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Industrial Relations Act 1979

Industrial Relations Commission Amendment Regulations 2019

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

1. Citation

These regulations are the *Industrial Relations Commission Amendment Regulations 2019*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

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

4. Regulation 3 amended

- (1) In regulation 3 delete the definition of *proof of service*.
- (2) In regulation 3 insert in alphabetical order:

approved form means a form approved by the Chief Commissioner and published on the Commission's website;

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lodged electronically, in relation to a document, means the document is lodged under regulation 5(1) or received at the office of the Registrar by email;

5. Regulation 4 amended

In regulation 4(2) delete “regulation 5,” and insert:

regulations 5 and 6,

6. Regulation 5 amended

(1) In regulation 5(2A) delete “electronically.” and insert:

under subregulation (1).

(2) In regulation 5(2)(c)(ii) delete “number, fax”.

(3) Delete regulation 5(3), (4) and (5).

(4) In regulation 5(6) delete “fax or”.

(5) In regulation 5(8) delete “subregulation (2) or (3),” and insert:

subregulation (2),

(6) After regulation 5(9) insert:

(9A) Any requirement in these regulations for 2 or more copies of a document to be filed or lodged in the office of the Registrar is taken to have been satisfied if the document is lodged electronically in accordance with these regulations.

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7. Regulation 6 amended

Delete regulation 6(3) and insert:

- (3) Subject to subregulation (3A), a document is taken to have been received on a particular day in the office of the Registrar if it is lodged electronically at any time on that day up to and including midnight.
- (3A) If, in accordance with subregulation (3), a document lodged electronically would be received in the office of the Registrar on a Saturday, Sunday or public holiday, the document is taken to have been received in the office of the Registrar on the next day when the office of the Registrar opens to the public for the transaction of business.

8. Regulation 17 amended

Delete regulation 17(4) and insert:

- (4) It is not necessary for a party served with an application to file a response to the application.

9. Regulation 19 amended

Delete regulation 19(2)(b) and insert:

- (b) must be given not less than 5 days (or as the Commission may otherwise direct in a particular case) before the day on which the intervener intends to appear in those proceedings; and

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10. Regulation 20 amended

Delete regulation 20(5) and insert:

- (5) It is not necessary for the respondent to file a response to the application.

11. Regulation 22 amended

Delete regulation 22(5) and insert:

- (5) It is not necessary to file a response to the application.

12. Regulation 23 amended

- (1) In regulation 23(1) delete “give notice to any other party in the form of Form 16 filed with the Registrar requiring the” and insert:

file a notice in the approved form (a *notice to admit*) requiring any other

- (2) After regulation 23(1) insert:

- (1A) The Registrar must serve the notice to admit on the other party.

- (3) In regulation 23(2) delete “serve upon the party giving the notice” and insert:

file

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- (4) Delete regulation 23(3) insert:
 - (3) The Registrar must serve the reply on the party who filed the notice to admit.

13. Regulation 24 amended

- (1) Delete regulation 24(1) and insert:
 - (1) Except as otherwise provided in these regulations or as the Commission otherwise directs in a particular case, as soon as practicable after any notice or document is filed or issued in proceedings before the Commission, the Registrar must serve a copy of the notice or document on each party entitled to be served.
 - (2) After regulation 24(2)(c) insert:
 - (ca) in the case of a public sector body, as defined in the *Public Sector Management Act 1994* section 3(1) —
 - (i) by serving it in a manner described in paragraph (c) on the public sector body;
or
 - (ii) by serving it in a manner described in paragraph (d) on an agent appointed by the public sector body under regulation 63;
- or

14. Regulation 25 amended

- (1) Delete regulation 25(1).

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- (2) Delete regulation 25(3) and insert:
 - (3) A person who provides an email address is to be taken to have consented to being served with documents as an attachment to an email sent to that email address.
- (3) In regulation 25(4) delete “fax number or”.

15. Regulation 26 amended

- (1) Delete regulation 26(1) and insert:
 - (1) If —
 - (a) these regulations require a document to be served; and
 - (b) the party to be served has provided an email address under regulation 25(2),then, unless the contrary intention appears, the document may be served as an attachment to an email sent to that address.

- (2) Delete regulation 26(3).
- (3) In regulation 26(4) delete “or fax”.

16. Regulation 28 deleted

Delete regulation 28.

17. Regulation 30 amended

- (1) In regulation 30(1) after “must” insert:

be made in the approved form and must

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- (2) In regulation 30(3) delete “by fax transmission or”.

18. Regulation 32 amended

- (1) Delete regulation 32(1) and insert:

- (1) Any party to an application may request the Registrar to fix a date and place for the hearing of the application.

- (2) In regulation 32(3) delete “Despite subregulation (1), a” and insert:

A

19. Regulation 32A inserted

After regulation 32 insert:

32A. Proceedings may be determined on the papers

- (1) Subregulation (2) applies in relation to any proceedings before the Commission unless —
- (a) the proceedings require oral evidence to be given; or
 - (b) a party to the proceedings has objected under subregulation (4)(b) to having the proceedings determined on the papers; or
 - (c) the Commission decides in a particular case that it is not appropriate for the proceedings to be determined on the papers.
- (2) The Commission may determine any proceedings by conducting a hearing on the papers.

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- (3) At a hearing on the papers, the Commission may make a determination on the basis of the documents filed or lodged by the parties.
- (4) If the Commission proposes to determine any proceedings by conducting a hearing on the papers, each party must be given —
 - (a) notice of the proposal; and
 - (b) a reasonable opportunity to object to having the proceedings determined on the papers.

20. Regulation 33 amended

In regulation 33(1A) after “Subject to” insert:

regulation 32A and

21. Regulation 40 amended

Delete regulation 40(3) and insert:

- (3) It is not necessary for the respondent to file a response to the application.

22. Regulation 41 amended

Delete regulation 41(5) and insert:

- (5) The party requesting the summons —
 - (a) must cause it to be served personally on the person named in the summons; and
 - (b) must cause a copy of it to be served on any other party to the proceedings; and

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- (c) must ensure that proof of service under paragraph (a) is given in the approved form.

23. Regulation 42 amended

Delete regulation 42(3) and insert:

- (3) It is not necessary to file a response to the application.

24. Regulation 43 amended

Delete regulation 43(1) and insert:

- (1) In any proceedings, the Commission may of its own motion or on application by a party to the proceedings give directions to any party to serve on each other party in the proceedings —
 - (a) a written statement of the oral evidence that the party intends to adduce in chief on any issues of fact to be decided at the hearing; or
 - (b) a written outline of that evidence.

Note: The heading to amended 43 is to read:

Witness statements and outlines of evidence**25. Regulation 48 amended**

- (1) Delete regulation 48(2), (3) and (4) and insert:

- (2) After the application is filed, the Registrar must seek directions from the Commission as to service of the application.

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- (3) The Registrar must serve a copy of the application together with its attachments on those persons directed by the Commission to be served with the application.
- (2) In regulation 48(5) delete “notice of answer in the form of Form 5.” and insert:
- response in the approved form.
- (3) In regulation 48(6) delete “An answering statement must be attached to the notice of answer and” and insert:
- A response
- (4) In regulation 48(7) delete “An answering statement” and insert:
- A response
- (5) Delete regulation 48(8) and (9) and insert:
- (8) After a respondent files a response, the Registrar must serve a copy on the applicant.
- (6) In regulation 48(10) delete “notice and answering statements” and insert:
- responses

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r. 26

- (7) In regulation 48(12) delete “an answering statement” and insert:

a response

26. Regulation 50 amended

- (1) Delete regulation 50(4) and (5) and insert:

(4) The Registrar must serve the application on all the named parties to the award unless the Registrar requests the Commission for directions as to service of the application.

(5) If the Registrar requests the Commission for directions as to service, the Registrar must serve the application on the persons directed to be served.

- (2) In regulation 50(6) delete “notice of answer in the form of Form 5.” and insert:

response in the approved form.

- (3) In regulation 50(7) delete “An answering statement must be attached to the notice of answer and” and insert:

A response

- (4) In regulation 50(8) delete “An answering statement” and insert:

A response

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(5) Delete regulation 50(9) and (10) and insert:

(9) After a respondent files a response, the Registrar must serve a copy on the applicant.

(6) In regulation 50(11) delete “answering statements” and insert:

responses

(7) In regulation 50(13) delete “an answering statement” and insert:

a response

27. Regulation 51 amended

Delete regulation 51(3) and insert:

(3) After the application is filed, the Registrar must seek directions from the Commission as to service of the application.

28. Regulation 52 amended

Delete regulation 52(3) and insert:

(3) It is not necessary to file a response to the application.

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29. Regulation 55 amended

In regulation 55(1)(a) delete “the original of the agreement” and insert:

a copy of the agreement, as

30. Regulation 61 amended

(1) Delete regulation 61(3) and insert:

(3) Unless the Commission otherwise directs, after the application is filed the Registrar must serve a copy of the application on each respondent as soon as reasonably practicable.

(2) In regulation 61(4):

(a) delete “made under section 29(1)(b) of the Act” and insert:

to which subregulation (1) applies

(b) delete “notice of answer in the form of Form 5” and insert:

response in the approved form

(3) After regulation 61(4) insert:

(4A) A respondent who is served with an application to which subregulation (2) applies and who desires to contest the claim may file a response in the approved

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form within 21 days after being served with the application.

- (4) In regulation 61(5) delete “An answering statement must be attached to the notice of answer and” and insert:

A response

- (5) Delete regulation 61(6) and insert:

(6) Unless the Commission otherwise directs, the Registrar must serve a copy of the response on the applicant as soon as reasonably practicable.

- (6) In regulation 61(7) delete “notice and answering statement” and insert:

response

31. Regulation 63A amended

- (1) Delete regulation 63A(3) and insert:

(3) Unless the Commission otherwise directs, after the application is filed the Registrar must serve a copy of the application together with its attachments on the applicant’s employing authority or former employing authority as soon as reasonably practicable.

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- (2) In regulation 63A(4) delete “notice of answer in Form 5” and insert:

response in the approved form

- (3) In regulation 63A(5) delete “An answering statement must be attached to the notice of answer and” and insert:

A response

- (4) Delete regulation 63A(6) and insert:

- (6) Unless the Commission otherwise directs, the Registrar must serve a copy of the response on the applicant as soon as reasonably practicable.

32. Regulation 72 amended

In regulation 72 after “Act must be” insert:

made in the approved form and must be

33. Regulation 73 amended

Delete regulation 73(1) and insert:

- (1) An application to the Full Bench for an order under section 72A(2) of the Act must set out in detail the grounds of the application and must be made in the form of a notice of application in the approved form.

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34. Regulation 82 amended

Delete regulation 82(10).

35. Regulation 89A amended

In regulation 89A delete “Part and Form 31A — ” and insert:

Part —

36. Regulation 89D amended

(1) Delete regulation 89D(1) and insert:

- (1) Except as otherwise directed by the Commission, the chief executive officer must respond to the notice of appeal within 28 days after the service of the notice of appeal by completing and filing in the office of the Registrar 3 copies of —
- (a) a response stating the chief executive officer’s reasons for deciding to take removal action; and
 - (b) a list of all documents, as defined in regulation 20(1), that the chief executive officer considered before making the decision; and
 - (c) a summary of facts or issues of law relied upon by the chief executive officer, including any relevant matters set out in the *Prisons Act 1981* section 107(4); and
 - (d) a reply containing any matters the chief executive officer wishes to raise in relation to the appellant’s case.

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- (2) After regulation 89D(2) insert:
- (3) The Registrar must serve a copy of the response and its attachments on the appellant.

37. Regulation 89E amended

- (1) In regulation 89E(1):
 - (a) delete “regulation 89D, the chief executive must — ” and insert:

regulation 89D —
 - (b) in paragraph (a) before “file” insert:

the chief executive officer must
 - (c) in paragraph (b) delete “serve a stamped” and insert:

the Registrar must serve a
- (2) In regulation 89E(2):
 - (a) delete “subregulation (1), the appellant must — ” and insert:

subregulation (1) —
 - (b) in paragraph (a) before “file” insert:

the appellant must

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(c) in paragraph (b) delete “serve a stamped” insert:

the Registrar must serve a

(3) In regulation 89E(3) delete “both parties are taken to have satisfied the requirements under this regulation in relation to that document.” and insert:

the requirements under this regulation in relation to that document are taken to have been satisfied.

38. Regulation 89F amended

(1) Delete regulation 89F(1) and insert:

(1) The notice of the reformulated reasons required under the *Prisons Act 1981* section 110A(4)(a) to be given to the Commission by the chief executive officer is to be given by completing and filing in the office of the Registrar 3 copies of —

- (a) a statement of the chief executive officer’s reformulated reasons; and
- (b) a summary of facts or issues of law relied upon by the chief executive officer in reformulating the reasons, including any relevant matters set out in the *Prisons Act 1981* section 107(4); and
- (c) a reply containing any matters the chief executive officer wishes to raise in relation to the appellant’s case.

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(2) After regulation 89F(2) insert:

(2A) The Registrar must serve a copy of the statement, the summary and the reply on the appellant.

39. Regulation 89G replaced

Delete regulation 89G and insert:

89G. Withdrawal or discontinuance of appeal against removal

- (1) An appellant may withdraw or wholly discontinue an appeal against removal action, or withdraw any part of the appeal, by completing and filing in the office of the Registrar 3 copies of a notice of withdrawal or discontinuance in the approved form.
- (2) The Registrar must serve a copy of the notice on the chief executive officer.

40. Regulation 89H amended

In regulation 89H delete “Part and Form 31B — ” and insert:

Part —

41. Regulation 89K amended

(1) Delete regulation 89K(1) and insert:

- (1) Except as otherwise directed by the Commission, the chief executive officer must respond to the notice of appeal within 28 days after the service of the notice of

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appeal by completing and filing in the office of the Registrar 3 copies of —

- (a) a response stating the chief executive officer's reasons for deciding to take removal action; and
- (b) a list of all documents, as defined in regulation 20(1), that the chief executive officer considered before making the decision; and
- (c) a summary of facts or issues of law relied upon by the chief executive officer, including any relevant matters set out in the *Young Offenders Act 1994* section 11CI(4); and
- (d) a reply containing any matters the chief executive officer wishes to raise in relation to the appellant's case.

(2) After regulation 89K(2) insert:

- (3) The Registrar must serve a copy of the response and its attachments on the appellant.

42. Regulation 89L amended

(1) In regulation 89L(1):

- (a) delete “regulation 89K, the chief executive officer must — ” and insert:

regulation 89K —

- (b) in paragraph (a) before “file” insert:

the chief executive officer must

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(c) in paragraph (b) delete “serve a stamped” and insert:
the Registrar must serve a

(2) In regulation 89L(2):

(a) delete “subregulation (1), the appellant must — ” and insert:

subregulation (1) —

(b) in paragraph (a) before “file” insert:

the appellant must

(c) in paragraph (b) delete “serve a stamped” and insert:

the Registrar must serve a

(3) In regulation 89L(3) delete “both parties are taken to have satisfied the requirements under this regulation in relation to that document.” and insert:

the requirements under this regulation in relation to that document are taken to have been satisfied.

43. Regulation 89M amended

(1) Delete regulation 89M(1) and insert:

(1) The notice of the reformulated reasons required under the *Young Offenders Act 1994* section 11CL(4)(a) to be given to the Commission by the chief executive officer

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is to be given by completing and filing in the office of the Registrar 3 copies of —

- (a) a statement of the chief executive officer's reformulated reasons; and
- (b) a summary of facts or issues of law relied upon by the chief executive officer in reformulating the reasons, including any relevant matters set out in the *Young Offenders Act 1994* section 11CI(4); and
- (c) a reply containing any matters the chief executive officer wishes to raise in relation to the appellant's case.

(2) After regulation 89M(2) insert:

- (2A) The Registrar must serve a copy of the statement, the summary and the reply on the appellant.

44. Regulation 89N replaced

Delete regulation 89N and insert:

89N. Withdrawal or discontinuance of appeal against removal

- (1) An appellant may withdraw or wholly discontinue an appeal against removal, or withdraw any part of the appeal, by completing and filing in the office of the Registrar 3 copies of a notice of withdrawal or discontinuance in the approved form.
- (2) The Registrar must serve a copy of the notice on the chief executive officer.

Industrial Relations Commission Amendment Regulations 2019

r. 45**45. Regulation 91 amended**

- (1) Delete regulation 91(1) and insert:
 - (1) Except as otherwise directed by the Commission, the Commissioner of Police must respond to the notice of appeal within 28 days after the service of the notice of appeal by completing and filing in the office of the Registrar 3 copies of —
 - (a) a response stating the Commissioner of Police's reasons for deciding to take removal action; and
 - (b) a list of all documents, as defined in regulation 20(1), that the Commissioner of Police considered before making the decision; and
 - (c) a summary of facts or issues of law relied upon by the Commissioner of Police, including any relevant matters set out in the *Police Act 1892* section 33Q(4); and
 - (d) a reply containing any matters the Commissioner of Police wishes to raise in relation to the appellant's case.
- (2) After regulation 91(2) insert:
 - (3) The Registrar must serve a copy of the response, the list of documents, the summary of facts and the reply on the appellant.

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46. Regulation 92 amended

(1) In regulation 92(1):

- (a) delete “regulation 91, both the Commissioner of Police and the appellant must — ” and insert:

regulation 91 —

- (b) in paragraph (a) before “file” insert:

both the Commissioner of Police and the appellant must

- (c) in paragraph (b) delete “serve a stamped” and insert:

the Registrar must serve a

(2) In regulation 92(2) delete “both parties are taken to have satisfied the requirements of subregulation (1) in relation to that document.” and insert:

the requirements of subregulation (1) in relation to that document are taken to have been satisfied.

47. Regulation 93 amended

(1) Delete regulation 93(1) and insert:

(1) The notice of the reformulated reasons required under the *Police Act 1892* section 33R(10)(a) to be given to the Commission by the Commissioner of Police is to be given by completing and filing in the office of the Registrar 3 copies of —

- (a) a statement of the Commissioner of Police’s reformulated reasons; and

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- (b) a summary of facts or issues of law relied upon by the Commissioner of Police in reformulating the reasons, including any relevant matters set out in the *Police Act 1892* section 33Q(4); and
- (c) a reply containing any matters the Commissioner of Police wishes to raise in relation to the appellant's case.

(2) After regulation 93(2) insert:

- (2A) The Registrar must serve a copy of the statement, the summary of facts and the reply on the appellant.

48. Regulation 94 replaced

Delete regulation 94 and insert:

94. Withdrawal or discontinuance of appeal against removal

- (1) An appellant may withdraw or wholly discontinue an appeal against removal action, or withdraw any part of the appeal, by completing and filing in the office of the Registrar 3 copies of a notice of withdrawal or discontinuance in the approved form.
- (2) The Registrar must serve a copy of the notice on the Commissioner of Police.

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49. Regulation 97 amended

In regulation 97(1) delete the Table and insert:

Table

Part 2 except r. 8(1), (3) and (4)	r. 102
Part 3 except r. 13(3)(a)	r. 103
Part 4	

50. Regulation 98 amended

- (1) In regulation 98(3) after “is to give” insert:

to the Registrar

- (2) Delete regulation 98(4) and (5).

51. Regulation 99 replaced

Delete regulation 99 and insert:

99. Chief Commissioner may approve modified form of summons

- (1) For the purposes of this Part, the Chief Commissioner may approve a modified version of the form set out in Schedule 1 Division 1 (a *modified form*) in which any reference in that form to the Commission is changed to a reference to either of the following, as the Chief Commissioner considers appropriate —
- (a) the Commission sitting as the Occupational Safety and Health Tribunal;
 - (b) the Tribunal.

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r. 52

- (2) If the Chief Commissioner approves a modified form for the purposes of this Part, the Commission must publish the modified form on the Commission's website.

52. Regulation 99C amended

In regulation 99C(1) delete the Table and insert:

Table

Part 2 except r. 8(1), (3) and (4)	r. 102
Part 3 except r. 13(3)(a)	r. 103
Part 4	

53. Regulation 99D amended

- (1) Delete regulation 99D(5) and (7).
- (2) In regulation 99D(8) delete "or fax transmission".
- (3) Delete regulation 99D(9) and insert:
- (9) If a copy of the notice of Referral has been sent by email to the Respondent by an officer of the Commission at the direction of the Tribunal, the Tribunal may, before the response is lodged, arrange a conference under the *Owner-Drivers (Contracts and Disputes) Act 2007* section 44(2)(b).

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54. Regulation 99E replaced

Delete regulation 99E and insert:

99E. Chief Commissioner may approve modified form of summons

- (1) For the purposes of this Part, the Chief Commissioner may approve a modified version of the form set out in Schedule 1 Division 1 (a *modified form*) in which any reference in that form to the Commission is changed to a reference to either of the following, as the Chief Commissioner considers appropriate —
 - (a) the Commission sitting as the Road Freight Transport Industry Tribunal;
 - (b) the Tribunal.
- (2) If the Chief Commissioner approves a modified form for the purposes of this Part, the Commission must publish the modified form on the Commission's website.

55. Regulation 101 amended

Delete regulation 101(3A)(b) and insert:

- (b) forward the notice of appeal to the Chief Commissioner for allocation.

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r. 56**56. Regulation 102A amended**

- (1) Delete regulation 102A(3) and insert:
 - (3) After a notice of referral is lodged under subregulation (2), the Registrar must serve a copy of the notice on —
 - (a) the chief executive officer of the Board; and
 - (b) each other person who was a party to the proceedings before the Board.
- (2) Delete regulation 102A(7) and insert:
 - (7) After an application is lodged under subregulation (6), the Registrar must serve a copy of the application on —
 - (a) the chief executive officer of the Board; and
 - (b) each other person who was a party to the proceedings before the Board.

57. Regulation 102 amended

- (1) Delete regulation 102(5) and insert:
 - (5) After the notice of appeal is filed, the Registrar must serve a copy of the notice on each person who was a party to the proceedings before the Commission or on the agent or solicitor who represented that party.

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- (2) Delete regulation 102(9) and insert:
- (9) After an application is made under subregulation (6), the Registrar must serve a copy of the application on each person referred to in subregulation (5).
- (3) After regulation 102(10) insert:
- (10A) If a decision of the Commission that is the subject of an appeal was made in respect of proceedings that were formally joined and matters that were heard and determined together, the appellant may lodge and serve under subregulation (10) the required copies of 1 appeal book that contains the documents required under subregulation (11A) for all of those matters.
- (4) After regulation 102(11) insert:
- (12) If a person who was a party to the proceedings before the Commission proposes to argue at the hearing of the appeal that the decision of the Commission should be upheld on grounds other than those relied on by the Commission in that decision, the person must, within 14 days after service of a copy of the appeal book, file a notice of contention in the approved form that sets out those other grounds.
- (5) In regulation 102(13) delete “Industrial Magistrate.” and insert:
- industrial magistrates court.

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r. 58**58. Regulation 103 amended**

- (1) In regulation 103(2) delete “on proof of service of” and insert:

after serving

- (2) Delete regulation 103(3).

59. Regulation 103A amended

Delete regulation 103A(2) and (3) and insert:

- (2) The appellant in an appeal from a decision of the Commission may at any time apply to the Full Bench for an order discontinuing the appeal by lodging an application in the approved form.
- (3) The Registrar must serve a copy of the application on each person who was a party to the proceedings before the Commission, or on the agent or solicitor who represented that party.

60. Regulation 106 amended

- (1) In regulation 106(1) delete “a notice of appeal in the form of Form 10.” and insert:

an application in the approved form.

- (2) Delete regulation 106(2) and insert:

- (2) The application must clearly and concisely set out the grounds of the application and must be signed by the applicant or the applicant’s agent.

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- (3) Delete regulation 106(4) and (5) and insert:
- (4) The Registrar must serve a copy of the application on the applicant's employer.
- (5) The applicant may apply to the Registrar for a date of hearing.
- (4) In regulation 106(6):
- (a) delete "appellant" (each occurrence) and insert:
- applicant
- (b) delete "appeal" and insert:
- application
- (c) delete "appeal." and insert:
- application.

Note: The heading to amended regulation 106 is to read:

Reclassification applications**61. Regulation 107 amended**

- (1) Delete regulation 107(5) and insert:
- (5) The Registrar must serve a copy of the notice of appeal on the respondent.

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- (2) Delete regulation 107(6) and insert:
- (6) The appellant may request that the appeal be set down for hearing.
- (3) In regulation 107(9) delete “relies and also serves a copy of the same statement on the other party to the appeal or the party’s representative.” and insert:
- relies.
- (4) After regulation 107(9) insert:
- (10) The Registrar must serve a copy of the statement on the other party to the appeal or the party’s representative.

62. Regulation 108 amended

In regulation 108 delete “appellant in the notice of appeal nominates a person to act as the appellant’s” and insert:

applicant in the application nominates a person to act as the applicant’s

Note: The heading to amended regulation 108 is to read:

Nomination of agent for claim under s. 80E(2)

Industrial Relations Commission Amendment Regulations 2019**r. 63**

63. Regulation 111 amended

Delete regulation 111(4) and (5) and insert:

- (4) The Registrar must serve a copy of the notice of appeal on the Public Transport Authority.
- (5) The appellant may apply to the Registrar for a date of hearing.

64. Regulation 118 amended

(1) Delete regulation 118(1) and insert:

- (1) An appeal from a decision of a Board of Reference must be in the approved form and, as soon as practicable after the appeal is filed, the Registrar must serve a copy of it on every other party to the proceedings before the Board of Reference or on the solicitor or agent who represented that party.

(2) In regulation 118(4):

(a) after “served” insert:

by the Registrar

(b) delete “applicant” and insert:

Registrar

65. Regulation 120 amended

In regulation 120(6) delete “in accordance with the *Public Service Miscellaneous Allowances Award* and the *Public*

Industrial Relations Commission Amendment Regulations 2019**r. 66**

Service Motor Vehicle Allowance Award respectively.” and insert:

as determined from time to time by the Chief Commissioner.

66. Various references to “answer” or “answering statement” amended

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
Pt. 3 Div. 1 Heading	answer	response
r. 13(4)	an answering statement	a response
r. 13(5)	answers (each occurrence)	responses
r. 13(6)	answering statement	response
r. 13(7)	an answer	a response
r. 14	notice of answer	response
r. 14	the answer	the response
r. 16(4)	answer	response
r. 18(4)(a) and (b)	notice of answer	response
r. 22(1)	answer,	response,
r. 30(2)	answering statement	response

Industrial Relations Commission Amendment Regulations 2019**r. 66**

Provision	Delete	Insert
r. 31	answers,	responses,
r. 53(3)	answering statement	response
r. 54A(2)	an answer	a response
r. 55(2B)	an answer	a response
r. 89D(2)	notice of answer	response
r. 89K(2)	notice of answer	response
r. 91(2)	answer,	response,
r. 99D(3) and (4)	an answering statement	a response
r. 99D(4)	any answering statement	any response
r. 99D(6)	notice of answer	response
r. 99D(6)	the answer	the response
r. 102(11A)(c) and (i)	answer	response
r. 107(6A)	notice of answer	response

Note: The heading to amended regulation 14 is to read:

Response

Industrial Relations Commission Amendment Regulations 2019**r. 67****67. Various amendments relating to the service of documents**

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
r. 17(3)	applicant	Registrar
r. 18(3)	applicant	Registrar
r. 20(4)	applicant	Registrar
r. 22(4)	applicant	Registrar
r. 40(2)	applicant	Registrar
r. 43(3)	applicant	Registrar
r. 44(4)	applicant	Registrar
r. 45(5)	applicant	Registrar
r. 56(c)	party retiring	Registrar
r. 89C	appellant must serve a stamped	Registrar must serve a
r. 89J	appellant must serve a stamped	Registrar must serve a
r. 91A	appellant must serve a stamped	Registrar must serve a

Industrial Relations Commission Amendment Regulations 2019**r. 68****68. Various references to forms amended**

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
r. 13(1)	form of Form 1	approved form
r. 14	form of Form 5	approved form
r. 15(1)	form of Form 13	approved form
r. 16(1)	form of Form 14	approved form
r. 16(4)	form of Form 14.	approved form.
r. 18(1)(a)	form of Form 1; and	approved form; and
r. 27(3)	Form 1	the approved form
r. 32(2)	form of Form 15	approved form
r. 41(1)	of Form 17.	set out in Schedule 1 Division 1.
r. 56(a)	of Form 6; and	set out in Schedule 1 Division 2; and
r. 58(1)	Form 1	the approved form
r. 59(1)	Form 1.	the approved form.
r. 60(1)	Form 12.	the approved form.
r. 61(1)	Form 2	the approved form
r. 61(2)	Form 3	the approved form

Industrial Relations Commission Amendment Regulations 2019**r. 68**

Provision	Delete	Insert
r. 63A(2)	Form 4A —	the approved form —
r. 63(1) and (3)	form of Form 18	approved form
r. 66(1)	of Form 19.	set out in Schedule 1 Division 3.
r. 66(3)	form of Form 13	approved form
r. 67(1)	of Form 19.	set out in Schedule 1 Division 3.
r. 67(3)	form of Form 13	approved form
r. 68(1)	of Form 19.	set out in Schedule 1 Division 3.
r. 68(4)	form of Form 13	approved form
r. 69(1) and (2)	form of Form 20.	approved form.
r. 69(5)	form of Form 13	approved form
r. 70(1) and (2)	form of Form 20.	approved form.
r. 71(1)	form of Form 20.	approved form.
r. 71(3)	form of Form 13	approved form
r. 73(2)	Form 1,	approved form
r. 74(2)	form of Form 21.	approved form.
r. 75(1)	form of Form 22.	approved form.

Industrial Relations Commission Amendment Regulations 2019**r. 68**

Provision	Delete	Insert
r. 76(1)	form of Form 23.	approved form.
r. 77(1)	of Form 24.	set out in Schedule 1 Division 4.
r. 77(2)	of Form 25.	set out in Schedule 1 Division 4.
r. 77(3)	of Form 26.	set out in Schedule 1 Division 4.
r. 77(4)	of Form 27.	set out in Schedule 1 Division 4.
r. 77(5)	of Form 28.	set out in Schedule 1 Division 4.
r. 82(1)	form of Form 29.	approved form.
r. 82(2).	form of Form 30.	approved form.
r. 82(8)	Form 1	the approved form
r. 82(11)	Form 1.	the approved form.
r. 85	form of Form 1.	approved form.
r. 89B	form of Form 31A.	approved form.
r. 89D(2)	form of Form 5	approved form
r. 89I	form of Form 31B.	approved form.
r. 89K(2)	form of Form 5	approved form
r. 90	form of Form 31.	approved form.

Industrial Relations Commission Amendment Regulations 2019**r. 68**

Provision	Delete	Insert
r. 96(1)	form of Form 7.	approved form.
r. 99B	Form 7A.	the approved form.
r. 99D(6)	form of Form 5	approved form
r. 100(1)	form of Form 1.	approved form.
r. 101(1)	form of Form 9A.	approved form.
r. 102A(2)	form of Form 9B.	approved form.
r. 102(1)	form of Form 9.	approved form.
r. 102(7)(a)	Form 1; and	the approved form; and
r. 103(8)	form of Form 15.	approved form.
r. 103(9)	form of Form 1	approved form
r. 107(1)	form of Form 11	approved form
r. 107(6A)	form of Form 5	approved form
r. 111(1)	form of Form 10.	approved form.

Industrial Relations Commission Amendment Regulations 2019**r. 69**

69. Schedule 1 replaced

Delete Schedule 1 and insert:

Schedule 1 — Forms

[r. 3]

Division 1 — Summons

[r. 41(1), 99(1) and 99E(1)]

*Industrial Relations Act 1979**Industrial Relations Commission Regulations 2005***Summons to give evidence and/or produce documents****Application No.** This Summons is issued by the Western Australian Industrial Relations
Commission**PARTY DETAILS IN THE MATTER TO WHICH THE
SUMMONS RELATES****Applicant / Appellant:****Respondent / Other Party:**

- ① If there is more than 1 applicant/appellant or respondent/other party, please attach a separate page which contains the names of those parties.

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PERSON SUMMONED**Name:****Postal address:****Email address:****Telephone number:**

- ① The postal address provided must be a street address. A **PO Box** or **Locked Bag** number is **not an acceptable postal address** for the purposes of this form.

Do you believe that the person summoned may need the assistance of an interpreter and/or any special assistance when attending the Commission (such as wheelchair accessibility or a hearing loop)?

- no
 yes — interpreter
 yes — special assistance

Note: If you have answered yes to either of the above options (i.e. the possible need for an interpreter and/or special assistance) the Commission will make contact with the person summoned to determine their specific needs prior to the listed proceedings.

THE PERSON SUMMONED IS DIRECTED TO:

- attend** before the Commission to give oral evidence at the time and date set out below, and remain until you are excused by the Commission;

and / or

- produce** to the Commission all books, papers or other documents in your possession, or under your control, that are relevant to the matter before the Commission, including:

Industrial Relations Commission Amendment Regulations 2019**r. 69**

Please set out the books, papers or other documents that you believe are in the possession or under the control of the person summoned. **The items set out must be relevant to the matter before the Commission.**

1.

2.

3.

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DATE, TIME AND ADDRESS OF COMMISSION HEARING

Date to attend / produce:
Time to attend / produce:
Address of hearing:

DETAILS OF PERSON ISSUING THIS SUMMONS

	<input type="checkbox"/> Applicant <input type="checkbox"/> Respondent <input type="checkbox"/> Other:
Representative:	
Contact person:	
Postal address:	
Email address:	
Telephone number:	
Signature:	

- ① If you are lodging this form using the Commission's online lodgment system, please type your name in full in the signature box above. If you are submitting this form in person, by post or via email, it must be signed.

If you do not comply with this summons consequences may follow, which can include the Commission imposing penalties on you.

FOR INFORMATION ABOUT THIS SUMMONS AND HOW TO COMPLY WITH IT, PLEASE SEE THE FOLLOWING

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INFORMATION FOR THE PERSON SUMMONED

The form set out in the *Industrial Relations Commission Regulations 2005* Schedule 1 Division 1 — **Summons to Give Evidence and/or Produce Documents** — is the prescribed form for requiring a person to attend a hearing before the Western Australian Industrial Relations Commission to give oral evidence, or to produce the documents set out within the summons, or to do both of those things.

This summons is issued under the *Industrial Relations Act 1979* and in accordance with the *Industrial Relations Commission Regulations 2005*. It is an important document and you must comply with the directions in it.

A SUMMONS MUST BE SERVED BY DELIVERING IT TO YOU IN PERSON.

In addition, at the time of service, an amount of money that is likely to be enough to meet your reasonable travel expenses to allow you to attend the hearing before the Commission must be given to you. This is often called conduct money. If you are located within the metropolitan area, conduct money is usually the cost of a bus or train fare from your home to the address of the Commission hearing. If you are located outside of the metropolitan area, conduct money may be equivalent to the cost of your train, plane or bus fare.

The summons has information in it which sets out the date, time and address of the Commission hearing. The time stated is the scheduled commencement time of the hearing. You may choose to contact the person who issued the summons to see if they can give you a more definite time during the hearing that you might be called to give your evidence. Otherwise, your attendance is required at the scheduled commencement time.

If you think that you do not have any relevant evidence to give and/or relevant documents to produce to the Commission, you can apply to **have the Commission set aside the summons**. You can also apply to **give your evidence by video-link or telephone**.

Either of those applications must be made to the Commission in the approved form before the scheduled hearing date.

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If you do not comply with this summons consequences may follow, which can include the Commission imposing penalties on you.

THE ABOVE INFORMATION IS PROVIDED AS A GENERAL GUIDE ONLY

Division 2 — Notice of intention to retire from industrial agreement

[r. 56(a)]

*Industrial Relations Act 1979**Industrial Relations Commission Regulations 2005*

Notice of a party's intention to retire from an industrial agreement

Application No.

This Notice is lodged in the Western Australian Industrial Relations Commission

Details of the party giving notice to retire from an industrial agreement

- ① Please provide the details of the party to the industrial agreement who is lodging this notice, i.e. the party intending to retire from an agreement.

Legal name of organisation or business:
Business trading name:

Business ACN or ABN:
Name of contact person:

Industrial Relations Commission Amendment Regulations 2019**r. 69****Postal address:**

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Suburb:**State or Territory:****Postcode:**

- ① The postal address provided must be a street address. A **PO Box** or **Locked Bag** number is **not an acceptable postal address** for the purposes of this application.

Telephone number:

--

Email address:

--

Details of the other party or parties to the industrial agreement

- ① Please provide the details of the other named party or parties to the industrial agreement that you intend to retire from. **If there is more than 1 other party, please attach a separate page which contains the information that is required below, for each additional party.**

OTHER PARTY**Legal name of organisation or business:****Business trading name:****Business ACN or ABN:****Name of contact person:**

Postal address:

--

Suburb:**State or Territory:****Postcode:**

- ① The postal address provided must be a street address. A **PO Box** or **Locked Bag** number is **not an acceptable postal address** for the purposes of this application.

Industrial Relations Commission Amendment Regulations 2019

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Details of the industrial agreement

- ① Please provide the agreement number and name, in full, of the industrial agreement that you intend to retire from.

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THE PURPOSE OF THIS NOTICE IS TO INFORM THE COMMISSION AND THE OTHER PARTY OR PARTIES TO THE ABOVE INDUSTRIAL AGREEMENT THAT A PARTY TO THAT AGREEMENT INTENDS TO RETIRE FROM IT. **THE RETIREMENT OF THAT PARTY FROM THE INDUSTRIAL AGREEMENT WILL TAKE EFFECT 30 DAYS FROM THE DATE OF FILING THIS NOTICE.**

Signature of the party giving notice to retire from an industrial agreement

- ① If you are lodging this form using the Commission's online lodgment system, please type your name in full in the signature box below. If you are submitting this form in person, by post, or via email, it must be signed.

Signature:

--

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**Division 3 — Application to register organisation
or association**

[r. 66(1), 67(1) and 68(1)]

*Industrial Relations Act 1979**Industrial Relations Commission Regulations 2005***Application to register an employee or employer organisation or an
industrial association**Application No.

This application is made to the Western Australian Industrial Relations
Commission

The purpose of the application is to register a new employee or employer
organisation or to register an industrial association.

Application for registration is made by:

- ① Please insert the full name of the organisation or industrial association that is
seeking registration in the space below.

Registration of the new organisation is sought as:

- an organisation of employees (*Industrial Relations Act 1979* s. 53)
 an organisation of employers (*Industrial Relations Act 1979* s. 54)
 an industrial association (*Industrial Relations Act 1979* s. 67)

**Has the new organisation been formed as a result of the proposed
amalgamation of 2 or more existing organisations?**

- no
 yes — please provide the full names of the amalgamating organisations
below

Organisation 1:

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Organisation 2:

Organisation 3:

Applicant's details

- ① Please provide the details of the organisation(s), or industrial association(s) making this application. **If there is more than 1 applicant, please attach a separate page which contains the information that is required below, for each additional applicant.**

**Full name of
organisation or
industrial association:**

Name of contact person:

**Address of registered
office of organisation or
industrial association:**

Suburb:	WA	Postcode:
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- ① The address provided must be the address of the registered office of the organisation or industrial association. A PO Box or Locked Bag number is not an acceptable postal address for the purposes of this application.

Telephone number:

Email address:

Do you need an interpreter?

yes — language required

no

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Do you, or any person attending the Commission with you, require any special assistance (such as wheelchair accessibility or a hearing loop)?

yes — please specify:

--

no

Applicant's representative's details

- ① You may have a representative present your case on your behalf, such as a registered industrial agent, a union official (if you are a member of a union) or a lawyer. If you have a representative, please provide their contact details below.

You are not required to have a representative and may present your own case.

Do you have a representative?

yes

no

Name of representative:

**Name of organisation,
agent or law firm:**

Postal address:

Suburb:

State or Territory:

Postcode:

Telephone number:

Email address:

If you have a representative, the Commission will contact either you or your representative, so you need to decide whether you are to be, or your representative is to be, the contact person for the Commission. Who would you like the Commission to send documents and correspondence to, relating to your application?

to you **or** to your representative

How would you like that correspondence to be sent?

by email **or** by post

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- ① If you choose to receive documents and correspondence by email, or to have documents and correspondence sent by email to your representative on your behalf, it is your or your representative's responsibility to check your email inbox regularly for communication from the Commission.

DOCUMENT CHECKLIST**APPLICATION FOR REGISTRATION AS AN EMPLOYEE OR EMPLOYER ORGANISATION**

To apply for registration as an employee or employer organisation, the following documents are to be provided and attached to this application when it is lodged:

- ① Please confirm that the following documents have been attached to this application by ticking each of the check boxes below. **If this application seeks the registration of a new organisation as a result of the proposed amalgamation of 2 or more existing organisations, the documents required in points 1, 3, 4 and 5 below must be provided for each organisation.**
1. 3 copies of a list containing the full names of the officers of the organisation, with their respective addresses; and
 2. 3 printed or type-written copies of the rules of the organisation, certified as being correct by the president or secretary of the organisation; and
 3. 3 copies of the information given to members in accordance with the *Industrial Relations Act 1979* s. 55(4)(b); and
 4. 3 copies of the resolution of the organisation authorising the making of this application to the Commission; and
 5. a statement, in the form of a statutory declaration made by the president or secretary (as authorised by the organisation's rules) which details the process undertaken by the organisation to inform its members, including how notices were disseminated. The statement must also provide evidence of the required resolutions having been made, in accordance with the rules of the organisation.

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NOTE:

If this application is being lodged in person or by post, where specified above 3 copies of documents must be provided. If the application is being lodged using the Commission's online lodgment system, or via email, you need only provide 1 copy of each of the required documents.

DOCUMENT CHECKLIST**APPLICATION FOR REGISTRATION OF AN INDUSTRIAL ASSOCIATION**

To apply for the registration of an industrial association, the following documents are to be provided and attached to this application when it is lodged:

- ① Please confirm that the following documents have been attached to this application by ticking each of the check boxes below.
1. 3 copies of a list containing the full names of the organisations that are represented on the council or other body; and
 2. 3 copies of a list containing the full name and address of each person representing those organisations on the council or other body; and
 3. 3 copies of a list containing the full names and addresses of the officers of the council or other body; and
 4. 3 printed or type-written copies of the rules of the council or other body, certified as being correct by the president or chairman and secretary of the council or other body; and
 5. 3 copies of the information given to members of the council or other body in accordance with the *Industrial Relations Act 1979* s. 55(4)(b), as applied by the *Industrial Relations Act 1979* s. 67(3); and
 6. 3 copies of the resolution of the council or other body authorising the making of this application to the Commission; and
 7. a statement, in the form of a statutory declaration made by the president, chairman or secretary (as authorised by the rules of the council or other body) which details the process undertaken by the council or other body to inform its members, including how notices

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were disseminated; the statement must also provide evidence of the required resolutions, in accordance with the rules of the council or other body.

NOTE:

If this application is being lodged in person or by post, where specified above 3 copies of documents must be provided. If the application is being lodged using the Commission's online lodgment system, or via email, you need only provide 1 copy of each of the required documents.

Applicant's signature

- ① If you are lodging this form using the Commission's online lodgment system, please type your name in full in the signature box below. If you are submitting this form in person, by post, or via email, it must be signed.

Applicant(s)**Division 4 — Certificate of registration**

[r. 77(1), (2), (3), (4) and (5)]

*Industrial Relations Act 1979**Industrial Relations Commission Regulations 2005***Certificate of registration of an organisation or industrial association, or change of name or alteration of rules**

This Certificate is given by the Registrar, Western Australian Industrial Relations Commission

This Certificate certifies that —

- the organisation identified below has been duly registered as an organisation under the *Industrial Relations Act 1979*.
- the industrial association identified below has been duly registered as an industrial association under the *Industrial Relations Act 1979*.

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- that the organisations formerly registered as:

and

have been duly registered under the *Industrial Relations Act 1979* as the organisation that is identified below. **The registration of each of the organisations formerly registered (above) is cancelled with effect from the date of this Certificate.**

- the annexed alteration of rules of the organisation or industrial association identified below has been duly registered under the *Industrial Relations Act 1979*. The rules altered are:

- on the hearing of the application duly made on behalf of:

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the Commission has consented to the name of the organisation or industrial association being changed to the name identified below, which has been duly registered.

NAME OF ORGANISATION OR INDUSTRIAL ASSOCIATION THAT THIS CERTIFICATE IS ISSUED TO:

**Full name of
organisation or
industrial association:**
**Address of registered
office of organisation or
industrial association:**

Suburb:	WA	Postcode:

This Certificate takes effect on and from

--

Registrar

Western Australian Industrial Relations Commission