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# Workplace Relations (Registration and Accountability of Organisations) Regulations 2003

Statutory Rules 2003 No. 1

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I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under section 359 of Schedule 1B to the *Workplace Relations Act 1996*.

Dated - 1 MAY 2003 2003

**PETER HOLLINGWORTH**  
 Governor-General

By His Excellency's Command

**TONY ABBOTT**  
 Minister for Employment and Workplace Relations

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**Regulation 1**

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**Part 1 Preliminary****1 Name of Regulations**

These Regulations are the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003*.

**2 Commencement**

These Regulations commence on 12 May 2003.

**3 Definitions**

(1) In these Regulations:

*Act* means the *Workplace Relations Act 1996*.

*authorised*, in relation to a person making, signing or lodging a document in the Industrial Registry, means a person authorised in accordance with regulation 12.

*prepaid envelope* means the envelope referred to as 'another envelope' in paragraph (a) of the definition of *postal ballot* in section 6 of the RAO Schedule, and in paragraphs 65 (6) (b), 102 (3) (b) and 188 (b) of the RAO Schedule.

*RAO Schedule* means Schedule 1B to the *Workplace Relations Act 1996*.

*Rules of the Commission* means rules made under section 48 of the Act.

(2) A reference to a form by number is a reference to the form of that number in Schedule 1.

(3) An expression used in these Regulations and in the RAO Schedule has the same meaning in these Regulations as in the RAO Schedule.

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**Regulation 5**

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**4 Meaning of *approved auditor***

For the definition of *approved auditor* in section 6 of the RAO Schedule, an approved auditor means:

- (a) a person who:
  - (i) is a member of CPA Australia, The Institute of Chartered Accountants in Australia or the National Institute of Accountants; and
  - (ii) holds a current Public Practice Certificate; or
- (b) in relation to a reporting unit that has been issued with a certificate under subsection 270 (1) of the RAO Schedule, a person who is:
  - (i) a member of CPA Australia, The Institute of Chartered Accountants in Australia or the National Institute of Accountants; and
  - (ii) approved by the Industrial Registrar.

**5 Declaration envelope — prescribed form**

- (1) For the definition of *declaration envelope* in section 6 of the RAO Schedule, a declaration envelope provided to a voter by a person conducting an election or ballot must comply with the following form:
  - (a) the declaration envelope must be a smaller envelope that fits inside a prepaid envelope without needing to be folded;
  - (b) the declaration envelope must contain on it a removable flap or label with the following details printed on it:
    - (i) the name and postal address of the voter;
    - (ii) the declaration mentioned in subregulation (2);
    - (iii) a place for the signature of the voter.
- (2) The declaration must state that the voter:
  - (a) is the voter named on the envelope; and
  - (b) has voted on the ballot paper contained in the envelope; and
  - (c) has not voted before in this ballot.

**Regulation 6**

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- (3) To preserve the secrecy of the vote, the person conducting the election or ballot must remove the flap or label mentioned in paragraph (1) (b) from the declaration envelope before removing the ballot paper from the envelope.

**6 Postal ballot — prescribed form of prepaid envelope**

For paragraph (a) of the definition of *postal ballot* in section 6 of the RAO Schedule, and for paragraphs 65 (6) (b), 102 (3) (b) and 188 (b) of the RAO Schedule, the envelope referred to as ‘another envelope’ must comply with the following form:

- (a) the envelope must be an outer envelope that the person conducting the election is satisfied is large enough to have a declaration envelope placed in it for return to that person;
- (b) the return address of the person conducting the election must be printed on the envelope.

**7 Prescribed employing authorities**

For the definition of *employing authority* in section 6 of the RAO Schedule, the employing authorities prescribed for the definition of *employing authority* in section 4 of the Act are prescribed.

**8 Definition of *State industrial authority* — prescribed tribunal**

For paragraph (c) of the definition of *State industrial authority* in section 6 of the RAO Schedule, any State board, court, tribunal, body or official prescribed for paragraph (c) of the definition of *State industrial authority* in subsection 4 (1) of the Act is prescribed.

**Regulation 11**

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**9 Declarations — prescribed officers**

For subsections 52 (1), 104 (1), 192 (1) and 198 (7), paragraph 233 (1) (a) and subsection 236 (1) of the RAO Schedule, a prescribed officer of an organisation or branch is an officer of the organisation or branch, other than the secretary, who is authorised under the rules of the organisation or branch to make, sign or certify the declaration mentioned in the subsection or paragraph.

**10 Prescribed State (RAO Schedule, Ch 11, Pt 7)**

For Part 7 of Chapter 11 of the RAO Schedule, South Australia is a prescribed State.

**11 Prescribed State Act (RAO Schedule, Ch 11, Pt 7)**

For Part 7 of Chapter 11 of the RAO Schedule, the *Industrial and Employee Relations Act 1994* (SA) is a prescribed State Act.

**Regulation 12**

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**Part 2 Documents****12 Authorisation to make, sign or lodge documents**

- (1) An officer of an association, organisation, branch, constituent part or reporting unit is authorised to make, sign or lodge any document (however described) under the RAO Schedule or these Regulations if the officer is authorised to do so:
  - (a) by the association, organisation, branch, constituent part or reporting unit; or
  - (b) by the rules of the association, organisation, branch, constituent part or reporting unit.
- (2) A person is authorised to make, sign or lodge a document under the RAO Schedule or these Regulations on behalf of another person if the person has the written authority of the other person.
- (3) An officer or person is authorised to make, sign or lodge a document under the RAO Schedule or these Regulations on behalf of a company that is not an organisation if the officer or person is authorised under the seal of the company to do so.
- (4) A person is authorised to make, sign or lodge a document under the RAO Schedule or these Regulations on behalf of a committee of management if the person is authorised to do so by the committee.

**13 Lodgment of documents in Industrial Registry**

- (1) Any document required under the RAO Schedule or these Regulations to be lodged in the Industrial Registry may be lodged by:
  - (a) leaving it with a Registrar; or
  - (b) properly addressing, prepaying and posting the document; or
  - (c) electronic means prescribed by the Rules of the Commission; or



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**Regulation 15**

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- (d) any means authorised in writing by the Commission.
- (2) An application or notice lodged in the Industrial Registry must:
  - (a) if lodged by an organisation — be under the common seal of the organisation or be signed by a person authorised to sign the application or notice; or
  - (b) if lodged by an association or branch — be signed by a person authorised to sign the application or notice; or
  - (c) if lodged by a committee of management — be signed by a member of the committee of management; or
  - (d) if jointly lodged — be signed in accordance with this subregulation by each party to the lodgment; or
  - (e) if lodged by an individual — be signed by the individual.

**14 Content of notices of objections lodged in Industrial Registry**

A notice of objection lodged in the Industrial Registry must:

- (a) state the name and address of the organisation, association or person lodging the notice of objection (the *objector*); and
- (b) state the grounds of objection; and
- (c) set out the particulars of each ground of objection; and
- (d) briefly state the facts the objector relies on for each ground of objection.

**15 Service of documents**

- (1) Every document lodged in the Industrial Registry must be indorsed with:
  - (a) the name of the party lodging the document; and
  - (b) an address that may be used as an address for service.
- (2) A document lodged by an association, organisation or person with an electronic mailing address may be indorsed with an electronic address for service.
- (3) A document may be served electronically on an association, organisation or person with an electronic address for service.

**Regulation 16**

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**16 Publication of documents**

- (1) A person who is required under the RAO Schedule or these Regulations to publish notice of a matter in a specified manner may publish an additional notice of the matter by other reasonable means.
- (2) If the RAO Schedule or these Regulations require the Commission or the Industrial Registrar to publish any application or notice in the *Gazette* or a newspaper, the application or notice must also be published on the Commission's web site.
- (3) A notice published by the Commission or Industrial Registrar in the *Gazette*, in a newspaper or on the Commission's web site must include the postal address and electronic mailing address of the Commission or Industrial Registrar for lodgment and service of documents.
- (4) An application published by the Commission or Industrial Registrar in the *Gazette*, in a newspaper or on the Commission's web site must be accompanied by a note advising that a copy of the application, and copies of any documents relating to the application, can be obtained from the Industrial Registrar on the request of:
  - (a) any organisation, association, branch, constituent part or reporting unit; or
  - (b) a member of 1 of those bodies.
- (5) The Registrar must supply a copy of an application to the organisation, association, branch, constituent part, reporting unit or member as soon as practicable after receiving a request under subregulation (4).
- (6) Unless the RAO Schedule or these Regulations provide otherwise, a document that is required by this regulation to be published on a web site must be published on the web site no later than the day the document is required to be published by other means.

**Regulation 18**

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**17 Sending documents**

If a Registrar or the AEC is required or permitted, under the RAO Schedule or these Regulations, to send (by any means) a document (however described) to an association, organisation, branch, reporting unit or constituent part, unless the RAO Schedule, these Regulations or the rules of the association, organisation, branch, reporting unit or constituent part provide otherwise, the document may be sent by:

- (a) giving an electronic copy of the document to the association, organisation, branch, reporting unit or constituent part on a disk; or
- (b) sending an electronic copy of the document to the electronic mailing address of the association, organisation, branch, reporting unit or constituent part.

**18 Supply of copies of documents**

- (1) A Registrar, the AEC or an association, organisation, branch, reporting unit or constituent part may supply a copy of a document (however described) to a person by any method, and in any form, agreed with the person.

*Examples*

- 1 By giving a hard copy of the document to the person.
  - 2 By giving an electronic copy of the document to the person on a disk.
  - 3 By sending an electronic copy of the document to the person's electronic mailing address.
  - 4 By publishing a copy of the document on a web site on the Internet accessible by the person.
- (2) Unless the RAO Schedule or these Regulations provide otherwise, the Registrar, AEC, organisation, branch, reporting unit or constituent part may, before supplying a person with a copy of a document in a particular form under subregulation (1), charge the person an amount to cover the reasonable cost of supplying the copy in that form.
  - (3) A person may agree under subregulation (1) to receive copies of all or any documents by a particular method or in a particular form.

**Regulation 19**

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**19 Supply of copies of rules (RAO Schedule, s 347)**

- (1) A request under section 347 of the RAO Schedule:
  - (a) may be made electronically; and
  - (b) must be made in accordance with the rules of the organisation or branch.
- (2) An organisation or branch must respond to a request within 28 days after receiving the request.
- (3) For paragraph 347 (4) (d) of the RAO Schedule, the prescribed fee is \$20 or the cost of providing the copy, whichever is less.
- (4) For paragraph 347 (4) (e) of the RAO Schedule, the prescribed fee is \$5 or the cost of providing the copy, whichever is less.

**20 Inspection of documents**

- (1) A person, on giving reasonable notice, may inspect any document lodged in the Industrial Registry under the RAO Schedule or these Regulations, other than a document lodged under section 236, 237 or 272 of the RAO Schedule.
- (2) Documents may be inspected:
  - (a) at a registry; and
  - (b) during the hours of opening prescribed by the *Workplace Relations Regulations 1996*.
- (3) A person may, on application, obtain an office copy or a certified copy of any document inspected.

**Part 3**                      **Registration and cancellation  
of registration (RAO Schedule,  
Ch 2)**

**Division 1**                **Registration (RAO Schedule, Ch 2,  
Pt 2)**

**21**                      **Application for registration (RAO Schedule, s 18)**

- (1) An application by an association under section 18 of the RAO Schedule for registration as an organisation must:
- (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) contain a declaration, made by an officer of the association authorised to make the declaration, verifying the facts stated in the application and in any document lodged with the application; and
  - (c) be lodged in the Industrial Registry; and
  - (d) be lodged with the following documents:
    - (i) a list of the members of the association, showing the name and postal address of each member;
    - (ii) a list of the offices in the association and in each branch of the association;
    - (iii) a list of the names, postal addresses and occupations of the persons holding the offices;
    - (iv) a list of the branches of the association, showing for each branch its name and the location of its office;
    - (v) the rules of the association and the rules of each of its branches;

**Regulation 22**

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- (vi) a copy of a resolution in favour of the registration of the association as an organisation passed in accordance with the rules of the association by a majority of the members of the association present at a general meeting of the association or by an absolute majority of the committee of management of the association.
- (2) An association applying for registration may lodge in the Industrial Registry an additional statement supporting the application.

**22 Notification of application for registration (RAO Schedule, s 18)**

As soon as practicable after receiving an application for registration, the Industrial Registrar must publish a notice in the *Gazette* stating that an application for registration has been received.

**23 Objection to registration (RAO Schedule, s 18)**

- (1) Any interested organisation, association or person (the *objector*) may, no later than 35 days after a notice under regulation 22 is published in the *Gazette*, lodge in the Industrial Registry a notice of objection to the registration of the association.
- (2) The notice of objection must:
- (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) be lodged in the Industrial Registry; and
  - (c) comply with the requirements of regulation 14.
- (3) The Commission may allow an objector to amend a notice of objection if:
- (a) a further application is made; and
  - (b) the objector satisfies the Commission that the objector has further grounds for objection arising from the application mentioned in paragraph (a).

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- (4) Within 7 days after a notice of objection is lodged in the Industrial Registry, the objector must serve a copy of the notice of objection on the association.
- (5) An association:
  - (a) may, no later than 14 days after service on it under subregulation (4) of a copy of the notice of objection, lodge in the Industrial Registry, in answer to the objection, a written statement signed by an officer of the association authorised to sign the statement; and
  - (b) must, no later than 7 days after lodging a written statement under paragraph (a), serve a copy of that statement on the objector.

**24 Hearing of application for registration (RAO Schedule, s 18)**

- (1) The Commission, in dealing with an application for registration, must not:
  - (a) refuse to grant the application without giving the applicant an opportunity to be heard; or
  - (b) grant the application without giving an objector who has complied with regulation 23 an opportunity to be heard.
- (2) The Commission, in order to give the applicant and the objector mentioned in paragraph (1) (b) (the *objector*) an opportunity to be heard, must:
  - (a) fix a time and place for a hearing; and
  - (b) notify the applicant and the objector of the time and place fixed for the hearing.
- (3) At the hearing, the Commission may give directions relating to the manner in which the hearing is to proceed and may:
  - (a) determine the matter without further delay; or
  - (b) adjourn the proceedings to a later day; or
  - (c) with the agreement of the applicant and the objector, determine the matter on a later day without a further hearing.

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**25 Withdrawal of application for registration (RAO Schedule, s 18)**

- (1) An association seeking to withdraw an application for registration may, at any time before the application is determined by the Commission, lodge in the Industrial Registry:
  - (a) a notice of withdrawal; and
  - (b) a resolution in favour of withdrawing an application for registration passed in accordance with the rules of the association by a majority of the members present at a general meeting of the association or by an absolute majority of the committee of management of the association.
- (2) A notice of withdrawal must:
  - (a) contain a declaration made by an officer of the association authorised to make the declaration verifying the facts stated in the notice of withdrawal any documents lodged with the application; and
  - (b) be lodged in the Industrial Registry.
- (3) The Industrial Registrar must publish the notice of withdrawal in the *Gazette* as soon as practicable after the notice is lodged.

**26 Applicants for Federal Court order (RAO Schedule, s 23 (2) (b))**

For paragraph 23 (2) (b) of the RAO Schedule, the following persons are prescribed:

- (a) an officer of an association or organisation of which the person mentioned in paragraph 23 (2) (a) of the RAO Schedule is a member;
- (b) the Employment Advocate.



**27 Application to change name of association or to alter its rules (RAO Schedule, s 25)**

An application by an association under section 25 of the RAO Schedule to change its name or alter its rules must, unless the Commission otherwise directs, be:

- (a) in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
- (b) lodged in the Industrial Registry.

**28 Alteration of rules — lodgment of copies (RAO Schedule, s 25)**

An association that has altered its rules in accordance with leave granted by the Commission under subsection 25 (1) of the RAO Schedule must:

- (a) within 35 days after altering its rules, lodge in the Industrial Registry:
  - (i) 2 copies of the alterations; and
  - (ii) a declaration, signed by an officer of the association authorised to sign the declaration, verifying the alterations; and
- (b) within 7 days after lodging the copies of the alterations in the Industrial Registry, serve a copy of the alterations on any objector who has lodged a notice of objection under regulation 23.

**29 Registration of associations — prescribed particulars (RAO Schedule, s 26 (1))**

For subsection 26 (1) of the RAO Schedule, the following particulars are prescribed:

- (a) the name of the association applying for registration;
- (b) the eligibility rules of the association;
- (c) if the association is registered in relation to a particular industry — a description of the industry;
- (d) if the association is an enterprise association — the name of the enterprise.

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**30 Prescribed form of certificate of registration (RAO Schedule, s 26 (4))**

For subsection 26 (4) of the RAO Schedule, the prescribed form for a certificate of registration is Form 1.

**31 Issue of copy and replacement certificates (RAO Schedule, s 26 (6))**

- (1) Before the Industrial Registrar may exercise his or her powers under subsection 26 (6) of the RAO Schedule, the Industrial Registrar must be satisfied the certificate of registration issued under subsection 26 (4) of the RAO Schedule to an organisation has been defaced, lost or destroyed.
- (2) If the certificate of registration has been defaced, the organisation must surrender the certificate to the Industrial Registrar before the Industrial Registrar may issue the organisation with a copy of, or a certificate replacing, the certificate of registration.
- (3) A certificate issued under subsection 26 (6) of the RAO Schedule replacing a certificate of registration must be in a form approved by the Industrial Registrar.

**32 Extract from register**

- (1) The Industrial Registrar, on the application of an organisation, must supply the organisation with an extract of entry from the register kept under paragraph 13 (1) (a) of the RAO Schedule in relation to that organisation.
- (2) An application under subregulation (1) must be:
  - (a) in a form approved by the Industrial Registrar; and
  - (b) lodged in the Industrial Registry.
- (3) An extract of entry from the register in relation to an organisation must:
  - (a) be in a form approved by the Industrial Registrar; and
  - (b) be certified by a Registrar to be an accurate record of the register; and

- (c) contain the following particulars:
  - (i) the date of registration of the organisation;
  - (ii) the name of the organisation when it was registered;
  - (iii) the date of cancellation of the registration (if applicable);
  - (iv) the name of the organisation when its registration was cancelled (if applicable);
  - (v) the current name of the organisation;
  - (vi) any other particular the Registrar mentioned in paragraph (b) considers appropriate.

## **Division 2                      Cancellation of registration (RAO Schedule, Ch 2, Pt 3)**

### **33                      Cancellation of registration (RAO Schedule, s 30 (1) (a))**

An organisation may apply under paragraph 30 (1) (a) of the RAO Schedule for the cancellation of its registration if:

- (a) approval has been given to the organisation to apply:
  - (i) under subsection 187 (1) of the Act for the cancellation of all the terms of all awards binding on the organisation; and
  - (ii) for the cancellation of the registration of the organisation;  
by a majority of the members voting at a ballot of the members taken in accordance with any rules that apply or, if no rules apply, in accordance with:
    - (iii) any rules of the organisation providing for the election of any of its officers by a direct voting system; or
    - (iv) if subparagraph (iii) does not apply — procedures approved by the Commission; and
- (b) the application mentioned in subparagraph (a) (i) has been granted.

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**34 Application for cancellation of registration (RAO Schedule, s 30 (1) (a))**

- (1) An application by an organisation under paragraph 30 (1) (a) of the RAO Schedule for the cancellation of its registration must:
  - (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) set out full particulars of the circumstances that entitle the organisation to make the application; and
  - (c) contain a declaration signed by an officer of the organisation authorised to sign the declaration verifying the facts in the application; and
  - (d) be lodged in the Industrial Registry.
- (2) An organisation that has a web site must publish on its web site a notice that it has lodged the application mentioned in subregulation (1).
- (3) The Commission, on receipt of an application mentioned in subregulation (1), must publish a notice of the receipt of the application in the *Gazette*.
- (4) Within 35 days after publication of the notice mentioned in subregulation (2), an interested person (the **objector**) may lodge in the Industrial Registry a notice of objection to the application for cancellation of registration.
- (5) A notice of objection must:
  - (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) be lodged in the Industrial Registry; and
  - (c) comply with the requirements of regulation 14.
- (6) An objector must, within 7 days after lodging a notice of objection under subregulation (4), serve copies of the notice of objection on the organisation applying to cancel its registration.
- (7) The Commission must:
  - (a) fix a time and place for hearing the application and any objection to the application; and
  - (b) notify the organisation and any objector of the time and place fixed for the hearing.

- (8) The Commission must not:
- (a) refuse to grant an application for cancellation of registration without giving the applicant an opportunity to be heard; or
  - (b) grant the application without giving any objector an opportunity to be heard.

**35 Application for cancellation of registration (RAO Schedule, s 30 (1) (b))**

- (1) An application under paragraph 30 (1) (b) of the RAO Schedule for the cancellation of the registration of an organisation must:
- (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) state the grounds for the application; and
  - (c) briefly state the facts the applicant relies on to support the application; and
  - (d) contain a declaration signed by the applicant or a person authorised by the applicant verifying the facts stated in the application; and
  - (e) be lodged in the Industrial Registry.
- (2) The applicant must, within 7 days after lodging an application for the cancellation of the registration of an organisation, serve a copy of the application on the organisation.
- (3) If an application is made for the cancellation of the registration of an organisation on 1 of the grounds mentioned in paragraph 30 (1) (b) of the RAO Schedule, the Commission must, with a view to satisfying itself whether the registration of the organisation is liable to cancellation on that ground, give the organisation an opportunity to make written submissions to the Commission and, if the organisation wishes to be heard, to be heard in support of any of those submissions.

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**36 Cancellation of registration of defunct organisation  
(RAO Schedule, s 30 (1) (c))**

- (1) For paragraph 30 (1) (c) of the RAO Schedule, the Commission must, with a view to satisfying itself that an organisation is defunct, comply with the following subregulations.
- (2) The Commission must make appropriate inquiries by letters sent by post to:
  - (a) the organisation at its office; and
  - (b) the members of the committee of management of the organisation as last known to the Commission at their postal addresses as last known to the Commission.
- (3) If, after inquiries made under subregulation (2), the Commission fails to satisfy itself whether the organisation is defunct, the Commission must publish in the *Gazette* a notice stating that:
  - (a) subject to consideration of any objections lodged in accordance with the notice, the registration of the organisation will, at the end of 1 month after the date of publication of the notice, be cancelled on the ground that the organisation is defunct; and
  - (b) a person who wishes to show cause why the registration of the organisation should not be cancelled on that ground may, within 1 month after the date of publication of the notice, lodge in the Industrial Registry a notice of objection.
- (4) A notice of objection must:
  - (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) be lodged in the Industrial Registry; and
  - (c) comply with the requirements of regulation 14.
- (5) If a person has lodged a notice of objection under paragraph (3) (b), the Commission must give the person an opportunity to appear before it and to be heard in support of the objection.

## Part 4                      Amalgamation and withdrawal from amalgamation (RAO Schedule, Ch 3)

### Division 1                Amalgamation of organisations (RAO Schedule, Ch 3, Pt 2)

#### 37            Definitions

(1) In this Division:

**applicant**, for a proposed amalgamation, means an organisation or association that is a party to an application under section 44 of the RAO Schedule in relation to the proposed amalgamation.

**ballot** means a ballot mentioned in Part 2 of Chapter 3 of the RAO Schedule.

**closing day**, for a ballot, means the day fixed as the closing day of the ballot under subsection 58 (1) of the RAO Schedule.

**commencing day**, for a ballot, means the day fixed as the commencing day of the ballot under subsection 58 (1) of the RAO Schedule.

**inquiry** means an inquiry by the Federal Court under section 69 of the RAO Schedule into alleged irregularities in relation to a ballot.

**Judge** means a Judge of the Federal Court sitting in chambers.

**multiple ballot paper** means a ballot paper that, under subsection 65 (3) of the RAO Schedule, is to be used for 2 or more ballots.

**scrutineer** means a person appointed or allowed to be a scrutineer under subregulation 68 (1) or (3).

(2) An expression used in this Division and in Part 2 of Chapter 3 of the RAO Schedule has the same meaning in this Division as in that Part of that Chapter of the RAO Schedule.

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- (3) A reference in this Division to a document (however described) being signed by an authorised officer of a body is a reference to the document being signed by an officer of the body authorised in accordance with regulation 12 to sign the document.
- (4) A reference in this Division to a ballot paper includes a reference to a multiple ballot paper.

**38 Federations (RAO Schedule, s 38 (1))**

- (1) An application under subsection 38 (1) of the RAO Schedule for recognition as a federation must be lodged with a copy of:
  - (a) the proposed rules of the proposed federation; or
  - (b) the agreement relating to the powers and functions of the proposed federation.
- (2) For paragraph 38 (2) (b) of the RAO Schedule, the following particulars are prescribed:
  - (a) the name of the proposed federation;
  - (b) the names of its constituent organisations;
  - (c) its postal address or address for service;
  - (d) the names of its proposed officers.
- (3) For subsection 38 (3) of the RAO Schedule, the period of 3 years is prescribed.
- (4) For subsection 38 (4) of the RAO Schedule, the following details are prescribed:
  - (a) the federation's name;
  - (b) the names of its constituent organisations.
- (5) If a federation varies its composition under subsection 38 (7) of the RAO Schedule, the Industrial Registrar must enter particulars of the variation in the register kept under paragraph 13 (1) (a) of the RAO Schedule.
- (6) For paragraph 38 (8) (b) of the RAO Schedule, the period of 3 years is prescribed.
- (7) For paragraph 38 (8) (c) of the RAO Schedule, the following persons are prescribed:
  - (a) the Minister;



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- (b) a person or organisation interested in making an application under that paragraph.
- (8) If, after a federation is registered under section 38 of the RAO Schedule, there is a change to:
- (a) any particular of a kind mentioned in subregulation (2); or
  - (b) the federation's rules; or
  - (c) the agreement relating to the federation's powers and functions;
- the federation must, within 28 days after the change, give a statement to the Industrial Registrar setting out full particulars of the change.

*Note* This subregulation is a civil penalty provision (see regulation 168).

**39 Application for a community of interest declaration (RAO Schedule, s 43 (1))**

An application under subsection 43 (1) of the RAO Schedule for a declaration must:

- (a) be in writing; and
- (b) state the grounds for making the application; and
- (c) nominate 1 of the applicants as the applicant authorised to receive, on behalf of the applicants, service of:
  - (i) documents relating to the application or to the proposed amalgamation; and
  - (ii) documents relating to each proposed alternative amalgamation; and
- (d) be lodged in the Industrial Registry.

**40 Application for approval for submission of amalgamation to ballot (RAO Schedule, s 44 (1))**

- (1) An application under subsection 44 (1) of the RAO Schedule must:
- (a) be in writing; and
  - (b) state the grounds for making the application; and

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- (c) nominate 1 of the applicants as the applicant authorised to receive, on behalf of the applicants, service of documents relating to:
    - (i) the application or the proposed amalgamation; and
    - (ii) each proposed alternative amalgamation; and
  - (d) be lodged in the Industrial Registry; and
  - (e) be lodged with a copy, signed by an authorised officer of the applicant whose committee of management passed it, of each resolution under subsection 42 (1) of the RAO Schedule relating to the proposed amalgamation.
- (2) Service of a document mentioned in paragraph (1) (c) on the applicant nominated for that paragraph is taken to be service on each of the applicants.
- (3) If the proposed amalgamation, or any alternative provision of the proposed amalgamation, involves the registration of an association as an organisation, the application must be lodged with copies, each of which is signed by an authorised officer of each organisation lodging it, of documents relating to the association that are documents of a kind mentioned in subparagraph 21 (1) (d) (i), (ii), (iii) or (iv).

**41 Application for exemption from ballot (RAO Schedule, s 46 (1))**

An application for exemption from ballot under subsection 46 (1) of the RAO Schedule must:

- (a) be in writing; and
- (b) state the grounds for making the application.

**42 Application for ballot not conducted under section 65 of RAO Schedule (RAO Schedule, s 47 (1))**

An application under subsection 47 (1) of the RAO Schedule must:

- (a) be of the kind mentioned in that subsection; and
- (b) comply with paragraph 64 (b) of the RAO Schedule.

**43 Withdrawal of applications lodged under section 43, 44, 46 or 47 of RAO Schedule**

- (1) A party to an application under subsection 43 (1) or 44 (1) of the RAO Schedule may lodge in the Industrial Registry a notice of withdrawal of the application.
- (2) The parties to an application under subsection 43 (1) or 44 (1) of the RAO Schedule may jointly lodge in the Industrial Registry a notice of withdrawal of the application.
- (3) A party to an application under subsection 46 (1) or 47 (1) of the RAO Schedule may lodge in the Industrial Registry a notice of withdrawal of the application.
- (4) Each party to the lodgment of a notice of withdrawal must lodge with the notice a statement, signed by an authorised officer of that party, that the committee of management of that party has passed a resolution approving the proposed withdrawal.
- (5) The Industrial Registrar must take steps to ensure that a notice lodged under subregulation (1) is brought to the attention of the organisations, associations and persons likely to be affected by the withdrawal.

**44 Submissions at amalgamation hearings — prescribed matters (RAO Schedule, s 54 (3))**

For subsection 54 (3) of the RAO Schedule, the following matters are prescribed:

- (a) any proposed alteration to the name of an existing organisation concerned in the proposed amalgamation;
- (b) any proposed alterations of the eligibility rules of an existing organisation concerned in the proposed amalgamation.

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**45 Public notification of refusal to approve the submission of an amalgamation to ballot (RAO Schedule, s 55 (2))**

- (1) If, under subsection 55 (2) of the RAO Schedule, the Commission refuses to approve the submission of an amalgamation to ballot, the Industrial Registrar must publish a notice of the refusal:
  - (a) in at least 1 newspaper; and
  - (b) no later than 14 days after the refusal.
- (2) The Industrial Registrar must be of the opinion that the notice mentioned in subregulation (1) is likely to come to the attention of persons likely to be affected by the proposed amalgamation.
- (3) The notice must state:
  - (a) the grounds mentioned in regulation 48; and
  - (b) that an objection must be lodged by the time prescribed under regulation 49.

**46 Manner of making objections (RAO Schedule, s 56)**

- (1) For section 56 of the RAO Schedule, an objection is made by lodging a notice of objection in the Industrial Registry.
- (2) A notice of objection must:
  - (a) be lodged within the time prescribed by regulation 49; and
  - (b) comply with the requirements of regulation 14.

**47 Prescribed persons who may make an objection (RAO Schedule, s 56 (3))**

For subsection 56 (3) of the RAO Schedule, any person or organisation interested in a proposed amalgamation is a prescribed person in relation to an objection to the proposed amalgamation.

**48 Prescribed grounds for an objection (RAO Schedule, s 56 (3))**

For subsection 56 (3) of the RAO Schedule, each of the following grounds is a prescribed ground for an objection to a proposed amalgamation:

- (a) if the proposed amalgamation involves the registration of an association as an organisation — the association does not meet (or, if the amalgamation takes effect, will not meet) the requirements for registration under Part 2 of Chapter 2 of the RAO Schedule;
- (b) if the proposed amalgamation involves a change in the name of an organisation — the proposed new name of the organisation is the same as that of another organisation or is so similar to the name of another organisation that it is likely to cause confusion;
- (c) if the proposed amalgamation involves a widening of the eligibility rules of an existing organisation — there is another organisation to which persons who:
  - (i) are potential members of the amalgamating organisations; and
  - (ii) would be ineligible to join any of the amalgamating organisations if the rules of those organisations were not widened;might more conveniently belong and would more effectively represent those members.

**49 Prescribed time for lodging an objection (RAO Schedule, s 57 (1))**

For subsection 57 (1) of the RAO Schedule, the prescribed time for making an objection under section 56 of the RAO Schedule is:

- (a) a time fixed by the Commission; or
- (b) any additional time allowed by the Commission; or
- (c) if no time is fixed by the Commission, 28 days after the date of publication (or, if there is more than 1 date of publication, the first date of publication) of a notice under regulation 45 relating to the relevant proposed amalgamation.

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**50 Service of notice of objection (RAO Schedule, s 56)**

A person or organisation lodging a notice of objection under regulation 46 must serve a copy of the notice of objection, within 7 days of the lodgment, on the applicant nominated for paragraph 40 (1) (c).

**51 Statement in reply to an objection (RAO Schedule, s 56)**

- (1) All applicants served with a copy of a notice of objection under regulation 50 may jointly lodge in the Industrial Registry a statement that:
  - (a) is signed by authorised officers of each applicant organisation or association; and
  - (b) sets out the facts relied on in answer to the objection.
- (2) A statement mentioned in subregulation (1) must be lodged no later than 14 days after the applicants are served with the copy of the notice of objection.
- (3) A copy of the statement must be served on each party to the notice of objection within 7 days after the lodgement of the statement.

**52 Hearing of objections (RAO Schedule, s 56)**

- (1) The Commission, in dealing with the application for a proposed amalgamation, must:
  - (a) fix a time and place for the hearing of any objection made under section 56 of the RAO Schedule in relation to the application; and
  - (b) serve notice of the time and place fixed for the hearing on:
    - (i) the applicants; and
    - (ii) each objector whose objection is to be heard at the hearing.
- (2) For paragraph (1) (a), the Commission may fix separate hearings for different objections if the Commission thinks it appropriate.

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- (3) The Commission, in fixing a time under subregulation (1), must have regard to regulations 50 and 51.
- (4) At the hearing of an objection, the Commission may, if it thinks fit, allow oral evidence to be given.

**53 Applicants to be heard before an application may be refused (RAO Schedule, s 57 (2))**

Before deciding to refuse to approve, under subsection 57 (2) of the RAO Schedule, the submission of an amalgamation to ballot, the Commission must give the applicants for the approval the opportunity to be heard.

**54 Industrial Registrar to supply copies of documents to AEC (RAO Schedule, s 50)**

If an organisation has applied for approval for the submission of an amalgamation to ballot, the Industrial Registrar must, as soon as practicable, supply the AEC with copies of:

- (a) the scheme for the amalgamation lodged with the application under section 44 of the RAO Schedule; and
- (b) the written outline of the scheme of amalgamation lodged with the application under that section; and
- (c) each statement lodged under section 48 or 60 of the RAO Schedule in relation to the proposed amalgamation; and
- (d) each amendment of, or document lodged in substitution for, a document mentioned in paragraph (a), (b) or (c).

**55 Form and publication of notice of ballot (RAO Schedule, s 58)**

- (1) If the Commission has fixed, under section 58 of the RAO Schedule, the commencing day and closing day of a ballot, the electoral official conducting the ballot must give notice of the fixing of the days to the members entitled to vote at the ballot.

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- (2) The electoral official may give a notice under subregulation (1) by post, by newspaper advertisement or by any other reasonable means the electoral official thinks necessary to ensure that the notice is brought to the attention of the members entitled to vote at the ballot.

**56 Preparation of roll of voters (RAO Schedule, s 59)**

The roll of voters for a ballot of the members of an organisation must:

- (a) be prepared at the direction of the electoral official conducting the ballot; and
- (b) set out opposite the name of each person on the roll the postal address of the person; and
- (c) be closed no later than 14 days before the commencing day of the ballot.

**57 Inspection of roll of voters (RAO Schedule, s 59)**

- (1) An electoral official conducting a ballot of the members of an organisation must make the roll available for inspection and copying during ordinary business hours at the place where the official carries out his or her duties in relation to the ballot, in the period starting the day after the day when the roll was closed under paragraph 56 (c) and ending 30 days after the declaration of the result of the ballot.
- (2) The electoral official must make the roll available for inspection and copying by:
  - (a) a member of the organisation; and
  - (b) any other person authorised by the electoral official.
- (3) The roll may be kept, and copies may be supplied, electronically.
- (4) If a copy of a roll, or a copy of part of a roll, is made or supplied under this regulation, a person must not use information in the roll for a purpose other than:
  - (a) a purpose in connection with the ballot; or



- (b) to monitor the accuracy of the information contained in the roll.

Penalty: 10 penalty units.

**58 Scheme for amalgamation — electoral official to supply copies of documents on request (RAO Schedule, s 65 (8))**

If the AEC has received 1 or more documents under paragraph 54 (a) or (b) and a member entitled to vote at the ballot makes a written or oral request to the electoral official conducting the ballot for a copy of any of those documents, the electoral official must, as soon as practicable after receiving the request from the member, supply the member with a copy or copies of any document requested without charge.

**59 Ballot not conducted under section 65 of RAO Schedule — electoral official to fix commencement and closing times, and give information and material to persons entitled to vote**

- (1) If the Commission approves, under section 64 of the RAO Schedule, a proposal, an electoral official must:
- (a) fix the places, and the times of commencement and closing, of the meetings of members for the ballot on the proposal; and
  - (b) include in the notice given under regulation 55 in relation to the ballot details of:
    - (i) the places and times fixed under paragraph (a); and
    - (ii) the procedure for obtaining and exercising an absentee vote in relation to the ballot; and
  - (c) post to each member entitled to vote at the ballot, addressed to the postal address of the member shown on the roll of voters:
    - (i) a copy of the latest version (incorporating all subsequent alterations or amendments) of the written outline of the relevant scheme for amalgamation lodged under paragraph 44 (2) (b) of the RAO Schedule; and

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- (ii) copies of the latest version (incorporating all subsequent amendments) of each statement lodged under subsection 48 (1) or 60 (2) of the RAO Schedule; and
  - (iii) notification of the entitlement of the member to obtain a copy of the relevant scheme for amalgamation lodged under paragraph 44 (2) (a) of the RAO Schedule or, if appropriate, of that scheme as amended or substituted, together with particulars of where and how the copy of the scheme may be obtained.
- (2) Documents required to be sent under subregulation (1) must be sent in sufficient time for them to be delivered, in the ordinary course of post, at least 7 days before the relevant commencing day.

**60 Ballot papers — forms (RAO Schedule, s 65)**

- (1) A ballot paper for use in a ballot of the members of an organisation in relation to a proposed amalgamation must be in the appropriate form mentioned in subregulation (2) or (3).
- (2) For a ballot in relation to a proposed amalgamation that does not contain an alternative provision:
  - (a) an organisation may elect to use a ballot paper in a form specified as appropriate for this paragraph; or
  - (b) if an election is not made, the organisation must use a form specified as appropriate for this paragraph.
- (3) For a ballot in relation to a proposed amalgamation that contains an alternative provision:
  - (a) an organisation may elect to use a ballot paper in a form specified as appropriate for this paragraph; or
  - (b) if an election is not made, the organisation must use a form specified as appropriate for this paragraph.
- (4) For subregulations (2) and (3), *specified* means:
  - (a) specified in the Rules of the Commission; or
  - (b) otherwise specifically approved by the President.

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- (5) An election under subregulation (2) or (3) must be approved by the committee of management of the organisation.
- (6) A notice of an election under subregulation (2) or (3), and a statement, signed by an authorised officer of the organisation, that the committee of management of the organisation has approved the election, must be lodged in the Industrial Registry:
  - (a) at the time the relevant application under section 44 of the RAO Schedule in respect of the proposed amalgamation is lodged; or
  - (b) within such further time as the Commission allows.
- (7) The electoral official conducting a ballot may provide with the ballot paper:
  - (a) directions to be followed by a member entitled to vote in the ballot so that the vote complies with these Regulations; and
  - (b) other directions that the electoral official reasonably believes may assist in ensuring an irregularity does not occur in the conduct of the ballot; and
  - (c) notes to assist a member entitled to vote in the ballot by informing him or her of matters relating to conduct of the ballot.

**61 Issuing of ballot papers — attendance voting (RAO Schedule, s 64)**

For a ballot of the kind mentioned in section 64 of the RAO Schedule, an electoral official must issue to each member entitled to vote at the ballot a ballot paper or multiple ballot paper (whichever applies) bearing:

- (a) the initials of the electoral official; or
- (b) a facsimile of those initials.

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**62 Duplicate ballot papers — attendance voting (RAO Schedule, s 64)**

If a voter at a ballot of the kind mentioned in section 64 of the RAO Schedule satisfies the presiding electoral official, before depositing the ballot paper or multiple ballot paper in the ballot box, that the voter has accidentally spoilt the paper, the official must:

- (a) mark 'spoilt' on the paper and initial the marking; and
- (b) keep the paper; and
- (c) issue a fresh ballot paper or multiple ballot paper (whichever applies) to the voter.

**63 Dispatch of ballot papers (RAO Schedule, s 65 (8))**

For a ballot of a kind mentioned in section 65 of the RAO Schedule, an electoral official must, as soon as practicable, but no earlier than 2 days before the commencing day of the ballot, post to each member entitled to vote at the ballot a sealed envelope, addressed to the postal address of the member shown on the roll of voters, containing:

- (a) 1 ballot paper or multiple ballot paper (whichever applies) for the ballot:
  - (i) bearing the initials of the electoral official or a facsimile of those initials; and
  - (ii) stating the time, on the closing day of the ballot, by which the vote must be received; and
- (b) any document the RAO Schedule or these Regulations requires to be posted with the ballot paper; and
- (c) any other material the electoral official considers to be relevant to the ballot; and
- (d) a declaration envelope in which the voter must place his or her ballot paper; and
- (e) a prepaid envelope, addressed to the AEC, that may be posted without cost to the voter; and
- (f) details of the place where the voter may obtain a copy of:
  - (i) the relevant scheme for amalgamation lodged under paragraph 44 (2) (a) of the RAO Schedule; or

- (ii) if appropriate, the scheme as altered or amended, or a subsequent scheme.

**64 Duplicate ballot paper etc — postal voting (RAO Schedule, s 64 (b) (vi) and 65 (8))**

- (1) If, on the written application of a member entitled to vote in a ballot, an electoral official is satisfied that:
- (a) a ballot paper or multiple ballot paper; or
  - (b) another document required to be posted with a ballot paper or ballot papers;  
that was posted to the member under regulation 63, or for subparagraph 64 (b) (vi) of the RAO Schedule:
  - (c) has not been received by the member; or
  - (d) has been lost or destroyed; or
  - (e) in the case of a ballot paper or multiple ballot paper, has been spoilt;
- the electoral official must immediately issue a duplicate of the relevant document to the member.
- (2) An application under subregulation (1) must:
- (a) be received by the electoral official on or before the closing day of the ballot; and
  - (b) state the grounds for making the application; and
  - (c) if practicable, be accompanied by evidence that verifies, or tends to verify, those grounds; and
  - (d) contain a declaration to the effect that the member has not voted at the ballot; and
  - (e) in a case mentioned in paragraph (1) (e), be accompanied by that paper.
- (3) An electoral official to whom a spoilt paper is returned under paragraph (2) (e) must deal with the paper in accordance with paragraphs 62 (a) and (b).

**65 Manner of voting (RAO Schedule, s 65 (8))**

After recording his or her vote, a voter must:

- (a) comply with any direction under subregulation 60 (7); and

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- (b) place the ballot paper in the declaration envelope, complete the declaration and seal the declaration envelope; and
- (c) place the declaration envelope in the prepaid envelope and seal the prepaid envelope; and
- (d) send the prepaid envelope to the AEC to reach the AEC no later than the time on the closing day of the ballot noted on the ballot paper.

**66 Custody of ballot papers (RAO Schedule, s 64 and 65 (8))**

- (1) The electoral official conducting a ballot or ballots of the members of an organisation must keep the ballot papers and other material relating to the ballot or ballots in safe custody until a scrutiny is conducted in accordance with regulation 67.
- (2) If, after the closing day of a ballot or ballots of the kind mentioned in section 65 of the RAO Schedule, the electoral official receives envelopes purporting to contain ballot papers for the ballot or ballots, he or she must keep them in safe custody.

**67 Scrutiny (RAO Schedule, s 64 and 65 (8))**

- (1) The electoral official conducting a ballot must determine the result of the ballot by conducting a scrutiny in accordance with this regulation.
- (2) As soon as practicable after the close of a ballot, the electoral official must:
  - (a) admit the valid votes and reject the informal votes; and
  - (b) count the valid votes, and record the number:
    - (i) in favour of the proposal; and
    - (ii) against the proposal; and
  - (c) count the informal votes.

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- (3) In the case of a scheme for amalgamation that contains a proposed alternative provision, if the electoral official is satisfied the result of the ballot on that provision is required to be known for the purposes of the RAO Schedule he or she must:
- (a) admit the valid votes, and reject the informal votes, on that provision; and
  - (b) count the valid votes, and record the number:
    - (i) in favour of that provision; and
    - (ii) against that provision; and
  - (c) count the informal votes on that provision.
- (4) A vote is informal only if:
- (a) the ballot paper does not bear:
    - (i) the initials of an electoral official; or
    - (ii) a facsimile of those initials; or
  - (b) the ballot paper is marked in a way that permits the voter to be identified; or
  - (c) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or
  - (d) a person returning material mentioned in paragraph 63 (c) with the ballot paper does not comply with a direction given under subregulation 60 (7); or
  - (e) the prepaid envelope contains the ballot paper of another voter.
- (5) However, a vote is not informal because of paragraph (4) (a) if the electoral official is satisfied the ballot paper in question is authentic.
- (6) If the electoral official conducting the ballot is informed by a scrutineer that the scrutineer objects to a ballot paper being admitted as formal or rejected as informal, the official must:
- (a) decide whether the ballot paper is to be admitted as formal or rejected as informal; and
  - (b) endorse that decision on the ballot paper and initial the endorsement.

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- (7) If the electoral official conducting the ballot is informed by a scrutineer to the effect that, in the scrutineer's opinion, an error has been made in the conduct of the scrutiny, the electoral official must decide whether an error has been made and, if appropriate, direct what action is to be taken to correct or mitigate the error.

**68 Scrutineers (RAO Schedule, s 64 and 65 (8))**

- (1) In relation to a ballot of the members of an organisation on a proposed amalgamation, the committee of management of the organisation may appoint members as scrutineers to safeguard the interests of the members who approve of the amalgamation.
- (2) An appointment under subregulation (1) must be made by an instrument signed on behalf of the committee of management by an authorised officer of the organisation.
- (3) If members of an organisation (the *opposing members*) have lodged, under subsection 60 (2) of the RAO Schedule, a written statement in opposition to the proposed amalgamation or any proposed alternative amalgamation, the electoral official conducting a ballot of the members of the organisation in relation to the amalgamation must allow members of the organisation who appear to the official to represent the opposing members to be scrutineers for the ballot to safeguard the interests of members who disapprove of the amalgamation.
- (4) Subject to subregulations (5), (6) and (7):
- (a) a scrutineer may be present:
    - (i) at the issue of ballot papers under regulation 61; and
    - (ii) at the preparation and dispatch of ballot material under regulations 59 and 63; and
    - (iii) at the receipt and placement of ballot material in safe custody under regulation 66; and
    - (iv) at the scrutiny of ballot material under regulation 67; and
  - (b) at the scrutiny mentioned in subparagraph (a) (iv):
    - (i) if the scrutineer objects to a decision that a ballot paper is formal or informal; or



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- (ii) if the scrutineer considers that an error has been made in the conduct of the scrutiny;  
the scrutineer may inform the electoral official conducting the ballot accordingly.
- (5) At any time during the period of scrutiny:
- (a) the number of scrutineers appointed under subregulation (1) and in attendance at the scrutiny; and
  - (b) the number of scrutineers mentioned in subregulation (3) and in attendance at the scrutiny;
- must not, in either case, exceed the number of electoral officials engaged on the scrutiny at that time.
- (6) If a member appointed under subregulation (1) fails to produce the member's instrument of appointment for inspection by the electoral official conducting the ballot when requested by the official to do so, the official may refuse to allow the member to attend or act as a scrutineer.
- (7) If a person:
- (a) is not entitled to be present, or to remain present, at the scrutiny; or
  - (b) interrupts the scrutiny of a ballot, except to perform a function mentioned in paragraph (4) (b);
- the electoral official conducting the ballot may direct the person to leave the place where the scrutiny is being conducted.
- (8) A person must comply with a direction given to him or her under subregulation (7).
- Note* This subregulation is a civil penalty provision (see regulation 168).
- (9) The AEC must advise the Industrial Registrar of a possible contravention of subregulation (8).

**69 Post-ballot report by AEC (RAO Schedule, s 68 (2))**

- (1) For subsection 68 (2) of the RAO Schedule, the following matters are prescribed for inclusion in the report:
- (a) the total number of persons on the roll of voters;
  - (b) the total number of ballot papers issued;

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- (c) the total number of envelopes posted in accordance with regulation 63 or for subparagraph 64 (b) (vi) of the RAO Schedule that were returned undelivered by the closing date of the ballot to the AEC (if applicable);
  - (d) the total number of ballot papers received by the electoral official;
  - (e) the total number of votes in favour of the question set out on the ballot paper;
  - (f) the total number of votes not in favour of the question set out on the ballot paper;
  - (g) the total number of informal ballot papers;
  - (h) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
  - (i) any matters in relation to the roll of voters including those matters contained in subsection 68 (3) of the RAO Schedule;
  - (j) the number of written allegations (if any) of irregularities made to the AEC during the ballot;
  - (k) action taken by the AEC in relation to those allegations;
  - (l) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
- (a) give the report under subsection 68 (1) of the RAO Schedule within 14 days after the closing day of the ballot fixed under subsection 58 (1) of the RAO Schedule; and
  - (b) publish the report on its web site as soon as practicable, but no later than 21 days after the closing day of the ballot.
- (3) An organisation that has a web site must, as soon as practicable after receiving a report mentioned in paragraph (2) (a), publish on its web site a notice of the availability of the report.
- (4) A notice published under subregulation (3) must remain on the web site until the end of the period in which an application may be made under section 69 of the RAO Schedule.

- (5) Subregulation (1) does not apply in relation to a ballot that was conducted under subsection 65 (2) of the RAO Schedule, if because of subsection 65 (4) of the RAO Schedule the electoral official conducting the ballot did not count the votes in the ballot.

**70 Declaration of ballot (RAO Schedule, s 69)**

The ballot is declared on the day the report mentioned in subsection 68 (1) of the RAO Schedule is given.

**71 Preservation of ballot papers**

The AEC must keep all ballot papers and documents relating to a ballot:

- (a) until the end of the period in which an application may be made under section 69 of the RAO Schedule; or
- (b) if an application of the kind referred to in paragraph (a) has been made — until the application is disposed of.

**72 Request by member for information about ballot**

- (1) A person who is entitled to vote in a ballot may, for the purpose of determining whether there has been an irregularity in relation to the ballot, request the electoral official conducting the ballot to give the person specified information not available in the report given under subsection 68 (1) of the RAO Schedule.
- (2) The electoral official must comply with a request under subregulation (1) if the information requested is available to the electoral official.

**73 Application for inquiry into ballot irregularity (RAO Schedule, s 69 (1))**

- (1) An application to the Federal Court under subsection 69 (1) of the RAO Schedule for an inquiry must be:
  - (a) in the form set out in the Federal Court Rules; and

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- (b) made by:
    - (i) a member of the organisation whose members were eligible to vote in the ballot; or
    - (ii) a person acting on behalf of a member mentioned in subparagraph (i); or
    - (iii) the Electoral Commissioner; and
  - (c) lodged in the Federal Court together with any document that the Federal Court Rules require to be lodged with the application.
- (2) For this Division, an inquiry is taken to have been instituted when an application mentioned in subregulation (1) is lodged.

**74 Hearing of inquiry into ballot irregularity (RAO Schedule, s 69 (3))**

If an inquiry is instituted, the Federal Court or a Judge may give any directions the Federal Court or Judge thinks necessary to ensure that all persons who are or may be entitled to appear, or to be represented, at the inquiry are notified of the time and place fixed for the hearing of the inquiry.

**75 Inspection of documents for inquiry (RAO Schedule, s 69 (3))**

- (1) If an inquiry is instituted, the Federal Court or a Judge may authorise any person to inspect rolls of voters, ballot papers or other documents that have been used in connection with, or are relevant to, the ballot.
- (2) A person must not hinder or obstruct a person carrying out an inspection authorised under subregulation (1).

Penalty:

- (a) for an individual — 5 penalty units; or
- (b) for a body corporate — 10 penalty units.

**76 Inquiry into ballot irregularity — procedure at hearing  
(RAO Schedule, s 69 (3))**

- (1) The Federal Court may allow any person to appear or to be represented at an inquiry, and that person is taken to be a party to the proceedings.
- (2) The Federal Court may determine the procedure for the conduct of an inquiry.
- (3) The Federal Court is not bound, in conducting the inquiry, to act in a formal manner or to apply any rules of evidence, but may inform itself of any matter in any manner it thinks fit.

**77 Inquiry into ballot irregularity — orders if ballot not  
completed (RAO Schedule, s 69 (3))**

- (1) At any time after an inquiry is instituted and before the Federal Court finds whether there has been an irregularity that may affect, or may have affected, the result of an uncompleted ballot, the Federal Court, if it thinks fit, may:
  - (a) order that no further steps be taken in the conduct of the ballot; and
  - (b) make any order incidental or supplementary to an order under paragraph (a); and
  - (c) vary or discharge an order under paragraph (a) or (b).
- (2) An order under subregulation (1) continues in force until the conclusion of the inquiry, unless the order:
  - (a) is expressed to expire at some other time; or
  - (b) is discharged before the conclusion of the inquiry.
- (3) A person must comply with an order of the Federal Court under subregulation (1).

Penalty:

- (a) for an individual — 5 penalty units; or
- (b) for a body corporate — 10 penalty units.

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**78 Public notification of amalgamation day (RAO  
Schedule, s 73 (2))**

- (1) If the Commission has fixed a day under subsection 73 (2) of the RAO Schedule as the day on which an amalgamation is to take effect, the Industrial Registrar must publish a notice of the fixing of the day:
  - (a) in at least 1 newspaper; and
  - (b) no later than 14 days after the Commission has fixed a day.
- (2) The Industrial Registrar must be of the opinion that the notice is likely to come to the attention of interested persons including the members of the organisations, and any associations, to be amalgamated.
- (3) A notice published under paragraph (1) (a) is taken to be a notice published by the Commission for subsection 73 (2) of the RAO Schedule.

**79 Registration of amalgamated organisations (RAO  
Schedule, s 73 (3) (a))**

For paragraph 73 (3) (a) of the RAO Schedule, the following particulars in relation to a proposed amalgamated organisation are prescribed:

- (a) the name of the proposed organisation;
- (b) the eligibility rules of the proposed organisation;
- (c) if the proposed organisation is registered in relation to a particular industry — a description of the industry.

**Division 2 Withdrawal from amalgamations  
(RAO Schedule, Ch 3, Pt 3)**

**80 Definitions**

- (1) In this Division:

*amalgamation day* has the same meaning as in Part 2 of Chapter 3 of the RAO Schedule.

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**applicant**, for a ballot, means a person who:

- (a) is the constituent member, 1 of the constituent members, or a member of the committee of management; and
- (b) applies for a ballot under section 94 of the RAO Schedule.

**closing day**, for a ballot, means the day fixed as the closing day of the ballot under regulation 84.

**commencing day**, for a ballot, means the day fixed as the commencing day of the ballot under regulation 84.

**inquiry** means an enquiry under section 108 of the RAO Schedule into alleged irregularities in relation to a ballot.

**Judge** means a Judge of the Federal Court sitting in Chambers.

**scrutineer** means a person appointed as a scrutineer under regulation 96.

- (2) An expression used in this Division and in Part 3 of Chapter 3 of the RAO Schedule has the same meaning in this Division as in that Part of that Chapter of the RAO Schedule.

**81 Application for ballot — number of constituent members (RAO Schedule, s 94 (3) (a))**

For paragraph 94 (3) (a) of the RAO Schedule, the prescribed number of constituent members is the lesser of the following:

- (a) the number equal to 5% of the constituent members on the day when the application is lodged;
- (b) 2 000.

**82 Application for ballot — prescribed form (RAO Schedule, s 94 (4))**

An application for a ballot under section 94 of the RAO Schedule must:

- (a) be in accordance with Form 2; and
- (b) contain the information prescribed in that form; and
- (c) nominate a person to be the representative constituent member for the ballot to receive documents on behalf of the applicant and for any other purpose specified in this Division.

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**83 Outline of proposed withdrawal — matters to be addressed (RAO Schedule, s 95 (1) (b))**

For paragraph 95 (1) (b) of the RAO Schedule, the written outline must address the following matters:

- (a) the name of the amalgamated organisation appearing on the certificate of registration of the amalgamated organisation;
- (b) if the constituent part of the amalgamated organisation is a part of the membership of the amalgamated organisation that would have been eligible for membership of an organisation that was formerly registered under the Act — the name appearing on the certificate of registration for that organisation immediately before amalgamation day;
- (c) if the constituent part of the amalgamated organisation is a part of the membership of the amalgamated organisation that would have been eligible for membership of a State or Territory branch of an organisation that was formerly registered under the Act:
  - (i) a statement of that fact; and
  - (ii) the name appearing on the certificate of registration of the organisation immediately before amalgamation day;
- (d) if the constituent part of the amalgamated organisation is a separately identifiable constituent part of the amalgamated organisation:
  - (i) a statement of that fact; and
  - (ii) the name of the branch, division or part of the amalgamated organisation that is the separately identifiable constituent part; and
  - (iii) the name of the organisation, de-registered under Part 2 of Chapter 3 of the RAO Schedule in connection with the formation of the amalgamated organisation, that remains, or the State or Territory branch of which remains, separately identifiable under the rules of the amalgamated organisation as a branch, division or part;
- (e) particulars of the eligibility rules of the amalgamated organisation immediately before amalgamation day;



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- (f) particulars of the rules, immediately before amalgamation day, of:
- (i) the organisation, de-registered under Part 2 of Chapter 3 of the RAO Schedule in connection with the formation of the amalgamated organisation, or the State or Territory branch of the organisation, in relation to which the persons constituting the constituent part would have been eligible for membership if the de-registration had not occurred; or
  - (ii) the organisation, de-registered under Part 2 of Chapter 3 of the RAO Schedule in connection with the formation of the amalgamated organisation, or the State or Territory branch of the organisation, that remains separately identifiable under the rules of the amalgamated organisation as a branch, division or part;
- (g) the name proposed for the amalgamated organisation after withdrawal day;
- (h) the name proposed for the constituent part after withdrawal day;
- (i) if it is proposed that the eligibility rules of the amalgamated organisation be changed after withdrawal day — particulars of those changes;
- (j) if it is proposed that the rules of the constituent part will differ, after withdrawal day, from the rules described in paragraph (f) — particulars of those changes;
- (k) particulars of the assets and liabilities of the amalgamated organisation;
- (l) particulars of the assets and liabilities of the constituent part before it, or the organisation of which it was a State or Territory branch, was de-registered under Part 2 of Chapter 3 of the RAO Schedule in connection with the formation of the amalgamated organisation;
- (m) particulars of any proposal by the applicant for the apportionment of the assets and liabilities of the amalgamated organisation and the constituent part.

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**84 Commencing day and closing day (RAO Schedule, s 100)**

- (1) If:
- (a) the Federal Court, under section 100 of the RAO Schedule, orders that a vote be taken by secret ballot; and
  - (b) the Federal Court does not fix a day as the commencing day of the ballot;  
the commencing day is:
    - (c) the thirty-fifth day after the Federal Court makes the order; or
    - (d) if that day is a Saturday, Sunday or public holiday — the next working day.
- (2) If:
- (a) the Federal Court, under section 100 of the RAO Schedule, orders that a vote be taken by secret ballot; and
  - (b) the Federal Court does not fix a day as the closing day of the ballot;  
the closing day is:
    - (c) the twenty-first day after the commencing day; or
    - (d) if that day is a Saturday, Sunday or public holiday — the next working day.

**85 Registrar of the Federal Court to supply copies of question (RAO Schedule, s 102 (1))**

If an application is made for approval for a withdrawal from the amalgamated organisation to be put to ballot, the Registrar of the Federal Court must, as soon as practicable, give the AEC and the Industrial Registrar a copy of the question proposed to be put to ballot.

**86 Form and publication of notice of ballot (RAO Schedule, s 102 (1))**

- (1) As soon as practicable after the Federal Court orders a vote to be taken, the electoral official conducting the ballot must give notice of the commencing day of a ballot and notice of the closing day of a ballot to persons entitled to vote at the ballot.

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- (2) The electoral official may give a notice under subregulation (1) by post, by newspaper advertisement or by any other reasonable means that the electoral official thinks necessary to ensure that the notice comes to the attention of the persons entitled to vote at the ballot.

**87 Conduct of ballot (RAO Schedule, s 102 (1))**

- (1) An electoral official conducting a ballot may take action and give any direction he or she reasonably considers to be necessary to ensure that no unlawful disclosure or other irregularity occurs in relation to the ballot.
- (2) A person must comply with a direction given to him or her under subregulation (1).
- Note* This subregulation is a civil penalty provision (see regulation 168).
- (3) The AEC must advise the Industrial Registrar of a possible contravention of subregulation (2).

**88 Roll of voters for ballot — preparation (RAO Schedule, s 101)**

- (1) The roll of voters for a ballot is the roll of persons who, on the day specified in subregulation (2), are constituent members of the constituent part of the amalgamated organisation who are eligible to vote in the ballot.
- (2) For subregulation (1) the day specified is the earlier of the following:
- (a) the day when the Federal Court orders a vote to be taken;
  - (b) the day 35 days before the commencing day of the ballot.
- (3) The roll of voters must:
- (a) be prepared at the direction of the electoral official conducting the ballot; and
  - (b) set out opposite the name of each person on the roll the postal address of the person; and
  - (c) be closed no later than 14 days before the commencing day of the ballot.

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**89 Roll of voters for ballot — inspection (RAO Schedule, s 102 (1))**

- (1) An electoral official conducting a ballot must make the roll available for inspection and copying during ordinary business hours at the place where the official carries out his or her duties in relation to the ballot, in the period starting the day after the day when the roll was closed under paragraph 88 (3) (c) and ending 30 days after the declaration of the result of the ballot.
- (2) The electoral official must make the roll available for inspection and copying by:
  - (a) a member of the amalgamated organisation; and
  - (b) any other person authorised by the electoral official.
- (3) The roll may be kept, and copies may be supplied, electronically.
- (4) If a copy of a roll, or a copy of part of a roll, is made or supplied under this regulation, a person must not use information in the roll for a purpose other than:
  - (a) a purpose in connection with the ballot; or
  - (b) to monitor the accuracy of the information contained in the roll.

Penalty: 10 penalty units.

**90 Electoral official to supply copies of question (RAO Schedule, s 102 (1))**

If:

- (a) the AEC has received a copy of a question to be put to a ballot; and
- (b) a person entitled to vote at the ballot makes a written or oral request to the electoral official conducting the ballot for a copy of the question;

the electoral official must, as soon as practicable, supply a copy to the person without charge.

**91 Dispatch of ballot papers (RAO Schedule, s 102 (1))**

The electoral officer conducting a ballot must, as soon as practicable, but no earlier than 2 days before the commencing day of a ballot, post to each person entitled to vote at the ballot a sealed envelope, addressed to the postal address of the person shown on the roll of voters, containing:

- (a) a ballot paper for the ballot:
  - (i) bearing the initials of the electoral official or a facsimile of those initials; and
  - (ii) stating the time, on the closing day of the ballot, by which the vote must be received; and
- (b) any other material the electoral official reasonably considers to be relevant to the ballot; and
- (c) a declaration envelope in which the voter must place his or her ballot paper; and
- (d) a prepaid envelope, addressed to the AEC, that may be posted without cost to the voter; and
- (e) any document that the RAO Schedule or these Regulations require to be posted with the ballot paper.

**92 Ballot paper (RAO Schedule, s 102 (1))**

- (1) Ballot papers for use in a ballot must be in accordance with Form 3.
- (2) The electoral official conducting the ballot may post with the ballot paper:
  - (a) directions to help a person voting in the ballot comply with these Regulations; and
  - (b) other directions the electoral official reasonably believes may assist in ensuring that an irregularity does not occur in relation to the ballot; and
  - (c) information about the conduct of the ballot.

**93 Duplicate ballot paper (RAO Schedule, s 102 (1))**

- (1) If, on the written application of a person, an electoral official is satisfied that:
  - (a) a ballot paper; or

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- (b) another document required to be posted with a ballot paper;  
that was posted to the person under regulation 91:
  - (c) has not been received by the person; or
  - (d) has been lost or destroyed; or
  - (e) in the case of a ballot paper, has been spoiled;
- the electoral official must, as soon as practicable, give a duplicate of the relevant document to the person.
- (2) An application under subregulation (1) must:
    - (a) be sent to an electoral official so that it is received by the electoral official on or before the closing day of the ballot; and
    - (b) state the grounds for making the application; and
    - (c) if practicable, be accompanied by evidence that verifies, or tends to verify, those grounds; and
    - (d) contain a signed declaration that the person has not voted at the ballot; and
    - (e) if the application relates to a ballot paper that has been spoiled, be accompanied by the ballot paper.
  - (3) If the ballot paper mentioned in paragraph (2) (e) accompanies an application under subregulation (1), the electoral official must:
    - (a) mark 'spoilt' on the ballot paper; and
    - (b) initial the ballot paper where marked; and
    - (c) keep the ballot paper.

**94 Manner of voting (RAO Schedule, s 102 (1))**

- (1) A person voting at a ballot must record his or her vote on the ballot paper as follows:
  - (a) if the person approves the withdrawal of the constituent part from the amalgamated organisation — by writing legibly 'YES' in the space provided opposite the question printed on the ballot paper;

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- (b) if the person does not approve the withdrawal of the constituent part from the amalgamated organisation — by writing legibly 'NO' in the space provided opposite the question printed on the ballot paper.
- (2) After recording his or her vote, a person must:
- (a) comply with any direction under paragraph 92 (2) (a) or (b); and
  - (b) place the ballot paper in the declaration envelope, complete the declaration and seal the declaration envelope; and
  - (c) place the declaration envelope in the prepaid envelope and seal the prepaid envelope; and
  - (d) send the prepaid envelope to the AEC to reach the AEC no later than the time specified on the ballot paper as the time on the closing day of the ballot by which the vote must be received.

**95 Custody of ballot papers (RAO Schedule, s 102 (1))**

The electoral official conducting a ballot must keep the ballot papers and other material relating to the ballot in safe custody until a scrutiny is conducted in accordance with regulation 96.

**96 Scrutiny of ballot (RAO Schedule, s 102 (1))**

- (1) The electoral official conducting a ballot must determine the result of the ballot by conducting a scrutiny in accordance with this regulation.
- (2) As soon as practicable after the close of a ballot, the electoral official must:
  - (a) admit the valid votes and reject the informal votes; and
  - (b) count the valid votes and record the number:
    - (i) in favour of the question set out on the ballot paper; and
    - (ii) not in favour of the question set out on the ballot paper; and
  - (c) count the informal votes.

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- (3) A vote is informal only if:
  - (a) the ballot paper does not bear:
    - (i) the initials of an electoral official; or
    - (ii) a facsimile of those initials; or
  - (b) the ballot paper is marked in a way that permits the voter to be identified; or
  - (c) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or
  - (d) the ballot paper does not comply with a direction given under paragraph 92 (2) (a) or (b); or
  - (e) the prepaid envelope contains the ballot paper of another voter.
- (4) However, a vote is not informal because of paragraph (3) (a) if the electoral official is satisfied the ballot paper in question is authentic.
- (5) If the electoral official conducting the ballot is informed by a scrutineer that the scrutineer objects to a ballot paper being admitted as formal or rejected as informal the electoral official must:
  - (a) decide whether the ballot is to be admitted as formal or rejected as informal; and
  - (b) endorse the decision on the ballot paper; and
  - (c) initial the endorsement.
- (6) If the electoral official conducting the ballot is informed by a scrutineer that, in the scrutineer's opinion, an error has been made in the conduct of the scrutiny, the electoral official must decide whether an error has been made and, if appropriate, direct what action is to be taken to correct or mitigate the error.

**97 Scrutineers (RAO Schedule, s 102 (1))**

- (1) The committee of management of the constituent part to which a ballot relates, or the representative constituent member, may appoint members of the constituent part as scrutineers for the ballot.



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- (2) An appointment under subregulation (1) must be made by an instrument signed:
  - (a) on behalf of the committee of management by an officer of the constituent part authorised to sign the instrument; or
  - (b) by the representative constituent member.
- (3) The committee of management of an amalgamated organisation may appoint members of the amalgamated organisation as scrutineers for a ballot to represent the interests of the amalgamated organisation.
- (4) An appointment under subregulation (3) must be made by an instrument signed on behalf of the committee of management by an officer authorised by the rules of the organisation or by the committee of management of the amalgamated organisation.
- (5) Subject to subregulations (6), (7) and (9), a scrutineer may be present at:
  - (a) the preparation and dispatch of ballot material under regulation 91; and
  - (b) the receipt and placement of ballot material in safe custody under regulation 95; and
  - (c) the scrutiny of ballot material under regulation 96.
- (6) If a scrutineer fails to produce his or her instrument of appointment for inspection at the request of the electoral official conducting the ballot, the electoral official may refuse to allow the person to be present.
- (7) At any time during the scrutiny of ballot material:
  - (a) the number of scrutineers appointed under subregulation (1) in attendance at the scrutiny; and
  - (b) the number of scrutineers appointed under subregulation (3) in attendance at the scrutiny;must not exceed the number of electoral officials engaged in the scrutiny at that time.
- (8) At the scrutiny of ballot material, if the scrutineer:
  - (a) objects to a decision that a ballot paper is formal or informal; or

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(b) believes an error has been made in the conduct of the scrutiny;

he or she may inform the electoral official conducting the ballot of the objection or belief.

(9) If a person:

(a) is not entitled to be present, or to remain present, at the scrutiny; or

(b) interrupts the scrutiny of a ballot, except for a purpose mentioned in paragraph (8) (a) or (b);

the electoral official conducting the ballot may direct the person to leave the place where the scrutiny is being conducted.

(10) A person must comply with a direction given to him or her under subregulation (9).

*Note* This subregulation is a civil penalty provision (see regulation 168).

(11) The AEC must advise the Industrial Registrar of a possible contravention of subregulation (10).

**98 Post-ballot report by AEC (RAO Schedule, s 107)**

(1) For subsection 107 (3) of the RAO Schedule, the following matters are prescribed for inclusion in the report:

(a) the certificate mentioned in subsection 106 (1) of the RAO Schedule;

(b) the total number of envelopes posted in accordance with regulation 91 that were returned undelivered by the closing date of the ballot to the AEC (if applicable);

(c) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;

(d) any matters in relation to the roll of voters including those matters contained in subsection 107 (4) of the RAO Schedule;

(e) the number of written allegations (if any) of irregularities made to the AEC during the ballot;

(f) action taken by the AEC in relation to those allegations;

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- (g) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
  - (a) give the report under subsection 107 (1) of the RAO Schedule within 14 days after the closing day of the ballot; and
  - (b) publish the report on its web site as soon as practicable, but no later than 21 days after the closing day of the ballot.
- (3) An organisation that has a web site must, as soon as practicable after receiving a report mentioned in paragraph (2) (a), publish on its web site a notice of the availability of the report.
- (4) A notice published under subregulation (3) must remain on the web site until the end of the period in which an application may be made under section 108 of the RAO Schedule.

**99 Declaration of ballot (RAO Schedule, s 108)**

The result of a ballot under this Division is declared on the day a certificate mentioned in subsection 106 (1) is signed.

**100 Preservation of ballot papers (RAO Schedule, s 108 (1))**

The AEC must keep all ballot papers and documents relating to a ballot:

- (a) until the end of the period in which an application may be made under section 108 of the RAO Schedule; or
- (b) if an application of the kind referred to in paragraph (a) has been made — until the application is disposed of.

**101 Request by member for information about ballot**

- (1) A person who is entitled to vote in a ballot may, for the purpose of determining whether there has been an irregularity in relation to the ballot, request the electoral official conducting the ballot to give the person specified information not available in the report given under subsection 107 (1) of the RAO Schedule.

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- (2) The electoral official must comply with a request under subregulation (1) if the information requested is available to him or her.

**102 Application for inquiry into ballot irregularity (RAO Schedule, s 108 (1))**

- (1) An application to the Federal Court under subsection 108 (1) of the RAO Schedule for an inquiry must be:
- (a) in the form set out in the Federal Court Rules; and
  - (b) made by:
    - (i) a member of the organisation whose members were eligible to vote in the ballot; or
    - (ii) a person acting on behalf of a member mentioned in subparagraph (i); or
    - (iii) the Electoral Commissioner; and
  - (c) lodged in the Federal Court together with any document that the Federal Court Rules require to be lodged with the application.
- (2) For this Division, an inquiry is taken to have been instituted when an application mentioned in subregulation (1) is lodged.

**103 Inquiry into ballot irregularity (RAO Schedule, s 108 (3))**

If an inquiry is instituted, the Federal Court or a Judge may give any directions the Federal Court or the Judge thinks necessary to ensure that all persons who are or may be entitled to appear, or to be represented, at the inquiry are notified of the time and place fixed for the hearing of the inquiry.

**104 Inquiry into ballot irregularity — inspection of documents (RAO Schedule, s 108 (3))**

- (1) If an inquiry has been instituted in relation to a ballot, the Federal Court or a Judge may authorise any person to inspect rolls of voters, ballot papers or other documents that have been used in connection with, or are relevant to, the ballot.

- (2) A person must not hinder or obstruct a person carrying out an inspection authorised under subregulation (1).

Penalty:

- (a) for an individual — 5 penalty units; or  
(b) for a body corporate — 10 penalty units.

**105 Inquiry into ballot irregularity — procedure at hearing (RAO Schedule, s 108 (3))**

- (1) The Federal Court may allow any person to appear or be represented at an inquiry, and that person is taken to be a party to the proceedings.
- (2) The Federal Court may determine the procedure for the conduct of an inquiry.
- (3) The Federal Court is not bound, in conducting the inquiry, to act in a formal manner or to apply any rules of evidence, but may inform itself of any matter in any manner it thinks fit.

**106 Inquiry into ballot irregularity — orders if ballot not completed (RAO Schedule, s 108 (3))**

- (1) At any time after an inquiry has been instituted and before the Federal Court finds whether there has been an irregularity that may affect, or may have affected, the result of a ballot that is not completed, the Federal Court may:
- (a) order that no further steps are to be taken in the conduct of the ballot; and
- (b) make any order incidental or supplementary to an order under paragraph (a); and
- (c) vary or discharge an order under paragraph (a) or (b).
- (2) An order under subregulation (1) continues in force until the end of the inquiry, unless the order:
- (a) is expressed to expire at some other time; or
- (b) is discharged before the end of the inquiry.

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- (3) A person must not contravene an order of the Federal Court under subregulation (1).

Penalty:

- (a) for an individual — 5 penalty units; or  
(b) for a body corporate — 10 penalty units.

**107 Application for withdrawal day (RAO Schedule, s 109)**

- (1) In considering whether any orders should be made under paragraph 109 (1) (c) of the RAO Schedule in connection with giving effect to the withdrawal, the Federal Court must have regard to whether the proposed rules for the constituent part after the withdrawal day comply with the RAO Schedule.
- (2) If the Federal Court has determined, under section 109 of the RAO Schedule, the day when the withdrawal is to take effect, the Federal Court must publish a notice of the determination:
- (a) in at least 1 newspaper; and  
(b) no later than 14 days after the determination.
- (3) The Federal Court must be of the opinion the notice is likely to come to the attention of interested persons, including the members of the relevant organisation.
- (4) For paragraph 109 (3) (a) of the RAO Schedule, the prescribed number of constituent members is the lesser of the following:
- (a) 5% of the total number of constituent members;  
(b) 2 000.
- (5) For subsection 109 (5) of the RAO Schedule, an application under subsection 109 (1) of that Schedule must:
- (a) be in accordance with Form 4; and  
(b) contain the information prescribed in the form; and  
(c) be lodged in the Federal Court together with the final version of the written outline mentioned in section 95 of the RAO Schedule.

**108 Registration of constituent part (RAO Schedule, s 110)**

For paragraph 110 (b) of the RAO Schedule, the following particulars are prescribed:

- (a) the name of the organisation;
- (b) the eligibility rules of the organisation;
- (c) if the organisation is registered in relation to a particular industry — a description of the industry;
- (d) if the organisation is an enterprise association — the name of the enterprise.

**109 Supply of copies of determination (RAO Schedule, s 109 (1) (a) and (b))**

The Registrar of the Federal Court must supply the Industrial Registrar with a copy of any order or determination the Federal Court makes under subsection 109 (1) of the RAO Schedule as soon as practicable after it makes the order or determination.

**110 Constituent part**

For subsection 111 (9) of the RAO Schedule, the notice to the applicant must be given by notifying the representative constituent member nominated under paragraph 82 (c).

**111 Applicants for orders under subsection 131 (2) of the RAO Schedule — prescribed persons**

For paragraph 131 (3) (b) of the RAO Schedule, the following persons are prescribed:

- (a) an officer of a branch or other part of the amalgamated organisation of which the person mentioned in subsection 131 (2) of the RAO Schedule is a member;
- (b) the Employment Advocate.

## **Division 3 Conduct of ballots by AEC**

### **112 Conduct of ballot (RAO Schedule, s 64 and 65)**

- (1) An electoral official conducting a ballot may take action and give any direction he or she reasonably considers to be necessary to ensure that no unlawful disclosure or other irregularity occurs in relation to the ballot.
- (2) A person must comply with a direction given to him or her under subregulation (1).  
*Note* This subregulation is a civil penalty provision (see regulation 168).
- (3) The AEC must advise the Industrial Registrar of a possible contravention of subregulation (2).

### **113 Ballots conducted by AEC — no unauthorised action**

- (1) For any ballot conducted by the AEC under Chapter 3 of the RAO Schedule or under this Part, a person other than the person conducting the ballot must not do, or purport to do, any act in the conduct of the ballot other than as directed or authorised by the person conducting the ballot.  
*Note* This subregulation is a civil penalty provision (see regulation 168).
- (2) The AEC must advise the Industrial Registrar of a possible contravention of subregulation (1).

### **114 No action for defamation in certain cases**

No action or proceeding, civil or criminal, for defamation lies:

- (a) against the Commonwealth or an electoral official conducting, on behalf of the AEC, a ballot under the RAO Schedule or these Regulations, in relation to:
  - (i) the printing or issuing of a document or other material that is required or permitted under regulation 63 or 91 to be contained in the sealed envelope mentioned in that regulation; or
  - (ii) the printing or issuing of a post ballot report given by the AEC under section 68 or 107 of the RAO Schedule; or



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- (b) if the report, document or other material mentioned in paragraph (a) is printed by another person — against that person, in relation to the printing.

## **Part 5 Rules of organisations (RAO Schedule, Ch 5)**

### **Division 1 Rules of organisations**

#### **115 Application for exemption from requirement for postal ballot (RAO Schedule, s 144 (2))**

- (1) An application for an exemption from subsection 144 (1) of the RAO Schedule must:
  - (a) be in writing; and
  - (b) state the grounds for seeking the exemption; and
  - (c) be lodged in the Industrial Registry.
- (2) An application by an organisation under paragraph 144 (6) (a) of the RAO Schedule for revocation of an exemption must:
  - (a) be in writing; and
  - (b) state the grounds for seeking the revocation; and
  - (c) be lodged in the Industrial Registry.
- (3) An organisation that has a web site must publish on its web site a notice that it has lodged an application mentioned in subregulation (1) or (2).

#### **116 Prescriptions for purposes of paragraph 144 (6) (b) and subsection 144 (7) of RAO Schedule**

- (1) For paragraph 144 (6) (b) of the RAO Schedule, the Industrial Registrar must, to give an organisation an opportunity to show cause why an exemption should not be revoked:
  - (a) fix a time and place at which the organisation may show cause; and
  - (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) containing particulars of the time and place fixed under paragraph (a); and
    - (ii) stating the reasons for the proposed revocation; and

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- (iii) notifying the organisation of its right to be heard, and to make submissions under subregulation (2), to show cause why an exemption should not be revoked.
- (2) An organisation may, to show cause under subregulation (1), make submissions to the Industrial Registrar by either, or both, of the following:
- (a) lodging in the Industrial Registry, not less than 2 days before the day fixed for the hearing, written submissions in relation to the matter;
  - (b) appearing at the hearing and making oral submissions to the Industrial Registrar.
- (3) For subsection 144 (7) of the RAO Schedule, the Industrial Registrar must, to give an organisation an opportunity to be heard in relation to a proposal by the Industrial Registrar to determine certain alterations of the rules of the organisation under subsection 144 (7) of the RAO Schedule:
- (a) fix a time and place at which the organisation may be heard in relation to the proposed determination; and
  - (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) containing particulars of the time and place fixed under paragraph (a); and
    - (ii) stating that, in relation to the revocation of an exemption granted to an organisation on a ground mentioned in paragraph 144 (6) (b) of the RAO Schedule, the Industrial Registrar proposes to determine that certain alterations of the rules of the organisation are necessary to bring them into conformity with subsection 144 (1) of the RAO Schedule; and
  - (iii) notifying the organisation of its right to be heard and to make submissions, under subregulation (4), in relation to the proposed determination.

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- (4) For the hearing mentioned in subregulation (3), the organisation may make submissions to the Industrial Registrar by either, or both, of the following:
- (a) lodging in the Industrial Registry, not less than 2 days before the day fixed for the hearing, written submissions in relation to the determination;
  - (b) appearing at the hearing and making oral submissions to the Industrial Registrar.

**117 Membership agreements — prescribed form (RAO Schedule, s 151 (1))**

For subsection 151 (1) of the RAO Schedule, the prescribed form is Form 5.

**118 Assets and liabilities agreements — prescribed form (RAO Schedule, s 152 (2))**

For subsection 152 (2) of the RAO Schedule, the prescribed form is Form 6.

**119 Hearing in relation to alterations of rules (RAO Schedule, s 156 (1))**

- (1) For subsection 156 (1) of the RAO Schedule, the Industrial Registrar must, to give an organisation an opportunity to be heard on a matter:
- (a) fix a time and place for a hearing on the matter; and
  - (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) stating the time and place fixed for the hearing on the matter; and
    - (ii) stating how the rules of the organisation do not, in the Industrial Registrar's opinion, make provision for a matter as required by the RAO Schedule or these Regulations; and
    - (iii) notifying the organisation of its right to be heard on the matter and to make submissions, under subregulation (2), in relation to the matter.

- (2) For the hearing on the matter mentioned in subregulation (1), the organisation may make submissions in relation to the matter to the Industrial Registrar by either, or both, of the following:
- (a) lodging in the Industrial Registry, not less than 2 days before the day fixed for the hearing, written submissions in relation to the matter;
  - (b) appearing at the hearing and making oral submissions to the Industrial Registrar.

**120 Hearing in relation to alteration of rules — breach of undertaking (RAO Schedule, s 157 (2))**

- (1) For subsection 157 (2) of the RAO Schedule, the Commission must, to give the organisations mentioned in that subsection an opportunity to be heard on a matter:
- (a) fix a time and place for a hearing on the matter; and
  - (b) give each organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) identifying the breach of undertaking and the resulting overlap between the eligibility rules of the 2 organisations; and
    - (ii) stating the time and place fixed for the hearing; and
    - (iii) notifying the organisation of its right to be heard on the matter and to make submissions, under subregulation (2), in relation to the matter.
- (2) Each organisation may make submissions in relation to the matter to the Commission by either, or both, of the following:
- (a) lodging with the Industrial Registry, not less than 2 days before the day fixed for the hearing, written submissions in relation to the matter;
  - (b) appearing at the hearing and making oral submissions to the Commission.
- (3) At the hearing, the Commission may direct the manner in which the hearing is to proceed and, after hearing both organisations, may:
- (a) determine the matter without further delay; or
  - (b) adjourn the proceedings to a later day; or

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- (c) with the agreement of both organisations, determine the matter on a later day without further hearing.

**121 Application for consent to change of name or alteration of eligibility rules of an organisation (RAO Schedule, s 158 (1))**

- (1) An organisation may apply to the Commission for the consent of the Commission under subsection 158 (1) of the RAO Schedule to:
  - (a) change the name of the organisation; or
  - (b) alter the eligibility rules of the organisation.
- (2) An application under subregulation (1) must:
  - (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) set out:
    - (i) if the application is for consent to change the name of the organisation — the proposed name and the reason for the proposal; or
    - (ii) if the application is for consent to alter the eligibility rules of the organisation — the proposed alteration, the reason for the proposal and the effect of the proposal, in sufficient particularity to allow the proposal to be properly considered; and
  - (c) contain a declaration:
    - (i) that the change or alteration was made in accordance with the rules of the organisation; and
    - (ii) stating the action taken under those rules to make the change or alteration; and
    - (iii) verifying the facts stated in the application; and
  - (d) be lodged in the Industrial Registry; and
  - (e) if the application is for consent to alter the eligibility rules of the organisation — be lodged with a copy of the rules that are proposed to be altered.
- (3) If an application under subregulation (1) is not in accordance with this regulation, a Registrar must tell the applicant how the application or statement does not comply with the regulation.

- (4) An organisation that has a web site must publish on its web site a notice that it has lodged the application mentioned in subregulation (1).

**122 Notification of application for consent to change of name or alteration of eligibility rules (RAO Schedule, s 158)**

As soon as practicable after receiving an application under subregulation 121 (1), the Industrial Registrar must publish a notice in the *Gazette* stating that the application has been received.

**123 Withdrawal of application for consent to change name (RAO Schedule, s 158)**

- (1) An organisation seeking to withdraw an application made by the organisation under subregulation 121 (1) may, at any time before the application is determined by the Commission, lodge in the Industrial Registry a notice of withdrawal that:
- (a) contains a written statement signed by an officer of the applicant organisation authorised to sign the statement; and
  - (b) sets out particulars establishing that the decision to withdraw the application was made in accordance with the rules of the organisation.
- (2) The Industrial Registrar must publish in the *Gazette* a notice of withdrawal lodged under this regulation.

**124 Change of name or alteration of eligibility rules of organisation — objections (RAO Schedule, s 158)**

- (1) Any interested organisation, association or person (the **objector**) may, no later than 35 days after a notice of the receipt of an application under subregulation 121 (1) (the **original application**) is published in the *Gazette*, lodge in the Industrial Registry a notice of objection to the change of name, or the alteration of the eligibility rules, to which the original application relates.

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- (2) The notice of objection must:
  - (a) be lodged in the Industrial Registry; and
  - (b) comply with the requirements of regulation 14.
- (3) The Commission may allow an objector to amend a notice of objection if:
  - (a) a further application is made; and
  - (b) the objector satisfies the Commission that the objector has further grounds for objection arising from the application mentioned in paragraph (a).
- (4) Within 7 days after a notice of objection is lodged in the Industrial Registry, the objector must serve a copy of the notice on the organisation that lodged the original application.
- (5) An organisation:
  - (a) may, no later than 14 days after service on it under subregulation (4) of a copy of the notice of objection, lodge in the Industrial Registry, in answer to the objection, a written statement signed by an officer of the organisation authorised to sign the statement; and
  - (b) must, no later than 7 days after lodging a written statement under paragraph (a), serve a copy of the statement on the objector.

**125 Change of name etc — hearing of application for consent (RAO Schedule, s 158)**

- (1) The Commission, in dealing with an application under subregulation 121 (1), must not:
  - (a) refuse to grant the application without giving the applicant an opportunity to be heard; or
  - (b) grant the application without giving any objector who has complied with regulation 124 an opportunity to be heard.
- (2) The Commission must, to give the applicant and an objector mentioned in paragraph (1) (b) (the **objector**) an opportunity to be heard:
  - (a) fix a time and place for a hearing; and



- (b) notify the applicant and the objector of the time and place so fixed.
- (3) The Commission may, at the time and place fixed for the hearing, give directions relating to the manner in which the hearing is to proceed and may:
  - (a) determine the matter without further delay; or
  - (b) adjourn the proceedings to a later day; or
  - (c) with the agreement of the applicant and the objector, determine the matter on a later day without a further hearing.

**126 Alteration of other rules of organisations (RAO Schedule, s 159 (1))**

- (1) For subsection 159 (1) of the RAO Schedule, if an alteration of the rules (other than the eligibility rules) of an organisation is made, the organisation, within 35 days after the alteration is made, or within any additional period a Registrar allows, must:
  - (a) lodge in the Industrial Registry a notice setting out the particulars of the alteration; and
  - (b) if the organisation has a web site — publish on its web site a notice that the notice mentioned in paragraph (a) has been lodged.
- (2) The notice must contain a declaration, signed by an officer of the organisation authorised to sign the declaration, stating:
  - (a) that the alteration was made in accordance with the rules of the organisation; and
  - (b) the action taken under those rules to make the alteration; and
  - (c) that the particulars set out in the notice are true and correct to the best of the knowledge and belief of the signatory.
- (3) A Registrar may refuse to certify, under subsection 159 (1) of the RAO Schedule, an alteration of the rules unless this regulation is complied with.

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**Division 2 Validity and performance of rules**

**127 Hearing in relation to rules contravening section 142 of RAO Schedule (RAO Schedule, s 163)**

- (1) For subsection 163 (7) of the RAO Schedule, the appropriate authority must, to give an organisation an opportunity to be heard on a matter:
  - (a) fix a time and place for a hearing on the matter; and
  - (b) give the organisation, not less than 7 days before the time so fixed, a written notice:
    - (i) identifying the matter; and
    - (ii) stating the time and place fixed for the hearing on the matter; and
    - (iii) notifying the organisation of its right to appear before the appropriate authority and to make submissions, under subregulation (2), in relation to the matter.
- (2) For the hearing on the matter mentioned in subregulation (1), the organisation may make submissions in relation to the matter to the appropriate authority by either, or both, of the following:
  - (a) lodging in the Industrial Registry, not less than 2 days before the day fixed for the hearing on the matter, written submissions in relation to the matter;
  - (b) appearing at the hearing on the matter and making oral submissions to the appropriate authority.
- (3) In this regulation, **appropriate authority** has the same meaning as in subsection 163 (12) of the RAO Schedule.

## **Part 6                      Membership of organisations (RAO Schedule, Ch 6)**

### **128            Conscientious objection — issue of certificates (RAO Schedule, s 180 (1))**

- (1) An application under paragraph 180 (1) (a) of the RAO Schedule must:
  - (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) contain a declaration signed by the applicant supporting the statements made in the application; and
  - (c) be lodged in the Industrial Registry.
- (2) For subsection 180 (1) of the RAO Schedule, the prescribed form for a certificate issued by the Industrial Registrar is Form 7.

### **129            Conscientious objection — renewal of certificates (RAO Schedule, s 180 (3))**

- (1) A person may apply to a Registrar to renew a certificate issued to him or her under subsection 180 (1) of the RAO Schedule.
- (2) An application under subregulation (1) must be made before the end of the period for which the certificate is in force.
- (3) An application under subregulation (1) must:
  - (a) be in the form set out in the Rules of the Commission or in a form otherwise approved by the President; and
  - (b) contain a declaration signed by the applicant supporting the statements made in the application; and
  - (c) be lodged in the Industrial Registry.

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**130 Conscientious objection — revocation of certificates (RAO Schedule, s 180 (4))**

For subsection 180 (4) of the RAO Schedule, a Registrar must, to give a person an opportunity to show cause why a certificate issued to the person under subsection 180 (1) of the RAO Schedule should not be revoked:

- (a) fix a time and place at which the person may appear before the Registrar to make an oral submission to show cause why the certificate should not be revoked; and
- (b) give the person, not less than 7 days before the time so fixed, a written notice:
  - (i) containing particulars of the time and place fixed under paragraph (a); and
  - (ii) stating the reasons for the proposed revocation; and
  - (iii) notifying the person of the person's entitlement to an opportunity to show cause why the certificate should not be revoked.

## **Part 7                      Democratic control (RAO Schedule, Ch 7)**

### **Division 1                Conduct of elections — preparation and inspection**

#### **131        Preparation and inspection of voter rolls (RAO Schedule, s 182)**

- (1) This regulation applies in relation to an election for an office in an organisation, other than to an election for which the Industrial Registrar has, under section 186 of the RAO Schedule, granted an exemption.
- (2) The roll of voters for the election must:
  - (a) be prepared at the direction of an electoral official; and
  - (b) set out opposite the name of each person on the roll the postal address of that person; and
  - (c) be closed within the time specified in the rules of the organisation.
- (3) The electoral official conducting the ballot must make the roll available for inspection and copying during ordinary business hours at the place where the official carries out his or her duties in relation to the election, in the period starting the day after the day when the roll was closed in accordance with paragraph (2) (c), and ending 30 days after the declaration of the result of the election.
- (4) The electoral official must make the roll available for inspection and copying by:
  - (a) a member of the organisation; and
  - (b) any other person authorised by the electoral official.
- (5) The roll may be kept, and copies may be supplied, electronically.

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- (6) If a copy of a roll, or a copy of part of a roll, is made or supplied under this regulation, a person must not use information in the roll for a purpose other than:
- (a) a purpose in connection with the election; or
  - (b) to monitor the accuracy of the information contained in the roll.

Penalty: 10 penalty units.

**132 Rules for purpose of sections 193, 197 and 198 of RAO Schedule**

For sections 193, 197 and 198 of the RAO Schedule, the rules of an organisation or branch are the rules in force on the day nominations for an election open.

**133 Application for organisation or branch to conduct its elections for office (RAO Schedule, s 183 (1))**

- (1) An application under subsection 183 (1) of the RAO Schedule must:
- (a) be in writing; and
  - (b) state the grounds for seeking the exemption; and
  - (c) contain a declaration signed by a member of the committee of management verifying the facts set out in the application; and
  - (d) be lodged in the Industrial Registry.
- (2) For paragraph 183 (2) (b) of the RAO Schedule, a member of an organisation or branch is notified of the making of a resolution if:
- (a) the member is given a copy of the resolution; or
  - (b) a notice of the making of the resolution is published:
    - (i) if the organisation or branch publishes a journal that is circulated among its members — in the next journal; and
    - (ii) if the organisation or branch has a web site — on that web site within 14 days after the resolution is made.

**134 Publication of notice for subsection 183 (4) of RAO Schedule**

- (1) The Industrial Registrar must publish a notice mentioned in subsection 183 (4) of the RAO Schedule:
  - (a) in at least 1 newspaper; and
  - (b) no later than 14 days after the application under subsection 183 (1) of the RAO Schedule is lodged in the Industrial Registry.
- (2) The Industrial Registrar must be of the opinion that the notice published under subregulation (1) is likely to come to the attention of members of the relevant organisation or branch.

**135 Objections to application to conduct elections for office (RAO Schedule, s 184 (1))**

- (1) An objection under subsection 184 (1) of the RAO Schedule may be made by lodging a notice of objection in the Industrial Registry no later than 28 days after the publication of the notice mentioned in subregulation 134 (1).
- (2) A notice of objection must comply with the requirements of regulation 14.
- (3) No later than 7 days after a notice of objection is lodged, the objector must serve a copy of the notice of objection on the applicant.
- (4) An applicant:
  - (a) may, within 14 days after service on it of a copy of a notice of objection under subregulation (3), lodge in the Industrial Registry in answer to the objection a written statement signed by a member of the committee of management making the application; and
  - (b) must, within 7 days after a written statement is so lodged, serve a copy of the statement on the objector.

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**136 Hearing of application to conduct elections for office  
(RAO Schedule, s 184 (2))**

- (1) The Registrar who is to hear a matter must:
  - (a) fix a time and place for hearing the application and any objection; and
  - (b) notify the applicant and any objector of the time and place so fixed.
- (2) At the hearing, the Registrar must:
  - (a) hear the applicant and any objector if they are present and wish to be heard; and
  - (b) decide the matter.
- (3) The Registrar may permit the applicant and any objector to call oral evidence.

**137 Revocation of exemption allowing an organisation or  
branch to conduct its elections for office (RAO  
Schedule, s 186 (2))**

- (1) An application by the committee of management of an organisation or branch under subsection 186 (2) of the RAO Schedule for revocation of an exemption must:
  - (a) be in writing; and
  - (b) contain a written statement signed by a member of the committee of management stating that the committee of management has resolved to make the application; and
  - (c) be lodged in the Industrial Registry.
- (2) For paragraph 186 (2) (b) of the RAO Schedule, the Industrial Registrar, to give an organisation or branch an opportunity to show cause why an exemption granted to the organisation or branch should not be revoked, must:
  - (a) fix a time and place at which the organisation or branch may show cause; and
  - (b) give the organisation or branch a written notice containing particulars of the time and place so fixed by the Registrar, together with a statement of his or her reasons for the proposed revocation.



**138 Prescribed information for election (RAO Schedule, s 189 (1))**

- (1) For subsection 189 (1) of the RAO Schedule, the following information is prescribed information for an election conducted for an office or for a position other than an office:
  - (a) the name of each office or position for which an election is required;
  - (b) the reason for the election is that:
    - (i) the term of the office or position has expired or is due to expire in the normal course of events; or
    - (ii) a casual vacancy in the office or position has occurred (or will occur imminently); or
    - (iii) a new office or position has been created; or
    - (iv) the office or position was not filled at the previous election;
  - (c) if more than 1 of the offices or positions for which an election is required has the same name, and the number of offices or positions can, under the rules of the relevant organisation or branch, be determined before the prescribed day — the number of those offices or positions;
  - (d) if the electorate comprises only members of a branch, section or other division of an organisation — the name of the branch, section or division;
  - (e) the date and time of the beginning and end of the period in which nominations of candidates will be called for or may be made under the rules of the organisation or branch in relation to the election;
  - (f) the day provided for in the rules of the organisation as the day on which the roll of voters is to be closed;
  - (g) the kind of voting system to be used in the conduct of the election is:
    - (i) a direct voting system; or
    - (ii) a collegiate electoral system.

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- (2) The prescribed information lodged by an organisation or branch under subsection 189 (1) of the RAO Schedule must contain a statement, signed by an officer of the organisation or branch who is authorised to sign the statement, that the information is lodged under subsection 189 (1) of the RAO Schedule.
- (3) For subsection 189 (2) of the RAO Schedule, the prescribed day is the day occurring 2 months before the first day when a person may, under the rules of the organisation or branch, become a candidate in an election.

**139 Availability of post-election report (RAO Schedule, s 193)**

If a ballot is required for an election under Part 2 of Chapter 7 of the RAO Schedule, the electoral official must advise each member who is eligible to vote in the election that a post-election report under section 197 of the RAO Schedule can be obtained from the organisation or branch, or from the AEC, on the request of the member.

**140 Declaration of result of election (RAO Schedule, s 193)**

- (1) Within 14 days after the closing day of an election, the AEC must issue a declaration stating the following:
  - (a) the total number of persons on the roll of voters;
  - (b) the total number of ballot papers issued (if applicable);
  - (c) the total number of envelopes that were returned undelivered by the closing date of the ballot to the AEC (if applicable);
  - (d) the total number of ballot papers received by the electoral official (if applicable);
  - (e) the result of the election;
  - (f) the total number of informal ballot papers (if applicable).
- (2) In subregulation (1), ***closing day***, for an election, means:
  - (a) if a ballot is not required — the day on which nominations for the election close; or

- (b) if a ballot is required — the closing day of the ballot.
- (3) Immediately after issuing a declaration under subregulation (1), the AEC must give a copy of the declaration to:
  - (a) the Industrial Registrar; and
  - (b) the organisation or branch for whom the election was conducted.

**141 Post-election report by AEC (RAO Schedule, s 197 (2))**

- (1) For subsection 197 (2) of the RAO Schedule, the following matters are prescribed for inclusion in the report (the *post-election report*) given under subsection 197 (1) of that Schedule:
  - (a) the declaration mentioned in regulation 140;
  - (b) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
  - (c) any matters in relation to the roll of voters including those matters contained in subsection 197 (3) of the RAO Schedule;
  - (d) the number of written allegations (if any) of irregularities made to the AEC during the election;
  - (e) action taken by the AEC in relation to those allegations;
  - (f) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
  - (a) give the post-election report within 30 days after the closing day of the election; and
  - (b) publish a notice on its web site advising that a copy of the post-election report can be obtained from the AEC on the request of a member who was eligible to vote in the election.
- (3) The AEC must supply a copy of the post-election report to the member as soon as practicable, but no later than 7 days, after receiving a request under paragraph (2) (b).

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- (4) An organisation or branch that has a web site must, as soon as practicable after receiving the post-election report, publish on its web site a notice that a copy of the report is available from the organisation or branch, or from the AEC, on the request of a member who was eligible to vote in the election.

**142 Adverse report on rules (RAO Schedule, s 198)**

- (1) The AEC must advise the Industrial Registrar of a possible contravention of subsection 198 (1) of the RAO Schedule.
- (2) For paragraph 198 (6) (c) of the RAO Schedule, in addition to the matters specified in subsection 198 (6) of that Schedule, an organisation or branch must meet the following requirements if the organisation or branch has a web site:
- (a) the organisation or branch must publish a copy of the relevant extract of the report on its web site within 14 days after receiving the post-election report;
  - (b) the organisation or branch must publish the written response given under subsection 198 (1) on its web site within 14 days after giving the response to the AEC.

**143 Application for inquiry into election (RAO Schedule, s 200)**

- (1) An application to the Federal Court under section 200 of the RAO Schedule for an inquiry into an election may be made:
- (a) at any time on or before the day when the result of the election is declared; or
  - (b) no later than 3 months after that day; or
  - (c) on a later day fixed by the Federal Court.
- (2) An application mentioned in subregulation (1) must be:
- (a) in the form set out in the Federal Court Rules; and
  - (b) lodged in the Federal Court together with any document that the Federal Court Rules require to be lodged with the application.

**144 Prescribed form of identity card (RAO Schedule, s 203 (2) (a))**

For paragraph 203 (2) (a) of the RAO Schedule, Form 8 is prescribed.

**Division 2 Conduct of elections by AEC (RAO Schedule, Ch 7, Pt 2)**

**145 Elections conducted by AEC — no unauthorised action**

- (1) For any election conducted by the AEC under Part 2 of Chapter 7 of the RAO Schedule, a person other than the person conducting the election must not do, or purport to do, any act in the conduct of the election other than as directed or authorised by the person conducting the election.

*Note* This subregulation is a civil penalty provision (see regulation 168).

- (2) The AEC must advise the Industrial Registrar of a possible contravention of subregulation (1).

**146 No action for defamation in certain cases**

No action or proceeding, civil or criminal, for defamation lies:

- (a) against the Commonwealth or an electoral official conducting, on behalf of the AEC, an election under the RAO Schedule or these Regulations, in relation to:
- (i) the printing or issuing of material by the electoral official being material prepared by or on behalf of a candidate in the election; or
  - (ii) the printing or issuing of a post-election report given by the AEC under section 197 of the RAO Schedule; or
- (b) if the report or other material mentioned in paragraph (a) is printed by another person — against that person, in relation to the printing.

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**Part 8                      Records and accounts (RAO  
Schedule, Ch 8)****147            Prescribed records to be kept and lodged by  
organisations (RAO Schedule, s 230 (1) (d))**

For paragraph 230 (1) (d) of the RAO Schedule, the following records are prescribed in relation to an organisation:

- (a) a record of the name of each branch of the organisation;
- (b) a record of the name of each branch that commenced operation in the previous 12 months;
- (c) a record of the name of each branch that ceased operation in the previous 12 months;
- (d) a record of the address of:
  - (i) the office of the organisation; and
  - (ii) the office of each branch of the organisation;
- (e) a record of each election that must, under the rules of the organisation, be held during each year commencing 1 January:
  - (i) for an office in the organisation; and
  - (ii) for an office in a branch of the organisation;
- (f) a record of the number of members on 31 December in the previous year;
- (g) if the organisation has entered into an agreement mentioned in subsection 151 (1) of the RAO Schedule — a record of the number of members of the organisation who were, on 31 December in the previous year, ineligible State members, in relation to the organisation, within the meaning of section 150 of the RAO Schedule.

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**148 Prescribed day for keeping copy of register (RAO Schedule, s 231 (2))**

- (1) For subsection 231 (2) of the RAO Schedule, the prescribed day for keeping a copy of the register, or a part of the register, is the day provided for in the rules of an organisation, in accordance with subparagraph 143 (1) (e) (i) of the RAO Schedule, as the day on which the roll of voters for a ballot for an election for office is to be closed.
- (2) If the AEC determines that a ballot for an election for office in an organisation is not required, the organisation is not required to keep a copy of the register, or a part of the register, as it stood on the prescribed day.

**149 Prescribed time to lodge information (RAO Schedule, s 233 (1))**

For subsection 233 (1) of the RAO Schedule, any time during the period of 3 months beginning on 1 January is prescribed.

**150 Prescribed officer for lodging information (RAO Schedule, s 233 and 236 (1))**

For section 233 and subsection 236 (1) of the RAO Schedule, an officer of an organisation, other than the secretary, who is required by the organisation or by the rules of the organisation to keep the records mentioned in subsection 230 (1) of the RAO Schedule is a prescribed officer of the organisation.

**151 Prescribed period for notification of change to records (RAO Schedule, s 233 (2))**

For subsection 233 (2) of the RAO Schedule, for the lodgment of notification of any change to the records, the period of 35 days, beginning on the day after the day when the change is made, is prescribed.

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**152 Notice to be published (RAO Schedule, s 241 (1))**

- (1) A notice mentioned in subsection 241 (1) of the RAO Schedule must be:
  - (a) in writing; and
  - (b) published in at least 1 newspaper.
- (2) A reference to a particular Australian Accounting Standard in subsection 241 (1) includes a reference to a part of that standard.

**153 Application for determination of reporting units (RAO Schedule, s 246 (1) (a))**

- (1) For paragraph 246 (1) (a) of the RAO Schedule, an application must be lodged in the Industrial Registry, together with the following:
  - (a) a declaration signed by the secretary or an officer of the organisation authorised to make the declaration verifying the facts set out in the application and in the documents being lodged with the application;
  - (b) details of the existing reporting units;
  - (c) details of the proposed alternative division into reporting units;
  - (d) a copy of the resolutions in favour of the proposed division made by the respective committees of management of the organisation and of each branch affected by the proposed division;
  - (e) a statement of reasons supporting the proposed division which specifically addresses how the level of financial information that would be available to members affected would be adequate and relevant to them.
- (2) An organisation that has a web site must publish on its web site a notice that it has lodged the application mentioned in subregulation (1).



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**154 Determination of reporting units (RAO Schedule, s 247)**

- (1) For paragraph 247 (1) (c) of the RAO Schedule, the Industrial Registrar must give notice to the reporting units of the Registrar's intention to issue a certificate under section 245 of the RAO Schedule.
- (2) The notice mentioned in subregulation (1) must:
  - (a) be in writing; and
  - (b) state reasons for the intention; and
  - (c) advise that a reporting unit affected by the proposed alternative division has the opportunity to be heard under regulation 157.

**155 Application for revocation of certificate (RAO Schedule, s 249 (4) (a))**

For paragraph 249 (4) (a) of the RAO Schedule, an application must be lodged in the Industrial Registry, together with the following:

- (a) a declaration signed by the secretary or an officer of the organisation authorised to sign the declaration verifying the facts set out in the application and in the documents being lodged with the application;
- (b) details of the existing reporting units;
- (c) a copy of any resolutions concerning the proposed division made by the respective committees of management of the organisation and of each branch affected by the proposed division;
- (d) a statement explaining how the level of financial information that would be available to members of a reporting unit under the proposed division would be adequate and relevant.

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**156 Prescribed procedure for revoking certificate (RAO Schedule, s 249 (6) (b) and (7))**

- (1) For paragraph 249 (6) (b) and subsection 249 (7) of the RAO Schedule, the Industrial Registrar must give notice to the reporting units of the Registrar's intention to revoke a certificate issued under section 245 of the RAO Schedule.
- (2) The notice must:
  - (a) be in writing; and
  - (b) state reasons for the intention; and
  - (c) advise that a reporting unit affected by the revocation has the opportunity to be heard under regulation 157.

**157 Opportunity to be heard (RAO Schedule, s 247 and 249)**

- (1) For sections 247 and 249 of the RAO Schedule, the Industrial Registrar must, for the purpose of giving an organisation and an affected reporting unit an opportunity to be heard on a matter:
  - (a) fix a time and place for a hearing on the matter; and
  - (b) give the organisation and each reporting unit, not less than 7 days before the time so fixed, a notice in writing:
    - (i) identifying the matter; and
    - (ii) specifying the time and place fixed for the hearing on the matter; and
    - (iii) notifying the organisation and any affected reporting unit of their right to appear before the Registrar and to make submissions, in accordance with subregulation (2), relating to the matter.
- (2) The organisation and each affected reporting unit may make submissions to the Registrar by either, or both, of the following:
  - (a) lodging in the Industrial Registry, not less than 2 days before the day fixed for the hearing on the matter, written submissions relating to the matter;
  - (b) appearing at the hearing on the matter and making oral submissions to the Registrar.

**Regulation 161****158 Keeping records (RAO Schedule, s 252 (1) (a))**

For paragraph 252 (1) (a) of the RAO Schedule, a record that contains information prescribed for subsection 272 (1) of the RAO Schedule is prescribed.

**159 Prescribed information contained in operating report (RAO Schedule, s 254 (2) (f))**

For paragraph 254 (2) (f) of the RAO Schedule, the following information is prescribed:

- (a) the number of persons that were, at the end of the financial year to which the report relates, recorded in the register of members for section 230 of the RAO Schedule and who are taken to be members of the reporting unit under section 244 of the RAO Schedule;
- (b) the number of persons who were, at the end of the financial year to which the report relates, employees of the reporting unit, where the number of employees includes both full-time employees and part-time employees measured on a full-time equivalent basis;
- (c) the name of each person who has been a member of the committee of management of the reporting unit at any time during the reporting period, and the period for which he or she held such a position.

**160 Limit on length of written representations (RAO Schedule, s 263 (5))**

For subsection 263 (5) of the RAO Schedule, written representations by the auditor may not exceed 2 000 words.

**161 Concise report (RAO Schedule, s 265 (3) (a))**

- (1) For subsection 265 (3) of the RAO Schedule, a concise financial report must include:
  - (a) the following financial statements presented as in the full report except for the omission of cross-references to notes to the financial statements in the full report:
    - (i) a profit and loss statement for the financial year;
    - (ii) a balance sheet for the end of the financial year;

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- (iii) a statement of cash flows for the financial year; and
  - (b) disclosure of information for the preceding financial year corresponding to the disclosures made for the current financial year; and
  - (c) discussion and analysis of the principal factors affecting the financial performance, financial position and financial and investing activities of the reporting unit to assist the understanding of members; and
  - (d) any reports or statements mentioned in paragraph 253 (2) (c) of the RAO Schedule; and
  - (e) in addition to the statement required by paragraph 265 (3) (e) of the RAO Schedule, a statement that the concise financial report has been derived from the full report and cannot be expected to provide as full an understanding of the financial performance, financial position and financial and investing activities of the reporting unit as the full report; and
  - (f) the notice mentioned in subsection 272 (5) of the RAO Schedule.
- (2) A concise report may include any other information consistent with the full report.

**162 Prescribed officer for issuing certificate (RAO Schedule, s 268 (c))**

For paragraph 268 (c) of the RAO Schedule, a prescribed designated officer is:

- (a) the secretary; or
- (b) an officer of the organisation other than the secretary who is authorised by the organisation or by the rules of the organisation to sign the certificate mentioned in that paragraph.

**163 Prescribed State Act (RAO Schedule, s 269 (1) (a))**

- (1) For paragraph 269 (1) (a) of the RAO Schedule, the following are prescribed State Acts:
- (a) *Industrial and Employee Relations Act 1994* (SA);
  - (b) *Industrial Relations Act 1979* (WA);

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- (c) *Industrial Relations Act 1984* (Tas);
- (d) *Industrial Relations Act 1996* (NSW);
- (e) *Industrial Relations Act 1999* (Qld).

- (2) For paragraph 269 (2) (b) of the RAO Schedule, the following legislation is prescribed State legislation:
  - (a) any Act mentioned in subregulation (1);
  - (b) any subordinate legislation made under any Act mentioned in subregulation (1).

**164 Preparation of general purpose financial report (RAO Schedule, s 270)**

- (1) For subsection 270 (4), a period of 4 months is prescribed.
- (2) For subsection 270 (7) of the RAO Schedule, a prescribed designated officer is:
  - (a) the secretary; or
  - (b) an officer of the reporting unit, other than the secretary, who is authorised by the rules of the reporting unit to sign the certificate mentioned in that subsection.

**165 Prescribed circumstances (RAO Schedule, s 271 (1))**

For subsection 271 (1) of the RAO Schedule, the following circumstances are prescribed:

- (a) whether the reporting unit expends economic resources or incurs any financial obligations to conduct its activities;
- (b) whether another reporting unit of the organisation expends its own economic resources or incurs financial obligations so that the reporting unit may conduct its activities;
- (c) whether any person or body corporate or trust expends its own economic resources or incurs financial obligations so that the reporting unit may conduct its activities.

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**166 Information to be given to members (RAO Schedule, s 272 (1) and (2))**

- (1) An application under subsection 272 (1) of the RAO Schedule to a reporting unit of an organisation must be:
  - (a) in writing addressed to the secretary, or any other executive officer, of the organisation; and
  - (b) delivered by hand at, or sent by prepaid post to, the office of the organisation.
- (2) For subsection 272 (1) of the RAO Schedule, the following information about a reporting unit (in relation to the last financial year in respect of which a report was made under subsection 257 (1) of the RAO Schedule) is prescribed information:
  - (a) for any compulsory levy raised by the reporting unit other than a levy for which the reporting unit has, during the financial year, operated a special fund or account:
    - (i) the purpose for which the levy was raised; and
    - (ii) the total amount received by the reporting unit; and
    - (iii) the total amount expended for that purpose;
  - (b) for any collection by the reporting unit of voluntary contributions made by the members for the furtherance of a particular purpose, other than voluntary contributions for which the reporting unit has, during the financial year, operated a special fund or account:
    - (i) the purpose for which the contributions were collected; and
    - (ii) the total amount received by the reporting unit as voluntary contributions for the furtherance of that purpose; and
    - (iii) the total amount expended for that purpose;
  - (c) for any donation or grant exceeding \$1 000 made to the reporting unit:
    - (i) the amount of the donation or grant; and
    - (ii) if the donation or grant was made for a specified purpose — the purpose so specified;
  - (d) for any compulsory levy imposed on the reporting unit:
    - (i) the purpose for which the levy was imposed; and

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- (ii) the total amount paid by the reporting unit; and
  - (iii) the name and address of the entity (including another reporting unit of the organisation) imposing the levy;
- (e) for any donation or grant exceeding \$1 000 made by the reporting unit:
- (i) the purpose for which the donation or grant was made; and
  - (ii) the amount of the donation or grant; and
  - (iii) if the donation or grant is not a prescribed donation or grant — the name and address of the person to whom the donation or grant was made;
- (f) for any amount exceeding \$1 000 (that is not an amount that must be disclosed in the general purpose financial report) received or paid by the reporting unit:
- (i) the amount received or paid by the reporting unit; and
  - (ii) the name and address of the person from whom the amount was received or to whom the amount was paid; and
  - (iii) the purpose for which the amount was received or paid by the reporting unit;
- (g) for any amount exceeding \$1 000 (that is not an amount that must be disclosed in the general purpose financial report) paid by the reporting unit to an officer or employee of the reporting unit whether a single transaction or multiple transactions for the reimbursement of out of pocket expenses;
- (h) for any amount exceeding \$1 000 (that is not an amount that must be disclosed in the general purpose financial report) paid by the reporting unit to an officer of the reporting unit whether a single transaction or multiple transactions for the reimbursement of remuneration foregone by the officer in relation to the usual occupation of the officer in the course of performing duties as an officer of the reporting unit;

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- (i) for any amount exceeding \$1 000 (that is not an amount that must be disclosed in the general purpose financial report) paid by the reporting unit on behalf of an officer or employee of the reporting unit whether a single transaction or multiple transactions for goods and services for the personal use of the officer or employee or in discharge of the personal financial obligations of the officer or employee;
- (j) the amount paid as remuneration to the holder of any office in the reporting unit;
- (k) for any loan exceeding \$1 000 made by the reporting unit:
  - (i) the amount of the loan; and
  - (ii) the purpose for which the loan was required; and
  - (iii) the security given for the loan; and
  - (iv) if the loan is not a prescribed loan — the name and address of the person to whom the loan was made and the arrangements made for the repayment of the loan;
- (l) for any loan exceeding \$10 000 received by the reporting unit:
  - (i) the name and address of the person from whom the loan was received; and
  - (ii) the amount of the loan; and
  - (iii) the purpose for which the loan was required; and
  - (iv) the security given for the loan; and
  - (v) the arrangements made for the repayment of the loan;
- (m) for any contingent liability of the reporting unit at the end of the financial year that has been determined and exceeds 5% of the net value of the assets of the reporting unit at the end of the financial year:
  - (i) a description of the liability; and
  - (ii) the amount for which the reporting unit is liable;



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- (n) for any fund or account operated by the reporting unit in relation to a compulsory levy raised by the reporting unit or in relation to voluntary contributions collected from the members of the reporting unit:
- (i) the purpose for which the levy was raised or the voluntary contributions collected; and
  - (ii) the amount of the balance of the fund or account at the beginning of the financial year (if applicable); and
  - (iii) if any money was transferred to the fund or account from any other fund or account operated by the reporting unit and, if any money was so transferred, a description of each fund or account from which money was so transferred and the amount transferred from each fund or account; and
  - (iv) the total amount paid by the members of the reporting unit for the levy or as voluntary contributions; and
  - (v) the total amount of payments made out of the fund or account in furtherance of the purpose for which the levy was imposed or the voluntary contributions collected; and
  - (vi) if any payment was made out of the fund or account in furtherance of a purpose other than the purpose for which the levy was imposed or the voluntary contributions collected and, if any payment was so made, the amount of each payment and the purpose for which it was made; and
  - (vii) if any money was transferred from the fund or account to any other fund or account operated by the reporting unit or by the organisation of which the reporting unit is a part and, if any money was so transferred, a description of each fund or account to which the money was transferred and the amount transferred to each fund or account; and
  - (viii) in relation to:
    - (A) each payment whose particulars are given in accordance with subparagraph (vi); and

**Regulation 166**

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- (B) each transfer whose particulars are given in accordance with subparagraph (vii);  
the designation within the reporting unit of the person who approved the payment or transfer and the date when the approval was given; and
- (ix) the amount of the balance of the fund or account at the end of the financial year or, for a fund or account that the reporting unit ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets;
- (o) for any fund (other than the general fund or a fund mentioned in paragraph (n)) the operation of which is required by the rules of the reporting unit:
- (i) the purpose for which the fund was operated; and
  - (ii) the amount of the balance of the fund at the beginning of the financial year (if applicable); and
  - (iii) if any money was transferred to the fund from any other fund or any account operated by the reporting unit and, if any money was so transferred, a description of each fund or account from which money was so transferred and the amount transferred from each fund or account; and
  - (iv) the total amount of moneys, other than money mentioned in subparagraph (iii), paid into the fund; and
  - (v) the total amount of payments made out of the fund in furtherance of the purpose for which the fund was operated; and
  - (vi) if any payment was made out of the fund in furtherance of a purpose other than the purpose for which the fund was operated and, if any payment was so made, the amount of each payment and the purpose for which it was made; and

**Regulation 166**

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- (vii) if any money was transferred from the fund to any other fund or any account operated by the reporting unit and, if any money was so transferred, a description of each fund or account to which the money was transferred and the amount transferred to each fund or account; and
  - (viii) in relation to:
    - (A) each payment whose particulars are given in accordance with subparagraph (vi); and
    - (B) each transfer whose particulars are given in accordance with subparagraph (vii);the designation within the reporting unit of the person who approved the payment or transfer and the date when the approval was given; and
  - (ix) the amount of the balance of the fund at the end of the financial year or, for a fund that the reporting unit ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets; and
  - (x) the amount paid for payroll deduction facilities provided by the employer of the member:
    - (A) who made an application under subsection 272 (1) of the RAO Schedule; or
    - (B) on whose behalf the application was made.
- (3) In subregulation (2):
- (a) a reference to a person includes a reference to any body whether corporate or unincorporate; and
  - (b) a reference to a prescribed donation or grant or to a prescribed loan is a reference to a donation or grant made, or a loan granted by an reporting unit to a member of the reporting unit on the certification of the officer of the reporting unit authorising the donation or grant, or the loan that the officer was satisfied, from investigations made by the officer, that the donation or grant, or the loan, was necessary to relieve the member or a dependant of the member from severe financial hardship.

**Regulation 167**

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- (4) For paragraph (2) (f), a member must:
- (a) specify the nature of any transaction for which the amount was received or paid; and
  - (b) provide any other information the member has to assist the reporting unit to identify in its financial records the information applied for under subsection 272 (1) of the RAO Schedule.
- (5) Any information that must be made available to a member of a reporting unit, or to a Registrar, under subsection 272 (3) of the RAO Schedule:
- (a) must be in writing signed by a designated officer as defined in section 243 of the RAO Schedule; and
  - (b) must:
    - (i) if the application was made by a Registrar — be delivered by hand at, or sent by prepaid post to, the office of that Registrar; or
    - (ii) if the application was made by a member of the reporting unit and specifies an address for the member — be sent by prepaid post to that address; or
    - (iii) in any other case — be left for collection at the office of the reporting unit.

**167 Evidence of membership of organisation to be supplied (RAO Schedule, s 272 (1))**

If a Registrar receives a request mentioned in subsection 272 (4) of the RAO Schedule purporting to be made by a member of a reporting unit, the Registrar may require the person making the request to supply evidence that the person is a member of the reporting unit.

## **Part 9**

# **Civil consequences of contravening civil penalty provisions (RAO Schedule, Ch 10)**

### **168 Civil penalty provisions**

- (1) An application may be made to the Federal Court for orders under regulations 169 and 170 for conduct that contravenes a civil penalty provision.
- (2) The following provisions are the civil penalty provisions:
  - (a) subregulation 38 (8) (statement of change);
  - (b) subregulation 68 (8) (direction by electoral official);
  - (c) subregulation 87 (2) (direction by electoral official);
  - (d) subregulation 97 (10) (direction by electoral official);
  - (e) subregulation 112 (2) (direction by electoral official);
  - (f) subregulation 113 (1) (unauthorised act during ballot);
  - (g) subregulation 145 (1) (unauthorised act during election or ballot).

### **169 Pecuniary penalty orders that the Federal Court may make**

- (1) For conduct that contravenes a civil penalty provision in these Regulations, the Federal Court may make an order imposing on the person or organisation whose conduct contravened the civil penalty provision a pecuniary penalty of not more than:
  - (a) in the case of a body corporate — 25 penalty units; or
  - (b) in any other case — 5 penalty units.
- (2) A penalty payable under this regulation is a civil debt payable to the Commonwealth.
- (3) The Commonwealth may enforce the order as if it were an order made in civil proceedings against the person, reporting unit or organisation to recover a debt due by the person.

**Regulation 170**

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- (4) The debt arising from the order is taken to be a judgment debt.

**170 Other orders**

- (1) The Federal Court may make such other orders as the Federal Court considers appropriate in all the circumstances of the case.
- (2) Without limiting subregulation (1), the orders may include injunctions (including interim injunctions), and any other orders, that the Federal Court thinks necessary to stop the conduct or remedy its effects.
- (3) Orders may be made under this regulation whether or not orders are also made under regulation 169.

**171 Who may apply for an order***Application by Industrial Registrar*

- (1) The Industrial Registrar, or a person authorised in writing by the Industrial Registrar under this subregulation to make the application, may apply for an order under this Part.

*Intervention by organisation*

- (2) An organisation may intervene in an application for a pecuniary penalty order or an order under regulation 170 in relation to the organisation.
- (3) The organisation is entitled to be heard on all matters other than whether the order should be made.

**172 Civil proceedings after criminal proceedings**

The Federal Court must not make a pecuniary penalty order against a person or organisation for a contravention if the person has been convicted of an offence constituted by conduct that is substantially the same as the conduct constituting the contravention.

**Regulation 175**

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**173 Criminal proceedings during civil proceedings**

- (1) Proceedings for a pecuniary penalty order against a person or organisation are stayed if:
  - (a) criminal proceedings are started or have already been started against the person or organisation for an offence; and
  - (b) the offence is constituted by conduct that is substantially the same as the conduct alleged to constitute the contravention.
- (2) The proceedings for the order may be resumed if the person or organisation is not convicted of the offence.
- (3) Otherwise, the proceedings for the order are dismissed.

**174 Criminal proceedings after civil proceedings**

Criminal proceedings may be started against a person or organisation for conduct that is substantially the same as conduct constituting a contravention of a civil penalty provision regardless of whether an order under this Part has been made against the person or organisation.

**175 Evidence given in proceedings for penalty not admissible in criminal proceedings**

- (1) Evidence of information given or evidence of production of documents by an individual is not admissible in criminal proceedings against the individual if:
  - (a) the individual previously gave the evidence or produced the documents in proceedings for a pecuniary penalty order against the individual for a contravention of a civil penalty provision (whether or not the order was made); and
  - (b) the conduct alleged to constitute the offence is substantially the same as the conduct that was claimed to constitute the contravention.
- (2) However, this does not apply to a criminal proceeding in respect of the falsity of the evidence given by the individual in the proceedings for the pecuniary penalty order.

**Regulation 176**

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**176 Relief from liability for contravention of civil penalty provision**

- (1) In this regulation:  
*eligible proceedings:*
- (a) means proceedings for a contravention of a civil penalty provision; and
  - (b) does not include proceedings for an offence.
- (2) If:
- (a) eligible proceedings are brought against a person or organisation; and
  - (b) in the proceedings it appears to the Federal Court that the person or organisation has, or may have, contravened a civil penalty provision but that:
    - (i) the person or organisation has acted honestly; and
    - (ii) having regard to all the circumstances of the case, the person or organisation ought fairly to be excused for the contravention;
- the Federal Court may relieve the person or organisation either wholly or partly from a liability to which the person or organisation would otherwise be subject, or that might otherwise be imposed on the person or organisation, because of the contravention.
- (3) If a person or organisation thinks that eligible proceedings will or may be begun against them, they may apply to the Federal Court for relief.
- (4) On an application under subregulation (3), the Federal Court may grant relief under subregulation (2) as if the eligible proceedings had been begun in the Federal Court.



## Part 10                      Miscellaneous (RAO Schedule, Ch 11)

### 177            **Authorisation to act in relation to applications or proceedings**

Where these Regulations or the RAO Schedule provide that a person, organisation, branch, reporting unit, constituent part, company or committee of management may or must take any step in relation to any application or proceeding dealt with by the Industrial Registrar, the step may be taken as follows:

- (a) by the person, or on behalf of the person by any other person who has the written authority of the person to take the step;
- (b) on behalf of the organisation, branch, reporting unit or constituent part by a person authorised by the rules of the organisation, branch, reporting unit or constituent part to take the step;
- (c) on behalf of a company that is not an organisation by an officer or person authorised under the seal of the company to represent it under the RAO Schedule, or in the proceedings;
- (d) on behalf of the committee of management by a person authorised by the committee to take the step.

### 178            **Proceedings before Registrar**

- (1) In any proceedings before a Registrar, the Registrar may exempt a person from compliance with a procedural requirement under the RAO Schedule or these Regulations if the Registrar is satisfied that there are special circumstances.
- (2) An exemption under subregulation (1) may be granted:
  - (a) absolutely; or
  - (b) subject to conditions.

**Regulation 179**

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- (3) Failure to comply with a procedural requirement for proceedings before the Registrar does not render the proceedings void but the proceedings may be:
- (a) set aside, either wholly or in part, as irregular; or
  - (b) amended; or
  - (c) otherwise dealt with as and how the Registrar thinks fit.

**179 Proceedings before Commission**

- (1) In any proceedings before the Commission, the Commission may exempt a person from compliance with a procedural requirement under the RAO Schedule or these Regulations if the Commission is satisfied there are special circumstances.
- (2) An exemption under subregulation (1) may be granted:
- (a) absolutely; or
  - (b) subject to conditions.
- (3) Failure to comply with a procedural requirement for proceedings before the Commission does not render the proceedings void but the proceedings may be:
- (a) set aside, either wholly or in part, as irregular; or
  - (b) amended; or
  - (c) otherwise dealt with as and how the Commission thinks fit.

**180 Use of previous evidence**

- (1) Any evidence given in any proceedings (the *earlier proceedings*) in relation to a matter under the RAO Schedule or these Regulations may be used in any subsequent proceedings before a Registrar (the *subsequent proceedings*) in relation to that matter:
- (a) if the Registrar permits; and
  - (b) on any terms and conditions determined by the Registrar.
- (2) However, a person who is a party to the subsequent proceedings may object to the use in the subsequent proceedings of any evidence given in the earlier proceedings if the person was not a party to the earlier proceedings.

**Regulation 181**

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- (3) The Registrar, before giving a permission under subregulation (1), must have regard to any objection made under subregulation (2).
- (4) If evidence has been given orally, this regulation does not authorise its use in the subsequent proceedings unless:
  - (a) a written record of the evidence is available for the use of the Registrar; and
  - (b) the Registrar is satisfied the written record is a true record of the evidence.

**181 General powers of Industrial Registrar**

- (1) In any proceedings before a Registrar, the Registrar, on the application of a party or on the Registrar's own motion, may:
  - (a) require a person, by summons served on the person, to appear before the Registrar:
    - (i) to give evidence; and
    - (ii) to produce such books, documents or things as are referred to in the summons for inspection by the Registrar or by such party as the Registrar determines; and
  - (b) take evidence on oath; and
  - (c) adjourn any matter or hearing; and
  - (d) amend or give leave to amend any application, notice or other document; and
  - (e) extend the time fixed by these Regulations for the lodging of any document or the doing of any act (whether that time has expired or not); and
  - (f) give directions to any party in relation to the service of documents and the manner of service of documents; and
  - (g) order any party to pay any other party such reasonable sum for costs as he or she thinks just.
- (2) A person must not refuse or fail to comply with a summons served on him or her for the purposes of paragraph (1) (a).

Penalty: 5 penalty units.

**Regulation 181**

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- (3) Strict liability applies in subregulation (2) to the physical element of failing to comply.

*Note* For *strict liability*, see section 6.1 of the *Criminal Code*.

- (4) It is a defence to a prosecution for an offence against subregulation (2) if the person had a reasonable excuse.

*Note* A defendant bears an evidential burden in relation to the matter mentioned in subregulation (4) (see section 13.3 of the *Criminal Code*).

- (5) If the Registrar exercises a power under subregulation (1) on the application of a party, the Registrar may make any order for payment of fees or costs relating to the exercise of the power as the Registrar thinks just.

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## Schedule 1 Forms

### Form 1 Certificate of registration (regulation 30)

*Workplace Relations Act 1996*, Schedule 1B, subsection 26 (4)

#### **CERTIFICATE OF REGISTRATION OF AN ASSOCIATION AS AN ORGANISATION**

I, \_\_\_\_\_, the Industrial Registrar,  
under subsection 26 (4) of Schedule 1B to the *Workplace Relations Act 1996*,  
certify that on (*insert date of registration*) an association of \*employers/  
\*employees called (*insert name of association*) was registered as an  
organisation under subsection 26 (1) of that Schedule.

The eligibility rules of the association are as follows:

- (*insert relevant rules*)

Dated \_\_\_\_\_ 20\_\_ .

.....  
Industrial Registrar

\*Omit if inapplicable.

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**Form 2      Application for ballot under Part 3 of  
Chapter 3**  
(paragraph 82 (a))

*Workplace Relations Act 1996, Schedule 1B, subsection 94 (4)*

**APPLICATION FOR BALLOT UNDER PART 3 OF CHAPTER 3**

TO: THE FEDERAL COURT OF AUSTRALIA

I/We, (*full name(s) of applicant(s)*), the applicants listed in the schedule to this application\*, being the prescribed number of constituent members/the committee of management of the constituent members\*:

- (a) apply for a ballot to be held to decide whether (*name of constituent part of amalgamated organisation*) should withdraw from (*name of amalgamated organisation*); and
- (b) nominate (*name*), of (*address*) as the representative constituent member for the purposes of the ballot.

*\*Omit if inapplicable.*

**PARTICULARS**

1. The date of amalgamation.
2. A statement that neither of the events in subsection 94 (2) of the RAO Schedule has occurred.
3. Each question proposed to be put to the ballot.
4. Any other information that the applicant wishes the Court to have regard to.

Dated                      20   .

.....  
*Signature of applicant(s)*

**SCHEDULE**

Applicant(s):

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**Form 3      Ballot paper under Part 3 of Chapter 3**  
(subregulation 92 (1))

*Workplace Relations Act 1996, Schedule 1B, section 102*

BALLOT OF MEMBERS OF  
(*Name of organisation*)

BALLOT PAPER IN RESPECT OF PROPOSED  
WITHDRAWAL FROM AMALGAMATION

(*Initials, or facsimile  
of initials, of the  
person conducting the  
ballot*)

CLOSING DATE OF BALLOT: (*Date*)

*Directions to Voter*

1. Record your vote on the ballot paper as follows:
  - if you approve the withdrawal from amalgamation referred to in the question set out below, write 'YES' in the space provided opposite the question;
  - if you do not approve the withdrawal from amalgamation referred to in the question set out below, write 'NO' in the space provide opposite the question.
2. Do not place on this paper any mark or writing by which you may be identified.

QUESTION FOR VOTERS:

DO YOU APPROVE THE PROPOSED WITHDRAWAL  
OF (*name of constituent part of organisation whose  
members are voting*) FROM AMALGAMATION WITH  
(*name of amalgamated organisation from which  
withdrawal is proposed*) AND ITS REGISTRATION AS A  
SEPARATE ORGANISATION UNDER SCHEDULE 1B  
OF THE *WORKPLACE RELATIONS ACT 1996*?

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## **Form 4      Application for determination of day of                  withdrawal from amalgamation**

(subregulation 107 (5))

*Workplace Relations Act 1996, Schedule 1B, subsection 109 (5)*

### **APPLICATION FOR DETERMINATION OF DAY OF WITHDRAWAL FROM AMALGAMATION**

TO: THE FEDERAL COURT OF AUSTRALIA

I/We, (*full name(s) of applicant(s)*), the applicants listed in the schedule to this application\*, being a person/constituent member/member of a committee of management\* authorised to make the application by\* the prescribed number of constituent members/the committee of management/elected entirely or substantially by the constituent members\* of (*name of constituent part of amalgamated organisation*), apply for:

- (a) a determination of the day on which the withdrawal of (*name of constituent part of amalgamated organisation*) from (*name of amalgamated organisation*) is to take effect;
- (b) orders to apportion the assets and liabilities of (*name of amalgamated organisation*) between (*name of amalgamated organisation*) and (*name of constituent part of amalgamated organisation*);\*
- (c) other orders in connection with giving effect to the withdrawal\*.

*\*Omit if inapplicable.*

#### **INFORMATION**

1. A statement that more than 50% of the formal votes cast in a ballot are in favour of the constituent part withdrawing from the amalgamation.
2. Details of the assets and liabilities of the constituent part before it, or the organisation of which it was a State or Territory branch, was de-registered in connection with the formation of the amalgamated organisation.
3. Details of any change in the net value of those assets and liabilities since the amalgamation.
4. Details of the creditors of the amalgamated organisation and the nature of their interest.
5. Other information to which the applicant wishes the Court to have regard.



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Dated 20 .

.....  
*Signature of applicant(s)*

**SCHEDULE**

Applicant(s):

**Form 5      Agreement between organisation and  
State union**  
(regulation 117)

*Workplace Relations Act 1996*, Schedule 1B, subsection 151 (1)

**AGREEMENT BETWEEN ORGANISATION AND STATE  
REGISTERED UNION**

*(Insert name of organisation)* (the **Organisation**) and *(insert name of State union)* (the **Union**) agree that the members of the Union who, under the eligibility rules of the Organisation, are not eligible to be members of the Organisation are \*[, subject to the provisions set out in the Schedule,] eligible to become members of the Union.

\*[SCHEDULE]

Dated                                  20 .

Signed on behalf of the  
Organisation by

*(Signature, name and title of  
office, of person(s) signing)*

in the presence of

.....

Signed on behalf of the  
Union by

*(Signature, name and title of  
office, of person(s) signing)*

in the presence of

.....

*\*Omit words within brackets if unnecessary.*

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**Form 6 Agreement between organisation and State union**  
(regulation 118)

*Workplace Relations Act 1996, Schedule 1B, subsection 152 (2)*

**ASSETS AND LIABILITIES AGREEMENT BETWEEN ORGANISATION AND STATE-REGISTERED UNION**

*(Insert name of organisation)*, in this agreement called 'the Organisation', and *(insert name of State union)*, in this agreement called 'the Union', agree to the following arrangements for the management and control of the assets and liabilities of the Organisation and the Union:

*(Set out details of agreement)*

Dated 20 .

Signed on behalf of the Organisation by:

*(Signature, name and title of office of person(s) signing)*

in the presence of

.....

Signed on behalf of the Union by:

*(Signature, name and title of office of person(s) signing)*

in the presence of

.....

**Form 7      Certificate of conscientious objection to  
membership of association**

(subregulation 128 (2))

*Workplace Relations Act 1996*, Schedule 1B, subsection 180 (1)

**CERTIFICATE OF CONSCIENTIOUS OBJECTION TO  
MEMBERSHIP OF ASSOCIATION**

I, \_\_\_\_\_, \*the/\*a  
Deputy/Industrial Registrar, under subsection 180 (1) of Schedule 1B to the  
*Workplace Relations Act 1996*, certify that:

- (a) on application made by (*name of applicant*) of (*address of applicant*), I am satisfied that \*his/\*her conscientious beliefs do not allow \*him/\*her to be a member of an association of a kind described in paragraph \*18 (1) (a)/ \*18 (1) (b)/ \*18 (1) (c) of that Schedule; and
- (b) (*name of applicant*) has paid the prescribed fee.

This certificate, unless sooner revoked, remains in force for a period of \_\_\_\_\_  
from the date of this certificate.

Dated \_\_\_\_\_ 20 \_\_\_\_ .

.....  
\*Deputy/Industrial Registrar

*\*Omit if inapplicable.*

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**Form 8 Identity card — designated Registry official**  
(regulation 144)

COMMONWEALTH OF AUSTRALIA

*Workplace Relations Act 1996*, Schedule 1B, paragraph 203 (2) (a)

**IDENTITY CARD — DESIGNATED REGISTRY OFFICIAL**

I, \*the Industrial Registrar/\*delegate of the Industrial Registrar, acting under subsection 203 (1) of Schedule 1B to the *Workplace Relations Act 1996*, certify that

whose photograph and signature appear on this card is a designated Registry official for the purposes of that Schedule.

.....  
(Signature of designated Registry official)

Dated 20 .

.....  
\*Industrial Registrar  
\*Delegate of Industrial Registrar

*\*Omit if inapplicable.*

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**Note**

1. Notified in the *Commonwealth of Australia Gazette* on / 2003.

8 May

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2003, *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* 125