the costs and charges of conveying him to the said Prison amounting to the further sum of \$..... are sooner paid.

Provided that if the said ..... shall pay any portion of the total amount (namely, \$.....) payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable, and the prisoner is to be released on the expiry of the reduced period, and in calculating any such reduction fractional parts of days are to be disregarded.

Dated at ..... this ..... day of ..... 19.....

By the Court,

(Seal)

..... Presiding Judge.

The total amount payable under this warrant is \$....., made up as follows:—

	\$
Amount ordered to be paid....	.....
Since paid .....	.....
Remaining due .....	.....
Costs and charges this warrant .....	.....
Total .....	\$ .....

Schedule—continued.

Form 10 (Reg. 19).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

No. .... of 19.....

IN THE MATTER OF .....

.....  
.....

Between

.....

Appellant.

and

.....

Respondent.

WARRANT OF COMMITMENT.

To all police officers in the State of Western Australia, and to the Superintendent of Her Majesty's Prison at ....., in the said State.

Whereas ..... of .....

in the said State was on the ..... day of ....., 19....., convicted before the Court for that he did\* .....

and it was adjudged by the Court that the said .....

..... for his said offence should be imprisoned for the term of .....

These are therefore to command you the said police officers to apprehend the said .....

..... and convey him to the Prison at .....

..... aforesaid and deliver him to the Superintendent thereof together with this Warrant, and you the said Superintendent of the said Prison are hereby commanded to receive the said .....

..... into your custody in the said Prison there to imprison him for the term of .....

Dated at ..... this ..... day of ..... 19.....

\*State offence.

By the Court,

.....

Presiding Judge.

(Seal)

Schedule—continued.

Form 11 (Reg. 19).

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.

Address  
to the  
Clerk of  
the Court.

[ To ]

No. .... of 19.....

[ ]

IN THE MATTER OF .....

.....  
.....  
.....

Between .....

.....

Appellant.

and .....

.....

Respondent.

GAOLER'S RECEIPT FOR PRISONER.

I hereby certify that I have this day received from .....

..... police officer of .....

in the State of Western Australia, the body of .....

..... in good health (or as the case may be) .....

..... together with a warrant of commitment directing the imprisonment of the said

..... issued out of the Western Australian Industrial Appeal Court of the said State.

Dated at ..... this ..... day of ..... 19.....

.....  
Superintendent of the Prison.

Dated the 4th day of March, 1980.

R. WALLACE, J.  
Presiding Judge.

P. F. BRINDEN, J.  
Member.

HOWARD SMITH, J.  
Member.



## INDUSTRIAL ARBITRATION ACT, 1979.

PURSUANT to the powers conferred by section 113 of the Industrial Arbitration Act, 1979, and all other powers hereunto enabling, the Western Australian Industrial Commission hereby makes the following regulations—

1. These regulations may be cited as the Industrial Commission Regulations, 1980. Citation.

## PART I—PRELIMINARY.

2. In these regulations, unless the contrary intention appears— Interpretation.
- “Act” means the Industrial Arbitration Act, 1979;
- “form” means a form in the Schedule to these regulations;
- “paragraph” means a paragraph of the regulation or sub-regulation in which the term is used;
- “regulation” means a regulation of these regulations;
- “subparagraph” means a subparagraph of the paragraph in which the term is used; and
- “subregulation” means a subregulation of the regulation in which the term is used.

## PART II—COMMISSION PROCEDURE.

3. (1) Applications to the Commission, however constituted, shall, except where it is otherwise provided by the Act or by these regulations, be in accordance with Form 1 to which shall be attached such statements, statutory or other declarations or other documents as are required by these regulations or as are directed by the Commission or by an officer authorised by the Commission, to be attached thereto. Applications to the Commission.

(2) Attachments to Form 1, when read in conjunction with that form, shall clearly indicate the nature and purpose of the application and the parties to it.

4. (1) Documents required to be filed under these regulations shall, unless in any particular case the Registrar or Deputy Registrar otherwise approves, be filed not earlier than 10.00 a.m. and not later than 4.00 p.m. on any day on which the office of the Registrar is open for business. Lodging documents.

(2) The clerk receiving documents shall not accept any document unless it has been completed in accordance with the Act and these regulations.

(3) Where a document is required to be filed within a prescribed time and the office of the Registrar is not open for business on the last day on which it may be filed, it shall be deemed to have been filed within time if it is filed on the first day thereafter upon which the office of the Registrar is open for business.

(4) An applicant shall lodge one copy of every application or appeal together with its attachments for retention by the Commission and in addition at least as many copies as there are respondents.

(5) The clerk receiving documents shall—

- (a) endorse on Form 1 whether an answering statement is to be filed by any respondent and, if so, within what time;
- (b) stamp the application with the stamp of the Commission showing the date of filing; and
- (c) subject to these regulations, upon the applicant completing the copies in accordance with the application as endorsed by the clerk, stamp those copies and return them to the applicant.

5. (1) The clerk to the Commission shall, upon and after the filing of an application in the Commission, take such action in respect of the application as the Chief Industrial Commissioner either generally or in the particular case may direct. Duties of clerk to the Commission in respect of applications.

(2) The clerk to the Commission shall keep a Register wherein he shall enter each application filed in the Commission and the action taken by him in relation to it.

(3) Unless in any particular case the President or the Chief Industrial Commissioner otherwise directs, the clerk to the Commission shall present each application to the Chief Industrial

Commissioner for allocation when he is satisfied that the procedures necessary to enable the matter to be listed for hearing, including, when appropriate, the procedures referred to in subsection (2) of section 32 of the Act, have been complied with.

(4) Where the Chief Industrial Commissioner directs that before the matter is allocated the issues to be referred to the Commission for determination by arbitration be settled, those issues shall be settled before the clerk to the Commission.

Application  
for award.

6. (1) In the case of an application for an award, the time to be endorsed by the receiving clerk on Form 1 shall be 21 days unless the applicant, at the time of lodging the application, makes a separate application to the Commission for shortened time for answers, in which case the receiving clerk shall not return to the applicant copies of the application for an award until the application for shortened time for answers has been determined by the Commission.

(2) The applicant shall, forthwith upon the return to him of the stamped copies of the application for the award, serve a copy of the application together with its attachments on each respondent.

(3) Proof of service of the application and its attachments shall be given in accordance with Form 2 within seven days of the date upon which service is effected.

(4) A respondent who is served with an application for an award and who desires to contest the claim or any provision sought by the applicant shall, within the time endorsed on Form 1 or within such additional time as may be allowed pursuant to these regulations, file an answering statement in the Commission.

(5) An answering statement shall be attached to Form 3 and shall admit or dispute, either with or without qualification, each part of the claim made by the applicant and may put forward any counter proposal.

(6) A respondent filing an answering statement shall file one copy for retention by the Commission and in addition at least as many copies as there are applicants.

(7) A respondent shall, forthwith upon the return to him by the receiving clerk of stamped copies of the answering statement, serve a copy thereof upon each applicant.

(8) Proof of service of the answering statement shall be given in accordance with Form 2 within seven days of the date upon which service is effected.

(9) The provisions of this regulation with respect to the time within which answering statements are to be filed apply, with such modifications as are necessary, with respect to replies to counterproposals and subject thereto the time to be endorsed on Form 3 shall be 14 days.

(10) At any hearing by the Commission of an application for an award, a party who was served with a copy of the claims or a copy of any counterproposals and who did not file an answering statement or a reply to the counterproposals, as the case may be, within the time allowed pursuant to these regulations shall be heard with respect to those claims or counterproposals only by leave of the Commission and then only on such conditions as the Commission may impose.

(11) The notices to be given or served pursuant to paragraphs (a) and (b) of subsection (2) of section 32 of the Act shall be in terms approved by the Registrar.

Application  
to vary  
award.

7. (1) Subject to this regulation, regulation 6 with such changes as may be necessary, applies to an application to vary an award.

(2) Subject to this regulation, an application to vary an award shall be served on all parties to the award.

(3) Where the applicant seeks to vary the award with respect to a specified party or specified parties only, the application shall so state and the application shall be served on that or those parties only.

(4) Where the award applies to more than one industry and the applicant seeks to vary the award in respect of a specified industry or specified industries only, the application shall so state and shall be served only on that or those parties to the award who are engaged in that specified industry or those specified industries.

8. (1) There shall be attached to an application to join any employer, union or association as a party to an award a written statement which shall specify the grounds on which the application is made and facts to show that the applicant is entitled to make the application.

Application for joinder of party to award.

(2) On filing the application the applicant shall request the Commission through the clerk to the Commission for directions as to service of the application.

(3) Unless in any particular case the Chief Industrial Commissioner directs otherwise, the Registrar shall give notice of the application in a newspaper circulating in the area to which the award applies and such notice shall advise that the application may be inspected by any party to the award without charge and that any such party 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.

9. (1) There shall be attached to an application for interpretation of an award a statement of—

Application for interpretation of award.

- (a) the facts giving rise to the application;
- (b) the number and title of the award and the number of the clause under which the question arises; and
- (c) the question to which an answer is desired.

(2) An application under subregulation (1) shall be served on each party to the award unless the Commission considers that service on every party to the award is not necessary and directs the applicant to give notice of the application in such terms as the Commission may direct in a newspaper circulating in the locality over which the award operates.

10. (1) There shall be attached to an application to vary the area of operation of an award or part thereof a statement of—

Application to vary area of operation of award.

- (a) the persons whom the applicant seeks to affect by the proposed variation; and
- (b) the grounds on which the application is made.

(2) On filing the application the applicant shall request the Commission through the clerk to the Commission for directions as to service of the application.

(3) Proof of service in accordance with the directions of the Commission shall be given in Form 2 within seven days of the date upon which service is effected.

(4) Unless in any particular case the Chief Industrial Commissioner otherwise directs, the Registrar shall upon proof of service being given in accordance with subregulation (3), cause at least 21 days notice of the hearing of the application to be advertised in a newspaper circulating in the area affected by the application.

(5) The advertisement shall state that any person interested may—

- (a) inspect the application without charge; and
- (b) by giving written notice of objection to the Commission and to the applicant, not less than two days before the hearing, be heard in objection to the application.

11. A notice signifying intention to retire from a consent award which has not been made a common rule shall be in Form 4 and shall be filed in the office of the Registrar and served forthwith by the party retiring on each other party to the award.

Retirement from consent award.

- Application for consent award to be declared a common rule. 12. (1) There shall be attached to an application to the Commission to declare a consent award to be a common rule of the industry or industries to which it applies a statement of—
- (a) facts to show that the applicant has sufficient interest in the matter; and
  - (b) the grounds on which the application is made.
- (2) For the purpose of Form 1—
- (a) the notice shall be addressed to the persons specified in subsection (8) of section 41 of the Act; and
  - (b) the time to be endorsed thereon shall be 28 days.
- (3) Before filing the application, the applicant shall advise the Registrar in writing of his intention to do so and the Registrar shall thereupon seek from the Chief Industrial Commissioner directions as to the persons to be given notice of the application.
- (4) The applicant shall complete Form 1 in accordance with the directions of the Registrar and shall file as many copies of the application and accompanying statement as the Registrar directs.
- (5) When the Registrar has effected service of the application he shall give to the clerk to the Commission a certificate to that effect.
- Compulsory conference. 13. A summons to a conference under section 44 of the Act may be given by a Commissioner or by any officer of the Commission at the direction of a Commissioner orally, in writing, by telephone, by telex or by telegram.
- Memorandum following compulsory conference. 14. Where at the conclusion of a conference under section 44 of the Act a matter is to be heard and determined by the Commission, the Commissioner presiding over the conference shall draw up or cause to be drawn up and sign, a memorandum of the matter requiring hearing and determination and for that purpose may direct parties to file in the Commission, statements of claim, answers, counterproposals and replies.
- Orders under section 45. 15. An order made by the Commission under paragraph (a) of subsection (1) of section 45 of the Act shall be in writing under seal and shall be served by the Registrar or by such other person as the Commission may direct, on such person or persons as the Commission may direct.
- Boards of reference. 16. (1) Nomination of an employees' representative by a union or association of employees shall be made to the Chief Industrial Commissioner in writing.
- (2) Nomination of an employers' representative shall be made in writing by not less than 3 employers concerned or by the actual number concerned if less than three.
- (3) Where more than one union of employees is a party to the award, the manner of nomination and appointment of employees' representatives shall be as directed by the Chief Industrial Commissioner.
- (4) Where an award applies to more than one location application may be made to the Chief Industrial Commissioner to limit the appointment of representatives or any of them to a specified location or locations.
- (5) An appeal from a decision of a Board of Reference shall be in accordance with Form 5 and forthwith after being filed, shall be served by the appellant on every other party to the proceedings before the Board of Reference or on the agent who represented that party.
- (6) Subject to subregulation (7), the filing of an appeal under subregulation (5) shall stay the operation of the decision which is the subject of the appeal.
- (7) Upon application made by any person referred to in subregulation (5) the Commission may, subject to such conditions as it may determine, direct that a decision which is subject to an appeal shall continue to operate according to its tenor pending the determination of the appeal.
- (8) An application under subregulation (7) shall, after being filed, be served forthwith on each other person referred to in subregulation (5) but before effecting service the applicant shall ascertain the date of hearing and endorse it on Form 1.

17. (1) An appeal to the Full Bench from a decision of the Commission shall be in accordance with Form 6 and after being filed shall be served forthwith by the appellant on each person who was a party to the proceedings before the Commission or on the agent who represented that party. Appeals to Full Bench.

(2) Subject to subregulation (3), the filing of an appeal under subregulation (1) stays the operation of the decision, or part thereof, which is the subject of the appeal.

(3) Upon application made by any person referred to in subregulation (1) the President may, subject to such conditions as he may determine, direct that a decision or part thereof which is subject to appeal shall continue to operate according to its tenor pending the determination of the appeal.

(4) An application under subregulation (3) shall, after being filed, be served forthwith on each other person referred to in subregulation (1) but before effecting service, the applicant shall ascertain the date of hearing and endorse it on Form 1.

(5) The President may delegate to any other member or members of the Commission the exercise of the power in subregulation (3) during any absence of the President.

(6) The appellant shall, within seven days of filing a notice of appeal, lodge in the Commission, three copies of an appeal book prepared and bound in such manner as the Registrar may approve and unless in any particular case the Registrar directs otherwise, each appeal book shall contain—

- (a) a copy of the notice of appeal;
- (b) a copy of the application or reference instituting the proceedings before the Commission;
- (c) where applicable, a copy of that part or those parts of the issues containing the matters relevant to the appeal which were before the Commission;
- (d) a copy of the decision which is the subject of the appeal and the Commission's reasons therefor;
- (e) a list of the page numbers of the transcript of the proceedings at which reference is made to the subject matter of the appeal; and
- (f) a copy of all relevant exhibits tendered during those proceedings.

(7) The receiving clerk shall not accept an appeal book unless all documents contained therein are clearly legible.

(8) The appellant shall, after lodging the appeal books, forthwith serve a copy on each person referred to in subregulation (1).

18. Where, pursuant to subsection (6) of section 50 of the Act the Commission in Court Session makes a General Order which applies in substitution for, or in addition to, or operates to vary provisions of any Act specified in the General Order, the Registrar shall, upon the making of the General Order, give notice forthwith to that effect in the *Gazette* and, in two consecutive weeks, in a newspaper having circulation throughout the State. Notice of General Orders.

19. The provisions of regulation 18 with such changes as are necessary apply with respect to any General Order to the extent that the General Order prescribes a minimum wage which is payable to employees who are not employed under awards. General Orders and minimum wages.

20. A direction under subsection (8) or subsection (9) of section 93 of the Act may be given orally or in writing, but if given orally the direction shall be confirmed in writing. Duties of Registrar.

21. (1) There shall be attached to an application to amend an order referred to in subsection (3) of section 96 of the Act— Government officers.

- (a) 3 copies of the order incorporating and showing in distinctive characters the amendment sought; and
- (b) a brief statement of the grounds on which the application is made.

(2) An application under subregulation (1) shall be served on each union and employer likely to be affected thereby and, where the Civil Service Association of Western Australia Incorporated is not the applicant, upon that Association and for the purpose of this subregulation service of the application shall be effected in accordance with the directions of the Registrar.

Contempt of the Commission. 22. A direction under subsection (2) of section 101 of the Act shall be in writing.

General form of objection. 23. (1) A person who is entitled to be heard in objection to any application and who desires to be so heard shall, except where the Act or these regulations provide otherwise, file a notice of objection in the Commission in Form 7 and serve it on the person to whom the objection is directed not less than 7 days before the hearing of the matter which is the subject of the objection.

(2) The notice shall state clearly the grounds of objection and shall specify with particularity the manner in which the objector is or is likely to be affected by the application.

(3) At the hearing of the application an objector is restricted to the grounds set out in his notice of objection.

Extension of time. 24. (1) A person desiring an extension of any time prescribed by the Act or these regulations for the doing of any act or thing shall apply to the Commission before that time has expired and shall attach to his application a written statement specifying the period of extension which is sought and the grounds on which the application is made.

(2) On filing the application the applicant shall request the Commission through the clerk to the Commission for directions as to service and date of hearing of the application and that date shall be endorsed on the application before it is served.

(3) Proof of service of the application shall be given in accordance with Form 2 within 7 days, or such shorter time as the Commission may direct, of the date upon which service is effected.

(4) Subregulations (2) and (3) do not apply if all of the persons concerned consent to the extension of time and endorse the application accordingly.

Application for and notice of hearing. 25. (1) Where all necessary procedure has been completed, any party to an application may apply in writing to the Registrar for a date and place to be fixed for the hearing of the application.

(2) Except where otherwise provided in the Act or in these regulations, each party to any proceeding shall be given at least 7 days' notice (or such shorter notice as the Commission may direct) in accordance with Form 8 of the time and place fixed for hearing.

(3) Notwithstanding subregulation (1), a matter may be listed for hearing by the Commission without a request from any party.

Production of documents. 26. (1) A party to proceedings before the Commission may apply to the Commission for an order directing any other party to the proceedings to produce for inspection by the applicant any book, paper or other document in the possession, power or control of the party against whom the order is sought relating to or containing anything relative to the matters in issue between them.

(2) There shall be attached to the application a written statement of the grounds on which the application is made and the application shall be filed in the Commission and served upon the party to whom the application is directed.

Application for examination of witness. 27. (1) An application for an order for the examination of any witness or person under paragraph (d) of subsection (1) of section 33 of the Act shall be made to the Commission in Chambers.

(2) Any examination referred to in subregulation (1) shall take place in the presence of the parties or their representatives, or of such of them as shall appear, and the witnesses may be cross-examined and re-examined.

(3) The deposition taken on any examination referred to in subregulation (1) shall be taken down in writing by or in the presence of the examiner so as to represent as nearly as may be the statement of the witness, and when completed shall be read over to the witness and signed by him in the presence of the parties or such of them as attend.

(4) If any person duly summoned by subpoena to attend for examination refuses to attend, or if having attended he refuses to be sworn or affirmed, or refuses to answer any lawful question, application may be made to the Commission in Chambers *ex parte*, or on notice, for an order directing such witness to pay the costs occasioned by his refusal or objection.

(5) The original depositions authenticated by the signature of the examiner shall be transmitted by him to the office of the Registrar and there filed.

(6) Unless otherwise directed by the Commission, no deposition shall be given in evidence at the hearing without the consent of the party against whom the deposition may be offered in evidence unless the Commission is satisfied that the deponent is dead or beyond the jurisdiction of the Commission or unable from sickness or other cause to attend the hearing; in any of which cases the depositions certified under the hand of the person taking the examination shall be admissible in evidence without proof of the signature to such certificate.

28. A party to any matter in the Commission or a person intending to become a party thereto may apply to the Commission in Chambers for an order that any other party to the matter furnish further and better particulars of any claim, answer, counterproposal or any other matter stated in or in relation to the matter.

Further particulars.

29. (1) An application to the Commission in Court Session to permit a review of any decision or settlement given or effected by the Western Australian Coal Industry Tribunal and, if permission is granted, to review such decision or settlement shall be in accordance with Form 1 and three copies thereof shall be filed in the office of the Registrar and there shall be attached to each such copy—

Review of decisions of the Western Australian Coal Industry Tribunal.

(a) a copy of the decision or settlement showing clearly the part or parts of which a review is sought; and

(b) a statement of the grounds on which the review is sought.

(2) The application shall, after being filed, be served forthwith upon each other party to the proceedings before the Tribunal.

(3) Where the Commission in Court Session permits the decision or settlement to be reviewed, the applicant shall serve on the Western Australian Coal Industry Tribunal a copy of the application and its attachments and a copy of the order permitting the review.

30. (1) Subject to subregulations (2) and (3), the procedure before the Commission shall be as follows—

Procedure before Commission.

(a) the applicant shall state his case and shall then call his witnesses;

(b) unless the Commission 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 each respondent;

(c) the applicant shall be allowed to re-examine, but the re-examination shall be confined to matters arising out of the cross-examination;

(d) the case for the applicant shall then close;

(e) the respondent shall then state his case and call his witnesses and paragraphs (b), (c) and (d) shall apply with such modifications as are necessary;

(f) the applicant may then address and call witnesses in respect of any counterproposal of the respondent.

(2) The procedure in subregulation (1) may be modified or varied by the Commission where the Commission considers it just or expedient so to do.

(3) The procedure to be followed with respect to any intervener shall be as directed by the Commission.

**Intervention.** 31. (1) Where pursuant to the Act a person intends to intervene or, as the case may be, to seek leave to intervene in any proceeding before the Commission, he shall give notice accordingly to the Commission and to the parties to that proceeding.

(2) Where practicable, a notice under subregulation (1)—

(a) shall be in writing;

(b) shall be given not less than two days before the day on which the intervener intends to appear in those proceedings; and

(c) shall state the grounds on which intervention is made or intended.

**Warrant to appear as agent.** 32. (1) Subject to this regulation a person shall not be recognised as agent for a party to any proceeding in the Commission unless he is appointed in writing in accordance with Form 9 filed in the Commission.

(2) A person may, in writing filed in the Commission, give to any other person or to any member of a class of persons a continuing authorisation to act or to appear for him, or to act and appear for him, in all matters in the Commission.

(3) An authorisation given pursuant to subregulation (2) may be for a specified period of time or indefinitely and may be withdrawn by writing filed in the Commission at any time, but shall remain in force unless and until it is so withdrawn.

(4) Where a person appoints another person as his agent in respect of any matter in the Commission and at the time at which he signs Form 9 expressly validates any action taken in respect of that matter by the person appointed agent prior to the time of that signing, all such prior action shall be deemed to have been taken by the principal.

(5) For the purposes of these regulations a form, declaration or other document shall be deemed to be signed by a party if it is signed by his agent duly appointed in accordance with this regulation.

**Notice to admit.** 33. (1) In relation to any matter before the Commission any party may, at least ten days (or such other time as may be fixed by the Commission) before the date fixed for the hearing thereof, give notice to any other party in accordance with Form 10 filed with the Registrar requiring that party to admit any fact relative to the issue.

(2) A party on whom a notice to admit has been served shall, within seven days or such other time as the Commission, on the application of that party, may direct, serve upon the party giving the notice a reply in writing admitting or denying the fact with or without qualification, as the case may be.

(3) On receiving the reply referred to in subregulation (2), the party giving the notice shall forthwith file the reply with the Registrar.

(4) Failure to reply to a notice to admit within the time prescribed or directed by the Commission may render the party in default liable to pay the costs of establishing the fact referred to in the notice.

**Summons to witness.** 34. A summons to witness—

(a) shall be in accordance with Form 11;

(b) may contain the names of not more than five witnesses; and

(c) shall be prepared in duplicate and filed with the Registrar and the Registrar shall retain the original and sign and affix the stamp of the Commission to the duplicate and issue it to the party applying for the purpose of service.

35. A party to any proceeding before the Commission may not remove any exhibit put in during the proceedings without the leave of the Commission. Exhibits.
36. (1) Any declaration or affidavit shall be filed with the Registrar before being used in any proceedings and, except where these regulations otherwise provide, shall be served on each other party to the proceedings not less than twenty-four hours before the time fixed for the hearing. Declarations and affidavits.
- (2) Any declaration required to be made in pursuance of these regulations may be declared before a justice of the peace or any person authorised to take declarations under section 2 of the Declarations and Attestations Act, 1913 in consequence of this provision.
37. Where any notice or document is required to be served under the Act or these regulations such service may be effected— Service.
- (a) in the case of a union, in accordance with subsection (3) of section 60 of the Act;
- (b) in the case of a company, by leaving it at, or sending it by prepaid post to, the registered office of the company;
- (c) in the case of a corporation (other than a union or a company), by delivering it to the manager, chairman or other principal officer, senior clerk, treasurer or secretary of the corporation or, where statutory provision has been made for the manner of service upon a corporation, service may be effected in the manner provided by that provision;
- (d) in the case of a partnership, firm or unincorporated company or body, by leaving it at, or sending it by prepaid post to, the principal place of business thereof in Western Australia; or
- (e) in the case of any other person, by delivering it to him personally, or by leaving it for him at his usual or last known place of abode, or if he is in business, at his usual or last known place of business; or by sending it by prepaid post to his usual or last known place of abode, or if he is in business, to his usual or last known place of business; but no place shall be deemed to be the place of business of any person unless he is a principal in the business.
38. (1) Where provision is made for personal or other service of any notice or document in or in relation to proceedings before the Commission, the Commission may, subject to the Act, make such order for substituted or other service or for the substitution, for the service otherwise required, of notice by letter, telegram, public advertisement or otherwise, as it thinks just. Substituted service.
- (2) Where the Commission orders that notice by telegram or public advertisement be substituted for the service otherwise required, the notice shall contain such particulars as the Commission directs.
39. (1) Where service of any document is required under the Act or these regulations proof of such service shall be given by statutory declaration in accordance with Form 2 filed in the office of the Registrar within seven days of the date upon which service is effected unless the date given for the hearing of the matter is within that time in which case the proof of such service shall be given not later than the date given for the hearing of the matter to which the document relates. Proof of service.
- (2) The declaration of service shall state with particularity the full name and the address of each person or party served.
40. (1) All applications made to the Commission shall be filed with the Registrar who shall issue all processes out of the Commission and keep a register of all proceedings in and orders made by the Commission. Procedure by Registrar.
- (2) Except where otherwise provided by these regulations or otherwise directed by the Commission, one copy of any document for the use of the Commission shall be filed with the Registrar.

(3) Each matter brought into the Commission under the Act shall be marked by the Registrar with some distinguishing number, and all documents filed and subsequent proceedings taken in the Commission with reference to the matter shall be distinguished by the same number, and the entries in the records kept with regard to each matter shall be entered together and shall be kept separate from the entries with respect to any other matter.

- Practice. 41. (1) Where there is no established practice or usage of the Commission and where none of the regulations is applicable the practice to be followed shall be as directed by the Commission.
- (2) Practice notes published by the Commission in the *Industrial Gazette* with respect to any matter or class of matters shall become effective fourteen days after publication therein.
- Waiver of procedural regulations. 42. The Commission may, in relation to any proceeding before it, and the Registrar may, in relation to any proceeding before him, in special circumstances, and either absolutely or subject to conditions, exempt any person from compliance with any procedural requirement of these regulations.
- Non-compliance with regulations. 43. Non-compliance with any of these regulations shall not render void any proceedings before the Commission, a Commissioner or the Registrar, but the proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Commission, a Commissioner or the Registrar, as the case may be, thinks fit.
- Seal of Commission. 44. (1) The Seal of the Commission shall bear the Royal Arms and the words "The Seal of The Western Australian Industrial Commission".
- (2) The Seal shall be in the custody of the Registrar and shall be affixed by him to awards, orders and processes as provided in these regulations, and to such other documents as the Commission may direct.
- Stamp of Commission. 45. (1) There shall be a stamp which shall bear the words "The Stamp of The Western Australian Industrial Commission" and which shall provide for a date and a facsimile of the signature of the Registrar.
- (2) The stamp shall be in the custody of the Registrar and shall be affixed by him or at his direction to all documents issued in his name in relation to proceedings before the Commission.

#### PART III—UNIONS AND INDUSTRIAL ASSOCIATIONS.

- Registration of society as Union. 46. (1) An application to register a society as a union shall be made in triplicate to the Full Bench.
- (2) The application shall be lodged in the office of the Registrar with the following attachments—
- (a) three copies of a list of the names of the members, officers, and trustees (if any) of the society with their respective addresses;
  - (b) three printed or typewritten copies of the rules of the society;
  - (c) three copies of the notice given to members in accordance with paragraph (b) of subsection (4) of section 55 of the Act, including a statement as to how such notice was disseminated to members; and
  - (d) three copies of the resolution of the society authorising the application.
- Registration of council as Industrial Association. 47. (1) An application to register a council or other body as an industrial association shall be made in triplicate to the Full Bench.
- (2) The application shall be lodged in the office of the Registrar with the following attachments—
- (a) three copies of a list of the names of the unions which are represented on the council;

- (b) three copies of a list of the name and address of each person representing those unions on the council;
- (c) three copies of a list of the names of the officers, and trustees (if any) of the council with their addresses;
- (d) three printed or typewritten copies of the rules of the council;
- (e) three copies of the notice given to members of the council in accordance with paragraph (b) of subsection (4) of section 55 of the Act as applied by subsection (7) of section 67 of the Act, including a statement as to how such notice was disseminated to members; and
- (f) three copies of the resolution authorising the application.

48. (1) An application to register as a union a proposed new union to be formed by the amalgamation of two or more unions shall be made in triplicate to the Full Bench. Amalgama-  
tion of  
unions.

(2) The application shall be lodged in the office of the Registrar with the following attachments—

- (a) three copies of a list of the members, officers and trustees (if any) of the proposed new union with their respective addresses;
- (b) three printed or typewritten copies of the rules of the proposed new union;
- (c) three copies of the notice given to the members of each amalgamating union in accordance with paragraph (b) of subsection (4) of section 55 of the Act as applied by paragraph (d) of subsection (1) of section 72 of the Act, including a statement as to how such notice was disseminated to members; and
- (d) three copies of the resolution of each amalgamating union authorising the application.

49. (1) An application to alter the rules of a union or association with respect to the qualification of persons for membership or to the area of the State within which the union or association operates or intends to operate, shall be made in triplicate to the Full Bench. Alteration  
of rules.

(2) An application to alter the rules of a union or association where the alteration would not have the effect of altering the qualification of persons for membership or the area of the State within which the union or association operates, or intends to operate, shall be made to the Registrar in triplicate.

(3) An application under subregulation (1) or (2) shall be lodged in the office of the Registrar with the following attachments—

- (a) three printed or typewritten copies of the registered rules of the union or association incorporating and showing in distinctive characters, each alteration of the rules of which registration is sought;
- (b) three printed or typewritten copies of each alteration;
- (c) three copies of the notice given to members in accordance with paragraph (b) of subsection (4) of section 55 of the Act, including a statement as to how such notice was disseminated to members; and
- (d) three copies of the resolution authorising the application.

50. (1) An application for the substitution of a new set of rules for the registered rules shall be made to the Full Bench in triplicate. Substitution  
of new set  
of rules.

(2) The provisions of regulation 49 apply, with such modifications as are necessary, to and in relation to an application for the substitution of a new set of rules, but in addition the application shall be accompanied by three printed or typewritten copies of the new rules.

Change of name. 51. (1) An application to change the name of a union shall be made in triplicate to the Full Bench.

(2) The application shall be lodged in the office of the Registrar and with the following attachments—

(a) three copies of the notice given to members informing them—

(i) of the proposal for the change of name and the reasons therefor;

(ii) of the proposed new name;

(iii) that the members or any of them may object to the making of the application by forwarding a written objection to the Registrar and affording members a reasonable opportunity to object,

including a statement as to how such notice was disseminated to members;

(b) three copies of the proposed new name; and

(c) three copies of the resolution authorising the application.

Application by union or association for cancellation of registration. 52. (1) An application by a union or association to cancel its registration shall be made in triplicate to the Registrar in accordance with Form 1.

(2) The application shall state clearly the grounds on which the application is made and contain sufficient evidence to satisfy the Registrar that the cancellation has the consent of a majority of the total number of members of the union or association.

Application by Registrar for cancellation of registration. 53. (1) Where an application is made by the Registrar to cancel the registration of a union or association it shall be made in triplicate to the Full Bench and shall be served forthwith upon the union or association the registration of which is sought to be cancelled.

(2) The application shall state clearly the grounds on which the application is made and the application shall be accompanied by a statutory declaration setting forth the facts on which the Registrar relies.

(3) Where the respondent union or association intends to oppose the application it shall, within fourteen days of being served with the application, advise the Registrar in writing accordingly.

(4) Where the respondent union or association intends to admit the facts (or any of them) on which the Registrar relies it shall, within fourteen days of being served with the application advise the Registrar in writing accordingly.

Certificates of registration. 54. (1) Where the Registrar is authorised by the Full Bench to register a society as a union, he shall give to the union a certificate in accordance with Form 12.

(2) Where the Registrar is authorised by the Full Bench to register a council or other body as an industrial association, he shall give to the industrial association a certificate in accordance with Form 13.

(3) Where the Registrar is authorised by the Full Bench to register a union formed by the amalgamation of two or more unions, he shall give to the union a certificate in accordance with Form 14.

(4) When the Registrar registers an alteration of the rules of a union or association he shall give to the union a certificate in accordance with Form 15.

(5) When the Registrar registers a change of name of a union or association he shall give to the union a certificate in accordance with Form 16.

55. (1) The list of the names, postal addresses and occupations of persons holding office and a record of the number of members in a union or association required to be filed with the Registrar pursuant to subsection (2) of section 63 of the Act shall be so filed during the month of January in each year. Filing of records of union or industrial association.

(2) The statutory declaration required by subsection (2) of section 63 of the Act may be made by the president or secretary of the union or association.

(3) Notification of any change in the holding of office in a union or association pursuant to subsection (3) of section 63 of the Act shall be filed with the Registrar in writing within fourteen days of the date of the change.

56. (1) The balance sheet and statement of receipts and expenditure of a union or association required to be delivered to the Registrar under section 65 of the Act, shall be itemised with sufficient particularity to show that the financial affairs of the union or association have been conducted in accordance with the rules of the union or association. Balance sheet, etc. of union.

(2) The balance sheet and statement of receipts and expenditure shall be accompanied, when delivered to the Registrar, by a statutory declaration made by the secretary of the union or association to the effect that he placed at the disposal of the auditor all relevant books and documents in relation to the financial affairs of the union or association.

Penalty—\$40.00.

57. All documents filed with the Registrar under section 63 and 65 of the Act may be inspected at the office of the Registrar during office hours on payment of the prescribed fee. Inspection of documents.

58. Notification of every change of address of the registered office of a union or association shall be notified to the Registrar, by the secretary of the union or association, in writing, within fourteen days of the date of change. Notification of change of address.

Penalty—\$40.00.

#### PART IV—FEES.

59. (1) The following fees shall be paid to the Registrar on the filing of documents under the Act or these regulations and all other regulations made under the Act and for the supply of documents, authentications or other specified services, namely— Fees payable to Registrar.

	\$
(a) Application for an award or application by society for registration	2.00
All other applications	1.00
Answers to any application	1.00
Any other document	0.40
(b) For every document required to be authenticated by the Registrar or other officer	1.00
(c) For every inspection on same day of one or more documents in the custody of the Registrar (The Registrar may dispense with this fee where he considers it reasonable so to do)	0.40
(d) For certifying—	
(i) copy of registered rules of a union	2.00
(ii) copy of award, order or other document	1.00
(e) For supplying certified copy of award, order or other document—	
(i) not exceeding 216 words	0.40
(ii) exceeding 216 words	10 cents per folio of 72 words
in addition to the certification fee.	
(f) For a photostat copy of any document—per sheet	0.20



Schedule—continued.

Form 2.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No. of

IN THE MATTER of the Industrial Arbitration Act, 1979 and

IN THE MATTER of\*

\*State nature of proceedings.

DECLARATION OF SERVICE.

I, (Full name in Block Letters)

of (Address) in the State of

Western Australia (Occupation) do solemnly and

sincerely declare that on the day of

19, I did serve (Description of documents served)

\*upon (Name of person or party served)

\*by (State method of service—refer reg. 38)

\*at (Place of service or in case of service by post address of person or party served)

And I make this solemn declaration by virtue of section 106 of the Evidence Act, 1960.

Declared at in the State of Western Australia, this day of 19 before me— J.P., Commissioner for Declarations or other authorised persons.

(Affix stamp of Commission).

Registrar.

\* Attach schedule if space insufficient.

Schedule—*continued*.

## Form 3.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No. of

## NOTICE OF ANSWER AND COUNTER PROPOSAL.

To .....  
(name of applicant/s—attach schedule if space insufficient)TAKE NOTICE THAT .....  
(name of respondent/s—attach schedule if necessary)

has this day filed in the Commission a statement in answer to the claims made by you in the above number matter.

(Affix Stamp of Commission).

Registrar.

NOTE 1: This notice must be completed by the respondent/s, signed and, where necessary, sealed on the back hereof and a written statement admitting or disputing each claim made by the applicant/s must be attached.

NOTE 2: Any applicant who desires to oppose any counter proposal in the attached statement shall file a reply in accordance with the Industrial Commission Regulations, 1980, within 14 ..... days of being served with this notice.

## Form 4.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No. of

## NOTICE OF RETIREMENT FROM CONSENT AWARD.

To .....  
(name of party/ies being given notice)TAKE NOTICE THAT .....  
(name of party giving notice)

being a party to award No. .... of ..... has this day given notice of intention to retire from and cease to be a party to the said award at the expiration of 30 days from the date of this notice.

(Affix Stamp of Commission).

Registrar.

NOTE: This form is to be completed by the person giving notice of intention to retire from the award, signed and, where necessary, sealed by him on the back hereof.

Schedule—continued.

Form 5.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No. .... of .....

NOTICE OF APPEAL FROM BOARD OF REFERENCE.

To .....  
(name of respondent/s)

TAKE NOTICE THAT .....  
(name of appellant/s)

has this day instituted an appeal to the Commission in Court Session against the decision given on the ..... day of ..... 19..... by the Board of Reference constituted for the purposes of .....

(state name and number of award, order, or General Order)

in respect of .....  
(state briefly the subject matter of the Board's decision)

on the ground/s set forth in the attached Schedule.

(Affix Stamp of Commission)

.....  
Registrar.

NOTE: This form is to be completed by the appellant, signed and, where necessary, sealed by him on the back hereof and a statement of the ground/s of appeal must be attached.

Form 6.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No. .... of .....

NOTICE OF APPEAL TO FULL BENCH.

To .....  
(name of respondent/s)

TAKE NOTICE THAT .....  
(name of appellant/s)

has this day instituted an appeal against the decision of the Commission constituted by .....  
(name of Commissioner)

given on ..... day of ..... 19..... in matter numbered ..... of ..... or the following part or parts of the said decision namely .....

on the ground/s set forth in the attached Schedule.

(Affix Stamp of Commission)

.....  
Registrar.

NOTE 1: This form is to be completed by the appellant, signed and, where necessary, sealed by him on the back hereof and a schedule listing the ground/s of appeal must be attached.

NOTE 2: An appeal book in accordance with the Industrial Commission Regulations 1980, shall be filed in the Commission and served on the respondent/s within seven (7) days of the filing of this notice.

Schedule—continued.

Form 7.

Industrial Arbitration Act, 1979.

IN THE MATTER of the Industrial Arbitration Act, 1979 and IN THE MATTER of .....

NOTICE OF OBJECTION.

Name of Objector .....

The abovenamed objector hereby objects to the whole (or part) of the abovementioned application .....

(If part only, specify part objected to)

The grounds of objection are:— .....

The objector is or is likely to be affected by the application in the following manner, namely:— .....

Dated this ..... day of ....., 19.....

(Affix stamp of Commission)

Objector.

Registrar.

Form 8.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No. .... of ..... IN THE MATTER OF .....

Between .....

Applicant.

—and— .....

Respondent.

NOTICE OF HEARING.

To .....

TAKE NOTICE that the Full Bench/Commission in Court Session/Commission (Mr. Commissioner ..... ) will sit at State Insurance House, 815-823 Hay Street, Perth or at ..... on the ..... day of ..... 19....., at ..... o'clock in the ..... noon to hear the abovementioned matter.

(Affix stamp of Commission)

Registrar.

Schedule—continued.

Form 9.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No..... of 19.....  
Between

Applicant

and

Respondent

WARRANT TO APPEAR AS AGENT

.....  
(Full name in Block Letters)

of .....  
(Address)

is hereby authorised to appear and act for \*

as agent in the abovementioned proceedings.

Dated this ..... day of ....., 19.....

Affix seal where necessary.

(Affix stamp of Commission)

Signature of Party

Registrar

\* Name of party for whom agent is appearing.

Form 10.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No..... of 19.....  
Between

Applicant

and

Respondent

NOTICE TO ADMIT.

To .....  
of .....

TAKE NOTICE that you are required within seven days of receiving this notice to admit or deny in writing the following facts—

.....  
.....  
.....  
and TAKE FURTHER NOTICE that should you fail to reply to this notice within seven days or such other time as the Commission upon your application may direct you may be liable to pay the costs of establishing such facts before the Commission.

Dated this ..... day of ....., 19.....

(Affix stamp of Commission)

(Signature)

Registrar

Schedule—continued.

Form 11.

Industrial Arbitration Act, 1979.

IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No. .... of 19.....

Between

.....

.....

Applicant.

and

.....

.....

Respondent.

SUMMONS TO WITNESS.

Name in full, To .....  
occupation .....  
and address. ....

You are hereby summoned to appear before the abovenamed  
Commission at .....

on ..... the ..... day of ....., 19.....,  
at ..... o'clock in the ..... noon, and thereafter from  
day to day until discharged from attendance, to give evidence con-  
cerning the abovementioned matter on behalf of the applicant  
(respondent).

And you are also required to have and produce at the same time  
and place all books, papers, or other documents in your possession  
or under your control in any way relating to the proceedings in the  
said matter and in particular (but not exclusively) the following:—  
.....

If you fail or neglect to comply with this summons you are liable  
to a penalty.

(Affix stamp of Commission)

.....  
Registrar.

Form 12 (Reg. 54).

Industrial Arbitration Act, 1979.

CERTIFICATE OF REGISTRATION AS A UNION.

I hereby certify that the society called.....

.....

whose registered office is at.....

.....  
has this day been duly registered as a union under the Industrial Arbitration  
Act, 1979, and, pursuant to section 60 of that Act, is a body corporate.

Given under my hand this ..... day of ....., 19.....

.....  
Registrar.

Schedule—*continued*.

Form 13 (Reg. 54).

Industrial Arbitration Act, 1979.

CERTIFICATE OF REGISTRATION AS AN INDUSTRIAL ASSOCIATION.

I certify that the council called .....

.....

.....

whose registered office is at .....

.....

has this day been duly registered as an industrial association under the Industrial Arbitration Act, 1979, and that association is, pursuant to sections 60 and 67 of that Act, a body corporate.

Given under my hand this ..... day of ....., 19.....

Registrar.

Form 14 (Reg. 54).

Industrial Arbitration Act, 1979.

CERTIFICATE OF REGISTRATION OF A UNION FORMED BY AMALGAMATION.

I hereby certify that the unions formerly registered under the names

(1) .....

.....

(2) .....

.....

have this day been duly registered under the Industrial Arbitration Act, 1979, as one union by the name.....

.....

and that union is, pursuant to section 60 of that Act, a body corporate. The registrations of the aforementioned unions, namely

- (1) .....
- .....
- (2) .....
- .....

are this day cancelled.

Given under my hand this ..... day of ....., 19.....

Registrar.

Schedule—continued.

Form 15 (Reg. 54).

Industrial Arbitration Act, 1979.

CERTIFICATE OF REGISTRATION OF ALTERATION OF RULES.

I hereby certify that the annexed alteration of rules of .....

has this day been duly registered at my office under the provisions of the Industrial Arbitration Act, 1979.

Rules referred to.....

Given under my hand this..... day of....., 19.....

Registrar.

Form 16 (Reg. 54).

Industrial Arbitration Act, 1979.

CERTIFICATE OF REGISTRATION OF CHANGE OF NAME.

I hereby certify that on the..... day of....., 19..... on the hearing of an application duly made on behalf of the union/industrial association formerly registered under the title of.....

the Full Bench consented to the name of the union/industrial association being changed to read, and that name is accordingly now registered as.....

Given under my hand this..... day of....., 19.....

Registrar.

Dated the 4th day of March, 1980.

- P. SHARP, President.
- B. M. O'SULLIVAN, Chief Industrial Commissioner.
- E. R. KELLY, Senior Commissioner.
- D. CORT, Commissioner.
- B. J. COLLIER, Commissioner.
- G. G. HALLIWELL, Commissioner.
- G. J. MARTIN, Commissioner.
- G. A. JOHNSON, Commissioner.

## INDUSTRIAL ARBITRATION ACT, 1979.

PURSUANT to the powers conferred by section 113 of the Industrial Arbitration Act, 1979, and all other powers hereto enabling, the Western Australian Industrial Commission hereby makes the following regulations—

1. These regulations may be cited as the Industrial Arbitration (Union Elections) Regulations, 1980. Citation.
  
2. In these regulations, unless the contrary intention appears— Interpretation.
  - “regulation” means a regulation of these regulations;
  - “sub-regulation” means a sub-regulation of the regulation in which the term is used;
  - “the Act” means the Industrial Arbitration Act, 1979;
  - “union” includes a branch, section or other division of a union.
  
3. A request for the conduct of an election under section 69 of the Act shall be made not less than one month before the commencement of the period for lodging nominations of candidates for election for an office in a union or association, but the Registrar may accept a request made less than one month before the commencement of such period if he is satisfied that it is practicable for the election to be conducted under section 69 of the Act in pursuance of the request and a request so accepted shall be deemed to have been made in due time. Time for requesting conduct of election.
  
4. An appeal to the Full Bench under subsection (12) of section 69 of the Act against a decision of the Registrar shall be in accordance with Form 1 in the Schedule to these regulations. Appeals to Full Bench.
  
5. The returning officer may determine— Preliminary powers of returning officer.
  - (a) the title of each office for which an election is to be held;
  - (b) the term for which each officer is to be elected;
  - (c) the title of each office which shall form the Committee of Management (by whatever name called);
  - (d) the requirements, as to eligibility and otherwise, to be fulfilled by a person wishing to become a candidate for election to office, or any particular office;
  - (e) the eligibility of members to vote at an election,

where any such matter is not provided for in the rules of the union or although provided for cannot be complied with.
  
6. (1) The returning officer shall determine the times and dates of the commencement and close of the period for lodging nominations of candidates for election for an office having regard to— Times for nomination.
  - (a) the date of expiration of the term of office of the holder of the office;
  - (b) the time required to lodge nominations;
  - (c) the time required to complete the election; and
  - (d) the provisions of the rules of the union relating to the times and dates of the commencement and close of the period for lodging nominations in respect of the election.

(2) The returning officer shall determine the place for lodging nominations of candidates for election.
  
7. (1) The returning officer shall, not less than 14 and not more than 21 days before the date of commencement of the period for lodging nominations of candidates for an election for an office, cause to be published in a newspaper or newspapers circulating widely within the State a notice setting out— Notice inviting nominations.
  - (a) the name of the union;
  - (b) the title of the office;
  - (c) the form in which nominations are to be made;
  - (d) the place for lodging nominations;

(e) the times and dates of the commencement and close of the period for lodging nominations, which shall be a period of not less than 7 days,

and inviting nominations of persons eligible for election for the office under the rules of the union to stand as candidates for election for the office.

(2) Where the rules of a union provide for a notice inviting nominations of candidates for election to be published in a manner other than in such a newspaper, the returning officer, in addition to publishing the notice referred to in sub-regulation (1) in the manner provided by that sub-regulation, shall, if practicable, publish that notice in the manner provided by those rules.

Signature of nomination.

8. (1) A person is not eligible for election for an office unless the nomination is signed by that person signifying his willingness to accept the office if elected and is also signed by the number of persons qualified and required under the rules of the union to nominate a candidate for that office.

(2) A person nominated as a candidate may, by notice signed by him witnessed by an elector and addressed to and lodged with the returning officer before the time fixed for the expiry of the period for lodging nominations, withdraw his consent to the nomination and that person shall thereupon be deemed not to have been nominated.

Declaration of election where one candidate nominated.

9. Where on expiry of the period for lodging the nomination of a candidate for election for an office, only one candidate is nominated for election for the office, the returning officer shall declare in accordance with these regulations that the candidate has been elected to that office.

Duty of returning office where no nomination.

10. Where on the expiry of the period for lodging the nominations of a candidate for election for an office no nomination for that office has been received, the returning officer shall as soon as practicable after the expiry of that period so advise the union.

Commencement and close of ballot.

11. Where more than one candidate is nominated for election for an office, the returning officer shall determine the date of commencement of issuing ballot papers and the time and date of the close of the ballot having regard to—

- (a) the date of expiration of the term of office of the holder of the office;
- (b) the time required to send and return ballot papers by post;
- (c) the time required to complete the election; and
- (d) the provisions of the rules of the union relating to the times and dates of the commencement and close of the ballot in respect of the election.

Electoral roll.

12. (1) The returning officer shall be provided by the union with a copy of the register of members referred to in section 63 of the Act which register shall form the electoral roll for the election and the returning officer shall enter a consecutive number against each name.

(2) The returning officer shall be provided with by the union and shall add to the roll referred to in sub-regulation (1) the names and addresses of persons who, after the date of receipt by the returning officer of such rolls, become entitled to vote in the election.

(3) The returning officer shall be provided with by the union and shall delete from the roll referred to in sub-regulation (1) the names of persons who, after the date of receipt by the returning officer of such roll, cease to be entitled to vote in the election.

(4) The returning officer shall, at the place where he carries out his functions as returning officer, make the electoral roll applicable to an election for an office available for inspection by members of the union, or by any person authorised by the returning officer, during the ordinary hours of business until the day on which the result of the election is declared.

13. (1) Where an election is conducted by the Chief Electoral Officer appointed under the Electoral Act, 1907, or by an officer holding office under that Act or by some other person authorised in writing by the Chief Electoral Officer, on behalf of a union, the returning officer shall use, for the purpose of receiving ballot papers in respect of an election—

Receipt of  
ballot  
papers.

(a) the permanent State Electoral Department post office box; or

(b) a private box at a post office, being a private box used exclusively for that purpose.

(2) Where a union conducts its own election for an office within a union, the returning officer shall use, for the purpose of receiving ballot papers in respect of that election, a private box at a post office, being a private box used exclusively for that purpose.

14. (1) The ballot paper for an election for an office shall be in a form that is in accordance with the rules of the union or, where there is no such or insufficient provision in those rules, in accordance with a form determined, subject to subregulations (2) and (3), by the returning officer.

Form of  
ballot paper.

(2) Where the rules of the union do not provide for the order in which the names of candidates for election for an office shall appear on the ballot paper for that election, the full names shall appear in the alphabetical order of the surnames of the candidates or, in relation to candidates whose surnames are identical, in the alphabetical order of their Christian or given names.

(3) The returning officer shall include on the ballot paper information and instructions to the voter with respect to the following matters and substantially in accordance with the following form—

(a) the title of the office to which the election relates;

(b) the time and date of the close of the ballot;

(c) how to mark the ballot paper in order to record a formal vote, so that such instructions shall comply with the rules of the union as far as possible;

(d) where the rules of the union do not provide for the method of counting of the ballot the returning officer shall count the ballot on the principle that the candidate with the largest number of votes shall be elected;

(e) not to put on the ballot paper any mark or writing by which the voter can be identified;

(f) to place the ballot paper when completed in the envelope marked "ballot paper" and then to seal that envelope;

(g) to complete the details on the counterfoil; and

(h) to place the ballot paper envelope (and the counterfoil if a separate one is used) in the envelope addressed to the returning officer, and then to seal the envelope addressed to the returning officer and post it to reach the returning officer before the time of the close of the ballot.

(4) The returning officer shall obtain from the printer of the ballot papers a certificate stating the number of ballot papers printed in respect of the election.

15. (1) As soon as practicable after the date determined under regulation 11 for the commencement of issuing ballot papers in respect of an election, the returning officer shall issue, by posting by prepaid post, to each person—

Issue of  
ballot  
papers.

(a) whose name is on the roll referred to in subregulation (1) of regulation 12; or

(b) whose name is, under subregulation (2) of regulation 12 added to the roll; and

(c) whose name has not, before the issue of the ballot paper, been deleted from the roll under subregulation (3) of regulation 12,

at the address shown on the roll, a ballot paper and the other ballot material in a sealed envelope and provide for the return of the ballot paper without expense to the voter.

- (2) The envelope referred to in subregulation (1) shall contain—
- (a) a ballot paper initialled by the returning officer or bearing a facsimile of those initials;
  - (b) an envelope marked "ballot paper"; and
  - (c) an envelope addressed to the returning officer at the private box referred to in regulation 13, being an envelope that may be posted without expense to the voter, the back of which envelope may be used as a counterfoil and, where the back of that envelope is not so used, a separate counterfoil, the counterfoil being numbered to coincide with the number shown against the name of that person on the electoral roll.
- (3) The counterfoil shall be numbered with a number coinciding with the voter's consecutive number on the electoral roll, and shall make provision for the endorsement thereon of—
- (a) the office or offices to which the election relates;
  - (b) the full name of the voter;
  - (c) the address of the voter; and
  - (d) the signature of the voter.
- (4) The envelope referred to in subregulation (1) shall bear an instruction that, if it is not delivered to the addressee,
- (a) in the case of an election conducted by the person referred to in subregulation (1) of regulation 13, it should be returned to the private box referred to in that subregulation;
  - (b) in the case of an election conducted by the person referred to in subregulation (2) of regulation 13, it should be returned to the private box referred to in that subregulation.
- (5) Where in respect of an election the returning officer has, under subregulation (1) issued a ballot paper to a person whose name is after the issue of the ballot paper, deleted from the roll under subregulation (3) of regulation 12, the person shall be deemed to be entitled to vote in the election.

Issue of duplicate ballot paper or return envelope.

16. (1) Where, on application before the time of the close of the ballot in an election, the returning officer is satisfied that a ballot paper or return envelope issued to a person whose name is on the electoral roll, has not been received or has been lost, destroyed or spoilt, he shall issue to that person a duplicate ballot paper, or return envelope, as the case may be.

(2) An application under subregulation (1) by a person for a duplicate ballot paper, or return envelope, for an election shall be in writing setting out the grounds on which the application is made and declaring that the person has not voted in the election and shall, if practicable, be accompanied by any evidence that is available of that non-receipt, loss, destruction or damage.

Ballot boxes.

17. (1) The person referred to in subregulation (1) of regulation 13 may, at any time up to and including the hour of the close of the ballot for an election for an office within a union—

- (a) place unopened into a locked and sealed ballot box or ballot boxes allocated to the election envelopes, addressed to the private box referred to in subregulation (1) of regulation 13, received by him before the time of the close of the ballot;

and shall—

- (b) keep each of the ballot boxes in safe custody until the ballot boxes are opened in accordance with regulation 19;
- (c) as soon as practicable after the time of the close of the ballot, and in the presence of the scrutineers, or where a scrutineer has been informed in accordance with regulation 18 but is not present at the appointed time in his absence—
  - (i) take the ballot box or boxes referred to in paragraph (a) of subregulation (1) to the place of count and proceed to make the count; and
  - (ii) keep all envelopes collected in safe custody until the count is complete.

(2) The person referred to in subregulation (2) of regulation 13 shall, at the time of the close of the ballot but not before, and in the presence of the scrutineers, or where a scrutineer has been informed in accordance with regulation 18 but is not present at the appointed time in his absence—

- (a) collect all envelopes from the private box at the post office;
- (b) take all the envelopes so collected to the place of count and proceed to make the count; and
- (c) keep all those envelopes in safe custody until the count is complete.

18. (1) Each candidate nominated for election may, by written notice given to the returning officer not less than 7 days prior to the close of the ballot, appoint to be a scrutineer a person who is eligible, under the rules of the union, to be a scrutineer in respect of that election, being a person other than a candidate, and may by notice in like manner appoint another such person to carry out the functions of scrutineer where the first-mentioned person does not carry out those functions. Scrutineers.

(2) Where an election is conducted by the person referred to in subregulation (1) of regulation 13, a scrutineer appointed under subregulation (1) shall be given sufficient notice in writing by the returning officer prior to the date and time when the returning officer opens the ballot box or boxes referred to in paragraphs (a) and (b) of subregulation (1) of regulation 17, to enable him to be present while the returning officer performs his functions.

(3) Where an election is conducted by the person referred to in subregulation (2) of regulation 13, a scrutineer appointed under subregulation (1) shall be given sufficient notice in writing by the returning officer prior to the date and time when the returning officer opens the private box at the post office, to enable him to be present while the returning officer performs his functions.

(4) Subject to subregulation (5), a scrutineer appointed under this regulation may—

- (a) be present while the returning officer carried out his functions under subregulation (2) of regulation 17 and regulation 19;
- (b) direct the attention of the returning officer to any irregularity concerning the issue of ballot papers, the admission of any envelope to scrutiny, the admission of a ballot paper as formal, the rejection of a ballot paper as informal or the counting of the vote; and
- (c) carry out any other functions of a scrutineer under the rules of the union.

(5) Where a scrutineer appointed under subregulation (1)—

- (a) interrupts the scrutiny otherwise than in accordance with paragraph (b) or (c) of subregulation (4); or
- (b) fails to carry out a lawful request by the returning officer, the returning officer may direct the scrutineer to leave the place where the scrutiny is being conducted.

(6) A scrutineer appointed under subregulation (1) shall comply with a direction by the returning officer given under subregulation (5).

Penalty: \$40.00

19. (1) The returning officer before proceeding to count the number of votes to ascertain which candidate is successful in the election shall— Duties of returning officer.

- (a) check each counterfoil against the member's name on the electoral roll and, if the voting papers are in order, mark the roll;
- (b) remove the ballot paper envelope from the envelope addressed to the returning officer and place the ballot paper envelope unopened into a separate container until all counterfoils are checked; and
- (c) when all the counterfoils are checked and cleared, open the ballot paper envelopes, and shall then proceed with the count.

(2) Where any voting papers are rejected, the returning officer shall replace the counterfoil and the envelope marked "ballot paper" in the envelope in which they were received, endorse the latter envelope "rejected" with the reasons for rejection and set it aside for safe keeping.

(3) The returning officer shall reject as informal a ballot paper that—

- (a) does not bear the initials of the returning officer or the facsimile of those initials that is referred to in paragraph (a) of subregulation (2) of regulation 15;
- (b) has upon it a mark or writing by which the voter can be identified; or
- (c) is not marked substantially in accordance with the instructions referred to in paragraph (c) of subregulation (3) of regulation 14.

(4) Where, during the scrutiny, the returning officer is informed by a scrutineer appointed under regulation 18 that the scrutineer objects to a ballot paper being admitted as formal, or rejected as informal, as the case may be, the returning officer shall decide the matter and endorse his decision on the ballot paper.

Declaration  
of result.

20. (1) Where practicable, the returning officer shall, in accordance with the rules of the union, declare the result of an election.

(2) Where it is not practicable for the returning officer to declare the result of an election under subregulation (1), the returning officer shall declare the result of the election by giving notice of the result in writing to the union at its registered office.

(3) The returning officer shall, in the manner and at the time of declaring the result of an election under subregulation (1) or (2), as the case may be, declare in respect of the election—

- (a) the number of ballot papers, other than duplicate ballot papers, issued;
- (b) the number of duplicate ballot papers issued;
- (c) the number of ballot papers admitted as formal;
- (d) the number of ballot papers rejected as informal;
- (e) the number of unused ballot papers;
- (f) the number of ballot papers certified by the printer pursuant to subregulation (4) of regulation 14; and
- (g) the number of votes admitted as recorded in favour of each candidate.

Preservation  
of ballot  
papers.

21. The returning officer in consultation with the Committee of Management (by whatever name called) of the union shall make provision for the preservation in the custody of the union of—

- (a) all nomination papers;
- (b) all ballot papers admitted as formal;
- (c) all ballot papers rejected as informal;
- (d) all counterfoils relating to the ballot papers, whether formal or informal;
- (e) all envelopes received after the close of the ballot;
- (f) the marked electoral roll against which the counterfoils were checked; and
- (g) unused ballot papers, counterfoils and other documents prepared in connection with the election,

which shall be respectively placed in separate containers each endorsed with the name of the union and the office to which the election relates and shall be sealed, signed and dated by the returning officer and retained for a period of not less than one year after the date of the election.

Exemption  
from  
section 57.

22. An application by a union for exemption from the application of section 57 of the Act in respect of an election shall be made by the Secretary or President of the union or association in writing stating the grounds for the application and shall be accompanied by a statutory declaration to the effect that the person making the declaration is the person authorised to make that application and further that the information contained in the application is true and correct.

Schedule.  
 Form 1 (Reg. 4).  
 Industrial Arbitration Act, 1979.  
 IN THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

No. .... of 19.....  
 BETWEEN  
 .....  
 ..... Appellant.  
 and  
 .....  
 ..... Respondent.

NOTICE OF APPEAL TO FULL BENCH FROM  
 A DECISION OF THE REGISTRAR.

1. Take notice that the abovenamed appellant hereby appeals against the decision of the Registrar dated the ..... day of ..... 19.....
2. The matters appealed against should be set aside or varied in the following manner—  
 .....  
 .....

3. The grounds of appeal are—  
 .....  
 .....

(Here set out with particularity the grounds of appeal on each matter)

Dated this ..... day of ..... 19.....

Affix seal where necessary.

.....  
 Appellant.

Filed in my office this ..... day of ..... 19.....

.....  
 Registrar.

Dated the 4th day of March, 1980.

- P. SHARP, President.
- B. M. O'SULLIVAN, Chief Industrial Commissioner.
- E. R. KELLY, Senior Commissioner.
- D. CORT, Commissioner.
- B. J. COLLIER, Commissioner.
- G. G. HALLIWELL, Commissioner.
- G. J. MARTIN, Commissioner.
- G. A. JOHNSON, Commissioner.



## INDUSTRIAL ARBITRATION ACT, 1979.

Department of Labour and Industry,  
Perth, 20th February, 1980.

HIS Excellency the Governor in Executive Council, acting under section 113 of the Industrial Arbitration Act, 1979 and section 11 of the Interpretation Act, 1918-1975, has made the regulations set out in the Schedule below.

R. J. O'CONNOR, M.L.A.,  
Minister for Labour and Industry.

## Schedule.

## REGULATIONS.

1. These regulations may be cited as the Industrial Arbitration (Industrial Magistrates) Regulations, 1980 and shall come into operation on the 1st March, 1980. Citation and commencement.
2. In these regulations, unless the contrary intention appears— Interpretation.
  - “Industrial Magistrate” means a stipendiary magistrate appointed under section 81 of the Act as an Industrial Magistrate for the purposes of the Act;
  - “regulation” means a regulation of these Regulations;
  - “sub-regulation” means a sub-regulation of the regulation in which the term is used; and
  - “the Act” means the Industrial Arbitration Act, 1979.
3. (1) Subject to the Act and to these regulations, proceedings before an Industrial Magistrate and in particular the making of a complaint, the issue of a summons, the summoning of witnesses, the fees to be paid relating to any matter, the taking of evidence, the hearing and determination of a complaint and the costs and allowances to parties and witnesses shall be, with such modifications as circumstances require, those prescribed by the Justices Act, 1902-1979, in respect of proceedings before justices for a simple offence. Proceedings before Industrial Magistrate.
  - (2) Proceedings before an Industrial Magistrate shall be commenced by a complaint which may be made by the complainant in person or by his counsel or solicitor or other person authorised in that behalf.
  - (3) A complaint for hearing by an Industrial Magistrate may be made before and a summons may be issued by the Registrar, Deputy Registrar, Assistant Registrar, a Justice of the Peace or a Clerk of Petty Sessions.
  - (4) Subject to section 103 of the Act, every complaint shall be in respect of one matter only, but if two or more matters of complaint are substantially in respect of the same act or omission on the part of the defendant, such matters may be joined in the one complaint.
  - (5) The summons shall be directed to the defendant, and shall state shortly the matter of the complaint, and require him to appear at a certain time and place before such Industrial Magistrate as shall then be there to answer the complaint and to be further dealt with according to law.
  - (6) A complaint shall be in the form of Form 1 in the Schedule to these Regulations.
  - (7) A summons to a defendant shall be in the form of Form 2 in the Schedule to these Regulations.
  - (8) A summons of a witness shall be in the form of Form 3 in the Schedule to these Regulations.
  - (9) Subject to these regulations, a summons to a witness—
    - (a) may be issued without leave and shall be signed by the Registrar, Deputy Registrar, Assistant Registrar, a Justice of the Peace or a Clerk of Petty Sessions;

- (b) may require the production of books, deeds, papers and writings in the possession or control of the person to whom it is directed;
- (c) shall be directed to not more than one person; and
- (d) shall be served by the party applying for the summons or his solicitor, or the agent or servant of such party or solicitor, or by a member of the Police Force of Western Australia or a bailiff of a Local Court.

Service of  
summons.

4. (1) A summons shall be served upon the person to whom it is directed by delivering a duplicate of the summons to him personally or, if he cannot be found, by leaving it with some person apparently over the age of sixteen years at his last known place of abode or, if he is a principal of a business, at his last known place of business.

(2) A summons shall be served on a company by delivering a duplicate of the summons at the registered office of the company to the person apparently in charge.

(3) A summons shall be served on a corporation, other than a union, by delivering a duplicate of the summons to the manager, chairman or other principal officer, senior clerk, treasurer or secretary of the corporation or, where statutory provision has been made for the manner of service upon a corporation, service may be effected in the manner provided by that provision.

(4) A summons shall be served on a union in the manner provided by subsection (3) of section 60 of the Act.

Non-com-  
pliance with  
witness  
summons.

5. (1) If a person summonsed as a witness neglects or refuses to appear at the time and place appointed by the summons or neglects or refuses to bring and produce all documents and writings in his possession or power when so required by the summons and no just excuse is offered for such a neglect or refusal, then (after proof that the summons was duly served upon such person and that a reasonable sum was paid or tendered to him for his costs and expenses of attendance), the Industrial Magistrate before whom such person was summonsed to appear may then and there impose upon him in his absence a penalty not exceeding forty dollars, which may be recovered in the same manner as penalties imposed upon a summary conviction.

(2) The Industrial Magistrate may also issue a warrant to bring and have such person at a time and place mentioned in the warrant before such Industrial Magistrate as shall then be there to testify what he knows concerning the matter of the complaint.

(3) Notwithstanding sub-regulation (9) of regulation 3 and sub-regulation (1) of this regulation, no person shall be bound to produce any document or writing not specified or otherwise sufficiently described in the summons, or which he would not be bound to produce upon a *subpoena duces tecum* in the Supreme Court.

Substituted  
service.

6. Where an Industrial Magistrate is satisfied that service of a summons in accordance with regulation 4 cannot be effected promptly, the Industrial Magistrate may make any order which he considers necessary or convenient for substituted or other service or the substitution for service of notice by letter, public advertisement or otherwise and in any such case compliance with the order of the Industrial Magistrate shall be sufficient service.

Oral  
evidence  
and  
evidence by  
affidavit.

7. (1) Subject to the Evidence Act, 1906 and any other Act relating to the admission of evidence and subject also to sub-regulation (2), every witness shall be examined in open court upon oath or in such other manner as is allowed by the Acts in force relating to giving evidence in Courts of Justice.

(2) Notwithstanding sub-regulation (1), where having regard to the circumstances of the case he considers it reasonable to do so, the Industrial Magistrate may order that the evidence of a witness shall be given by affidavit, but such an order shall not be made if it appears to the Industrial Magistrate that a party to the proceedings *bona fide* desires the production of that witness for cross examination and such witness can reasonably be produced.

8. The provisions of section 31 of the Act as to the representation of parties before the Court apply to proceedings before an Industrial Magistrate.

Represent-  
ation  
before  
Industrial  
Magistrate.

9. Before issuing a warrant of execution or a warrant of commitment, the person issuing the warrant may require the person applying for its issue to furnish to him a praecipe in the form of Form 4 in the Schedule to these regulations.

Praecipe  
for warrant  
of execution.

10. (1) Any fine, penalty, or costs directed to be levied by execution, and also any sum of money or costs payable under any award, order or judgment of an Industrial Magistrate, shall be recoverable by warrant of execution in the form of Form 5 or 6 in the Schedule to these regulations, as the case requires.

Execution.

(2) A police officer, under a warrant of execution, may seize and take and cause to be sold any goods (which term includes cheques, bills of exchange, promissory notes, specialties, or other securities for money) that the person against whom the warrant was issued is or may be possessed of or entitled to or has power to assign or dispose of, except that the following goods are protected from seizure, namely—

wearing apparel of that person to the value of one hundred dollars and of his wife to the value of one hundred dollars and of his family to the value of fifty dollars for each member thereof dependent on him; household furniture and effects to a value not exceeding in the aggregate three hundred dollars; implements of trade to the value of one hundred dollars; all beds and bedding; family photographs and portraits.

(3) The police officer shall hold any cheques, bills of exchange, promissory notes, specialties, or other securities for money that are seized or taken under the warrant of execution, as a security for the amount directed to be levied under the warrant, or so much thereof as has not been otherwise levied or raised for the benefit of the execution creditor, and may receive any moneys payable by virtue of any such instrument from the person liable under it.

(4) The police officer may sue in the name of the person against whom the warrant of execution was issued, or in the name of any person in whose name the debtor might sue, for the recovery of the sums secured or made payable by any such instrument when the time of payment thereof arrives.

(5) Any money paid to the police officer or recovered in an action brought by him in respect of any such instrument shall be paid to the Registrar by him.

(6) A sale of goods that are taken in execution shall not, unless the goods are of a perishable nature, be made until after the expiration of the five days at least next following the day on which the goods were taken, except upon the request in writing of the person whose goods are taken.

(7) Until the sale, the goods shall be deposited by the police officer in some fit place or they may remain in the custody of a fit person approved by the police officer to be put in possession by him.

(8) The police officer may deduct out of the amount realised by the sale, the costs incurred in the execution of any warrant of execution and all costs and charges actually incurred in effecting the sale, and shall render to the owner the surplus (if any) after retaining the amount of the sum for which the warrant was issued and the proper costs and charges of the execution of the warrant.

(9) A written account of the costs and charges incurred in respect of the execution of any warrant of execution shall be sent by the police officer to the Registrar, and the person against whom the warrant was issued may, at any time within one month after the levy, inspect the account at any reasonable time and take a copy thereof.

(10) A writ or warrant of execution issued under the Act has the same effect against any property (including land under the Transfer of Land Act, 1893) as a writ of *feri facias* issued out of the Supreme Court.

(11) Section 133 of the Transfer of Land Act, 1893 applies to a sale under a writ or warrant of execution issued under the Act, and that section and the schedules therein referred to shall, in relation to any such sale, be read as if the words "warrant of execution issued out of the Court" were inserted in place of "writ of *feri facias* issued out of the Supreme Court"; and as if the word "sheriff" included the police officer effecting the sale.

Commitment.

11. (1) When the police officer has returned that he can find no goods or no sufficient goods to satisfy a warrant of execution issued under regulation 10, and that the sum to be levied remains wholly or partially unsatisfied, then a warrant may be issued in the form of Form 7 or Form 8 in the Schedule to these regulations as the case requires for the imprisonment of the offender in accordance with the scale set forth in section 167 of the Justices Act, 1902-1979.

(2) Where an Industrial Magistrate has ordered that a person be committed to prison—

(a) in default of payment of a penalty or fine, then a warrant shall be issued in the form of Form 9 in the Schedule to these regulations;

(b) upon making a conviction, then a warrant shall be issued in the form of Form 10 in the Schedule to these regulations.

(3) The police officer to whom a warrant is directed shall convey the person therein named or described to the prison or other place mentioned in the warrant and there deliver him, together with the warrant, to the superintendent or keeper of such prison or place, who shall thereupon give the police officer delivering the prisoner into his custody a receipt for the prisoner in the form of Form 11 in the Schedule to these regulations setting forth the state and condition in which the prisoner was at the time he was delivered into the custody of the superintendent or keeper.

(4) The superintendent of any prison to which any person has been committed under a warrant in Form 7 or 8 shall discharge the person—

(a) on payment to him of the fine or penalty or costs or such part thereof as remains unpaid;

(b) on receipt of a certificate from the Registrar that the fine or penalty or costs, or the part remaining unpaid, has been paid or realised;

(c) if the fine or penalty or costs, or any part thereof remains unpaid or unrealised after he has suffered the period of imprisonment set forth in the warrant of commitment or such portion thereof corresponding with the unpaid part of the fine or penalty or costs.

Procedure for issue of warrants of execution and commitment.

12. A warrant of execution and commitment shall be prepared by the person seeking to issue it, and shall be presented in duplicate to the Registrar who shall procure the signature of the Industrial Magistrate, or sign it, and issue a duplicate for lodgment with the police officer or other official to whom it may be directed.

Crown not bound by regulations.

13. Nothing in regulations 10, 11 and 12 applies to the Crown in right of the State.

Order for sum of money or costs enforceable by warrant of execution.

14. Where an order is made by an Industrial Magistrate directing the payment of any sum of money or costs, he may direct that the order shall be enforced in the manner provided by regulation 10 and thereupon the proceedings provided for in that regulation may be taken.

Schedule.

Form 1 (Reg. 3).

Industrial Arbitration Act, 1979.

Before the Industrial Magistrate at .....

No. ....

Between

.....

.....

Complainant,

and

.....

.....

Defendant.

COMPLAINT.

(Breach of Award.)

The Complaint of .....  
of ....., in the State of Western  
Australia made this ..... day of ..... 19.....,  
before ..... one of Her Majesty's Justices of the Peace (or  
the Registrar of Industrial Unions or the Deputy or Assistant Registrar of  
Industrial Unions or a Clerk of Petty Sessions) who says that on the .....  
day of ....., 19....., at .....\* .....  
of .....\*\* ..... being  
a party bound by Award No. .... of .....  
19....., has committed a breach thereof in that  
(Here set out breach complained of.)

Now, therefore, the Complainant hereby applies to the Industrial Magistrate  
sitting at ..... for the enforcement of the said Award.

Signed by or on behalf of the abovenamed Complainant.

.....

.....

Made before me the day and year first abovementioned at .....  
..... in the said State.

Justice of the Peace.

(Or the Registrar of Industrial Unions or the Deputy or Assistant Registrar  
of Industrial Unions or a Clerk of Petty Sessions.)

\* Name in full and occupation of Defendant to be stated.

\*\* Set out full address of Defendant.

Schedule—*continued*.

Form 2 (Reg. 3).

Industrial Arbitration Act, 1979.

Before the Industrial Magistrate at .....

No. ....

Between .....

Complainant,  
and

Defendant.

SUMMONS TO DEFENDANT.

(Breach of Award.)

To ..... of .....

Whereas a Complaint has on the ..... day of ..... 19....., been made before the undersigned, one of Her Majesty's Justices of the Peace (or the Registrar of Industrial Unions, Deputy or Assistant Registrar of Industrial Unions or a Clerk of Petty Sessions), by ..... that you being a party bound by Award No. .... of ....., on the ..... day of ....., 19....., at ..... committed a breach thereof in that (here set out breach complained of) and the Complainant applies for the enforcement of the said Award.

These are therefore to command you in Her Majesty's name to appear at ..... on the ..... day of ....., 19....., at ..... o'clock in the ..... noon before the Industrial Magistrate to answer the said Complaint and to be further dealt with according to law.

Given under my hand at ..... this ..... day of ....., 19..... .

.....  
Justice of the Peace.

(Or the Registrar of Industrial Unions, Deputy or Assistant Registrar of Industrial Unions or a Clerk of Petty Sessions.)

ENDORSEMENT OF SERVICE.

On the ..... day of ....., 19....., at ..... I served the within named ..... with the within Summons by delivering a duplicate of it to him personally (or by leaving a duplicate of it for him with ..... a person apparently over the age of sixteen years at ..... his last known place of abode or place of business).

.....  
(Signature.)

Dated this ..... day of ....., 19..... .

Schedule—continued.

Form 3 (Reg. 3).

Industrial Arbitration Act, 1979.

Before the Industrial Magistrate at .....

No. ....

Between

.....

.....

Complainant,  
and

.....

Defendant.

SUMMONS OF A WITNESS.

(Breach of Award.)

To ..... of .....

Whereas a Complaint was on the ..... day of ....., 19....., made before one of Her Majesty's Justices of the Peace (or the Registrar of Industrial Unions, Deputy or Assistant Registrar of Industrial Unions or a Clerk of Petty Sessions) by ..... that ..... of ..... committed a breach of Award No. .... of ..... in that (here set out breach complained of).

These are therefore to require you to appear at ..... on the ..... day of ....., 19....., at ..... o'clock in the ..... noon before the Industrial Magistrate to testify what you know concerning the matter of the Said Complaint: And you are further required to bring with you and produce at the same time and place above-named the following documents:—

.....  
.....

Given under my hand at ..... in the said State this ..... day of ....., 19..... .

Justice of the Peace.

(Or the Registrar of Industrial Unions, Deputy or Assistant Registrar of Industrial Unions or a Clerk of Petty Sessions.)

ENDORSEMENT OF SERVICE.

On the ..... day of ....., 19....., at ..... I served the within named ..... with the within Summons by delivering a duplicate of it to him personally (or by leaving a duplicate of it for him with ..... a person apparently over the age of sixteen years at ..... his last known place of abode or place of business).

(Signature.)

Dated this ..... day of ....., 19..... .

Schedule—continued.

Form 4 (Reg. 9).

Industrial Arbitration Act, 1979.

PRAECIPE FOR WARRANT OF EXECUTION OR COMMITMENT.

No. .... of 19.....

FEES.

\$

Warrant .. ...
Execution .. ...
Payment for Distance
travelled .. ...

Receipt No. ....

Between

.....

Complainant,
and

.....

Defendant.

PLEASE ISSUE Warrant of Execution (or Commitment) against the above-
named Complainant (or Defendant) for the sum of \$..... as under,
being the amount of Order or part of same made the ..... day
of ....., 19....., before .....
Industrial Magistrate at .....

Dated this ..... day of ....., 19.....

.....
Complainant or Defendant.

Amount of Order:
Fine .... \$
Wages .... \$

or

In the following periodical payments, namely:—

Payment due on ....
Payment due on ....
Payment due on ....

In payment for costs of the sum of .....

Deduct amount paid since Order .....

Total overdue .....

Received at ..... a.m./p.m. on the ..... day of .....,
19....., with fees as above.

Warrant issued ...../...../19.....

.....
Registrar of Industrial Unions.



Form 6 (Reg. 10).

Industrial Arbitration Act, 1979.

No. .... of 19.....  
 Between .....  
 .....  
 Complainant,  
 and  
 .....  
 Defendant.

**WARRANT OF EXECUTION FOR COSTS AGAINST COMPLAINANT.**

TO the Principal Police Officer at ..... in the State of Western Australia, and to all other police officers in the said State.

WHEREAS on the ..... day of ....., 19....., on the hearing of a complaint made by the Complainant against the defendant that ..... (identify case) ..... the Industrial Magistrate dismissed the complaint and ordered that the complainant should pay the defendant forthwith (or on or before the ..... day of ..... 19.....), the sum of \$..... for defendant's costs in connection with the said complaint. And whereas default has been made in payment according to the said order **THESE ARE THEREFORE TO REQUIRE AND ORDER YOU FORTHWITH** to make and levy by distress and sale of the goods of the complainant wheresoever they may be found within the State (excepting so much of the goods of the complainant as are protected by regulation 10 of the Industrial Arbitration (Industrial Magistrates) Regulations, 1980<sup>†</sup>, the sum stated at the foot of this warrant being the amount due to the defendant under the said order, including the costs of this execution, and to pay what you shall have so levied to the Registrar, and make return of what you may have done under this warrant immediately upon the execution thereof.

Dated this ..... day of ....., 19.....

By the Court,

(Seal.)

.....  
 Industrial Magistrate/Registrar  
 of Industrial Unions.  
 (See Over.)

(Reverse side.)

	\$
Amount of the order ....	.....
Since paid ....	.....
Remaining due ....	.....
Fees for issuing and executing this warrant ....	.....
Any additional fees for executing this warrant ....	.....
Total amount to be levied ....	\$ .....

**NOTICE:** The goods are not to be sold until after the end of five days next following the day on which they were seized, unless they be of a perishable nature or at the request in writing of the complainant.

Application was made to the Registrar for this warrant ..... minutes past the hour of ..... in the ..... noon of the ..... day of ....., 19.....

.....  
 Industrial Magistrate/Registrar  
 of Industrial Unions.

† The following goods are protected from seizure by regulation 10—  
 wearing apparel of that person to the value of one hundred dollars and of his wife to the value of one hundred dollars and of his family to the value of fifty dollars for each member thereof dependent on him; household furniture and effects to a value not exceeding in the aggregate three hundred dollars; implements of trade to the value of one hundred dollars, all beds and bedding; family photographs and portraits.

Schedule—continued.

Form 7 (Reg. 10).

Industrial Arbitration Act, 1979.

No. .... of 19.....

Between .....

Complainant,  
and

Defendant.

WARRANT OF COMMITMENT FOR WANT OF EXECUTION.

TO the principal police officer at ..... in the State of Western Australia, and to all other police officers in the said State, and to the Superintendent of Her Majesty's Prison at ..... in the said State.

Whereas ..... of ..... in the State of Western Australia was on the ..... day of ..... 19....., convicted before ..... Industrial Magistrate at ..... for that he did \*.....

and it was adjudged that the defendant ..... for his offence should forfeit and pay the sum of \$..... and should pay to ..... the worker, the sum of \$....., the difference between the amount paid and that which should have been paid to the worker ..... under the said Award, and should also pay the sum of \$..... costs, and it was directed .....

And whereas a warrant of execution was issued against the said ..... and the officer entrusted with its execution has returned the warrant with a report that he was unable to find sufficient goods and chattels of the defendant whereon to pay the sum therein mentioned, which said sums (or \$..... being portion thereof) still remain due and owing.

\* State offence for which convicted.

(See Over.)

(Reverse side.)

These are therefore to command you the said Police Officers to apprehend the defendant and convey him to the Prison at ..... aforesaid, and deliver him to the Superintendent thereof together with this warrant, and you the said Superintendent of the said Prison are hereby commanded to receive the defendant ..... into your custody in the said Prison there to imprison him (and keep him to hard labour) for the term of ..... unless the said several sums and the costs and charges of conveying him to the said Prison amounting to the further sum of \$..... are sooner paid.

The total amount payable under this warrant is \$..... made up as follows:—

Amount ordered to be paid	.....	.....	.....	.....	.....	.....	.....	.....	\$
Since paid	.....	.....	.....	.....	.....	.....	.....	.....	.....
Remaining due	.....	.....	.....	.....	.....	.....	.....	.....	.....
Costs and charges this warrant	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total	.....	.....	.....	.....	.....	.....	.....	.....	\$

Provided that if the defendant shall pay any portion of the total amount (namely, \$.....) payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable, and the prisoner is to be released on the expiry of the reduced period, and in calculating any such reduction fractional parts of days are to be disregarded.

Dated this ..... day of ....., 19.....

By the Court,

(Seal.)

Industrial Magistrate.

Schedule—*continued.*

Form 8 (Reg. 10).  
Industrial Arbitration Act, 1979.

No. .... of 19.....  
Between .....  
.....  
Complainant,  
and  
.....  
Defendant.

WARRANT OF COMMITMENT FOR WANT OF EXECUTION FOR COSTS  
ON DISMISSAL OF A COMPLAINT.

TO the principal police officer at ..... in the State of Western  
Australia, and to all other police officers in the said State, and to the Super-  
intendent (or keeper) of Her Majesty's prison (or gaol) at .....  
in the said State.

Whereas on the ..... day of ....., 19....., at .....  
upon the hearing of a complaint made by the complainant against the  
defendant, ..... Industrial Magistrate, dismissed the complaint  
and adjudged that the complainant should pay to the defendant the sum  
of \$..... for costs and that if the said sum was not paid forthwith (on  
or before the ..... day of ....., 19.....) the same should  
be levied by execution against the goods and chattels of the complainant.  
And it was adjudged that in default of sufficient goods and chattels the  
complainant should be imprisoned for the term of ..... unless the  
said sum and all costs and charges of the execution and of taking and convey-  
ing the complainant to prison should be sooner paid: And whereas on the  
..... day of ....., 19....., a warrant was issued to the  
principal officer of police commanding him to levy the sum of \$.....  
by execution against the goods and chattels of the complainant: And whereas  
it appears to me by the return of the police officer to the warrant of execution  
that no sufficient goods and chattels could be found whereon to levy the sum  
abovementioned:

(See over.)

(Reverse side.)

THESE ARE THEREFORE TO COMMAND YOU the said police officers to  
apprehend the complainant and convey him to prison or gaol and deliver him  
to the superintendent or keeper thereof, together with this warrant, and you,  
the superintendent or keeper, are hereby commanded to receive the complainant  
into your custody in the prison or gaol, there to imprison him and keep him  
for a term of ..... unless the sum and all the costs and charges  
of the execution and of the commitment and conveying of the complainant  
to prison or gaol amounting to the further sum of \$..... are sooner  
paid to you.

	\$
Costs ordered to be paid .....	
Fees for issue of warrant of execution and execution thereof .....	
Paid under warrant of execution and/or otherwise .....	
Remaining due .....	
Fees for issuing and executing this warrant .....	
Costs and charges of conveying complainant to prison or gaol .....	
Total amount due .....	\$

Provided that if the complainant shall pay any portion of the amount pay-  
able under this warrant, then the period of imprisonment shall be thereby  
reduced by a period which shall bear the same ratio to the period of imprison-  
ment as the portion paid bears to the total payable, and the prisoner is to be  
released on the expiry of the reduced period, and in calculating any such  
reduction fractional parts of days are to be disregarded.

Dated this ..... day of ....., 19.....

By the Court,

(Seal.)

.....  
Industrial Magistrate.

Schedule—continued.

Form 9 (Reg. 10).

Industrial Arbitration Act, 1979.

No. .... of 19.....

Between

.....

.....

Complainant,  
and

.....

Defendant.

WARRANT OF COMMITMENT UPON CONVICTION FOR A PENALTY IN THE FIRST INSTANCE.

TO the principal police officer at ..... in the State of Western Australia, and to all other police officers in the said State, and to the Superintendent (or keeper) of Her Majesty's prison (or gaol) at ..... in the said State.

Whereas ..... of ..... in the State of Western Australia, was on the ..... day of ....., 19..... convicted before ..... Industrial Magistrate at ..... for that he did \*

and it was adjudged that the defendant for his offence should forfeit and pay the sum of \$....., and should pay to ....., the worker, the sum of \$..... the difference between the amount paid and that which should have been paid to the worker, ..... under the said Award, and should also pay the sum of \$..... costs, and it was directed .....

And whereas the time in and by the said conviction appointed for payment of the said several sums has elapsed, but the defendant has not paid the same except to the extent of \$..... paid off the penalty, \$..... paid off the amount ordered to be paid as due under the Award and \$..... paid off the costs.

\* State offence for which convicted. (See over.)

(Reverse side.)

These are therefore to command you, the said police officers, to apprehend the defendant and convey him to the prison (or gaol) at ..... and deliver him to the superintendent (or keeper) thereof together with this warrant; and I hereby command you, the said superintendent (or keeper) of the said prison (or gaol) to receive the defendant into your custody in the said prison (or gaol), there to imprison him (and keep him to hard labour) for the term of ..... unless the said several sums and the costs and charges of conveying him to the said prison (or gaol) amounting to the further sum of \$..... are sooner paid.

The total amount payable under this warrant is \$..... made up as follows:—

	\$
Amount ordered to be paid	.....
Since paid	.....
Costs and charges this warrant	.....
Total	\$ .....

Provided that if the defendant shall pay any portion of the amount payable under this warrant, then the period of imprisonment shall be thereby reduced by a period which shall bear the same ratio to the period of imprisonment as the portion paid bears to the total payable, and the prisoner is to be released on the expiry of the reduced period, and in calculating any such reduction fractional parts of days are to be disregarded.

Dated this ..... day of ....., 19.....

By the Court,

(Seal.)

.....  
Industrial Magistrate.

Schedule—*continued*.

Form 10 (Reg. 10).

Industrial Arbitration Act, 1979.

No. .... of 19.....

Between .....

Complainant,  
and

Defendant.

WARRANT OF COMMITMENT ON A CONVICTION WHERE THE PUNISHMENT IS BY IMPRISONMENT.

To the principal police officer at ..... in the State of Western Australia, and to all other police officers in the said State, and to the Superintendent (or keeper) of Her Majesty's prison (or gaol) at ..... in the said State.

Whereas ..... of ..... was this day duly convicted before the undersigned an Industrial Magistrate that \*.....

and it was adjudged that the said ..... should be imprisoned in Her Majesty's prison (or gaol) at ..... (there to be kept to hard labour) for the term of .....

These are therefore to command you, the said police officers, to convey the said ..... to prison (or gaol) at ..... afore-said, and deliver him to the Superintendent (or keeper) thereof, together with this warrant, and I command you, the said Superintendent (or keeper) of the said prison (or gaol) to receive the said ..... in your custody in the said prison (or gaol) there to imprison him and keep him to hard labour for the term of .....

Given under my hand at ..... in the said State this ..... day of ....., 19.....

.....  
Industrial Magistrate.

\* State the offence.

Form 11 (Reg. 10).

Industrial Arbitration Act, 1979.

GAOLER'S RECEIPT FOR PRISONER.

I hereby certify that I have this day received from ..... police officer of ..... in the State of Western Australia, the body of ..... in good health (or as the case may be) together with a warrant of commitment directing the imprisonment of the said ..... issued by an Industrial Magistrate of the said State.

Dated this ..... day of ....., 19.....

.....  
Superintendent of the Prison.