

EXPLANATORY STATEMENT

Statutory Rules 1984 No. 315

Conciliation and Arbitration Regulations (Amendment)

(Issued by the Authority of the Minister for
Employment and Industrial Relations)

The amendments to the Conciliation and Arbitration Regulations are designed to take account of changes to Part VIIIA of the Act made by the Conciliation and Arbitration Amendment Act 1983. Part VIIIA provides for the amalgamation of registered organizations.

In general terms the amendments to Part VIIIA of the Act allow:

- (i) simultaneous ballots to be held on proposals involving alternative amalgamation ballots.
- (ii) applications to the Australian Conciliation and Arbitration Commission for a declaration that a proposed amalgamation is in the public interest and in the industrial interests of the organizations concerned;
- (iii) relaxed voting requirements in amalgamation ballots where a declaration of the type referred to in the previous paragraph has been made; and
- (iv) the definition of the roll of voters for amalgamation ballots.

The regulations amend Part VA of the Principal Regulations to deal with these changes.

The regulations insert provisions designed to set down requirements for the conduct of ballots on amalgamation proposals and for proceedings before the Federal Court into alleged irregularities in relation to amalgamation ballots. The amendments and new provisions are as follows:

- . regulation 1 of the Conciliation and Arbitration Regulations (Amendment) provides a citation of the Principal Regulations;
- . regulation 2 amends regulation 146A to provide definitions for the terms "ballot", "closing date", "commencing date", "inquiry" and "postal address";
- . regulation 3 inserts new regulations 146N, 146P, 146Q, 146R, 146S, 146T, 146U, 146V, 146W, 146X, 146Y, 146Z, 146ZA, 146ZB, 146ZC, 146ZD, 146ZE and 146ZF.

- new regulation 146N provides the requirements for the preparation of the roll of voters for an amalgamation ballot of the members of an organization;
- new regulation 146P provides for the inspection of the roll of voters prepared in accordance with new regulation 146N by members of the organization or any other person authorized by the person conducting the ballot;
- new regulation 146Q provides that notice of the ballot is to be in accordance with new forms 39B or 39C and that notices are to be published in a metropolitan daily newspaper in the relevant State or Territory;
- new regulation 146R makes provision relating to the secrecy of a ballot and provides penalties for non-compliance with the directions of the person conducting the ballot;
- new regulation 146S provides for the use of forms 39D or 39E for an amalgamation ballot or an alternative amalgamation ballot respectively;
- new regulation 146T sets out the requirements for the dispatch of amalgamation or alternative amalgamation ballot papers and the procedures for the re-issue of new ballot papers where the initial papers were not received, lost, destroyed or spoiled by the voter;
- new regulation 146U sets out the requirements for the manner in which amalgamation or alternative amalgamation ballot papers are to be marked and handled by the voter;
- new regulation 146V sets out the procedures to be followed by the person conducting the ballot relating to the custody of the ballot papers;
- new regulation 146W sets out the procedures to be followed by the person conducting the ballot with respect to the handling and counting of amalgamation and alternative amalgamation ballot papers;
- new regulation 146X makes provision for the appointment or selection of scrutineers and sets out the rights of scrutineers in relation to a ballot;
- new regulation 146Y sets out the requirements for the issue of a certificate setting out the particulars of the ballot and the declaration of the result of the ballot; the regulation also provides for the issue of a copy of that certificate to the organizations involved and, where appropriate, to the Industrial Registrar;

- new regulation 146Z sets out the requirements for the preservation of ballot papers pending the expiration of the period for the hearing of claims by the Federal Court into alleged ballot irregularities under section 158P of the Act;
- new regulation 146ZA sets out the procedures to be used in making an application to the Court for an inquiry into any alleged ballot irregularity under section 158P of the Act;
- new regulation 146ZB sets out certain procedures of the Federal Court for arranging the hearing of an inquiry into an alleged ballot irregularity;
- new regulation 146ZC makes provision for the Federal Court to arrange for the inspection of ballot papers during the hearing of an inquiry into an alleged ballot irregularity;
- new regulation 146ZD sets out the procedures to be followed by the Federal Court for purposes of the hearing of an inquiry into alleged ballot irregularities;
- new regulation 146ZE provides for the issue of interim orders by the Federal Court; and
- new regulation 146ZF contains offence provisions in relation to 146ZC or regulation 146ZE.

regulation 4 inserts new forms 39B (Notice of Ballot in respect of a proposed amalgamation), 39C (Notice of Ballot in respect of an alternative amalgamation), 39D (Ballot Paper in respect of proposed amalgamation), 39E (Ballot Papers in respect of a proposed amalgamation and of an alternative amalgamation) and 39F (Application for inquiry under section 158P in the Federal Court, of Australia) in Schedule 1 of the Principal Regulations.