

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2007 No. 306**

(Issued by the authority of the Minister for Employment and Workplace Relations)

*Workplace Relations Act 1996*  
*Workplace Relations Amendment (Work Choices) Act 2005*

*Workplace Relations Amendment Regulations 2007 (No. 4)*

Subsection 846(1) of the *Workplace Relations Act 1996* (the Act) authorises the Governor-General to make regulations, not inconsistent with the Act prescribing matters required or permitted by the Act to be prescribed. Clause 7 of Schedule 10 to the Act allows regulations to be made modifying the way in which the criteria for registration in Schedule 1 to the Act applies in relation to a transitionally registered association. As these Regulations are of a transitional nature, they are also authorised by clause 1 of Part 1 in Schedule 4 to the *Workplace Relations Amendment (Work Choices) Act 2005* (the Work Choices Act). That clause provides that the Governor-General may make regulations dealing with matters of a transitional, saving or application nature relating to amendments made by the Work Choices Act.

Schedule 1 to the *Workplace Relations Act 1996* (the Act) provides for the registration of organisations able to represent the industrial interests of employees. The Act also allows some state based associations to obtain transitional registration under Schedule 10 to represent the industrial interests of certain employees.

A transitionally registered association can also seek permanent registration under Schedule 1. However, regulations made under clause 7 of Schedule 10 modify the registration criteria for Schedule 1 registration when sought by a transitionally registered association. Regulation 4.3 of the *Workplace Relations Regulations 2006* prevents transitionally registered associations from obtaining permanent registration if the transitionally registered association is substantially identical to a state branch of an already registered organisation.

The Australian Nursing Federation, Industrial Union of Workers Perth (the Federation), if transitionally registered under Schedule 10 to the Act, is prevented from gaining permanent registration by regulation 4.3. This is because the Federation is also a state branch of the Australian Nursing Federation, an organisation registered under Schedule 1 to the Act.

These Regulations exempt the Federation from the operation of regulation 4.3 and allow it to obtain permanent registration as an organisation under Schedule 1 to the Act, despite its similarity to the Australian Nursing Federation. The Federation will, however, still need to satisfy all of the other registration criteria to obtain permanent registration.

Details of the Regulations are set out in the Attachment.

These Regulations are related to amendments to the *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* which provide protections for the Federation once it has obtained permanent registration under Schedule 1 to the Act.

These Regulations are made in reliance on subsection 846(1) of the Act and clause 1 of Part 1 in Schedule 4 to the Work Choices Act.

The Australian Government considers that these Regulations give appropriate recognition to the unique position of the Federation and its desire to disassociate from the Australian Nursing Federation. The Federation has been consulted in relation to these amendments.

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

**ATTACHMENT****Details of the *Workplace Relations Amendment Regulations 2007 (No. 4)*****Regulation 1 – Name of Regulations**

This regulation provides that the Regulations are called the *Workplace Relations Amendment Regulations 2007 (No. 4)*.

**Regulation 2 – Commencement**

This regulation provides that the Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

**Regulation 3 – Amendment of the *Workplace Relations Regulations 2006***

This regulation provides that the *Workplace Relations Regulations 2006* (the Principal Regulations) are amended in accordance with Schedule 1.

**Schedule 1 – Amendments****Item [1] – Chapter 6, subregulation 4.3(1)**

This item amends the Principal Regulations to make the operation of subregulation 4.3(1) subject to the amendments in item [2].

**Item [2] – Chapter 6, after subregulation 4.3(2)**

This item prevents the application of subregulations 4.3(1) and (2) to the Australian Nursing Federation, Industrial Union of Workers Perth (the Federation).

Subregulations 4.3(1) and (2) require the Australian Industrial Relations Commission to apply section 19 of Schedule 1 to the *Workplace Relations Act 1996* (the Act) as though it required the registration application of a transitionally registered association to be refused if the association is substantially identical to a state branch of an already registered organisation. The Federation, if transitionally registered under Schedule 10, would be prevented from gaining permanent registration by regulation 4.3 of the Regulations. This is because the Federation is also a state branch of the Australian Nursing Federation, an organisation registered under Schedule 1 to the Act.

By exempting the Federation from the operation of subregulations 4.3(1) and (2), this item makes it possible for the Federation to obtain registration under Schedule 1 to the Act, provided it has already gained transitional registration and meets the other relevant Schedule 1 registration criteria.

The Government considers that these amendments are an appropriate recognition of the unique position of the Federation.