

Queensland



*Industrial Relations Act 1999*

# **INDUSTRIAL ORGANISATIONS REGULATION 1997**

**Reprinted as in force on 10 December 1999  
(includes amendments up to Act No. 33 of 1999)**

**Reprint No. 1A**

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# Information about this reprint

This regulation is reprinted as at 10 December 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

# Queensland



## INDUSTRIAL ORGANISATIONS REGULATION 1997

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# INDUSTRIAL ORGANISATIONS REGULATION 1997

[as amended by all amendments that commenced on or before 10 December 1999]

## PART 1—PRELIMINARY

### Short title

1. This regulation may be cited as the *Industrial Organisations Regulation 1997*.

### Commencement

2. This regulation commences on 29 August 1997.

### Dictionary

3. The dictionary in schedule 5 defines particular words and phrases used in this regulation.

## PART 2—REGISTRATION

### Application for registration

4.(1) A registration application<sup>1</sup> must be filed in the registrar's office.

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<sup>1</sup> 'Registration' means registration as an organisation. Industrial organisations are called 'organisations'. See: the dictionary in the Act, definitions "organisation" and "registration".

(2) Each document accompanying an application under section 8(2) or 9(2)<sup>2</sup> of the Act must be signed and dated by the association's president and secretary when they sign the application form.

(3) The association may file a statement supporting the application when the documents required by the Act are filed.

### **Order in which registration applications dealt with**

5. Registration applications must be dealt with, as far as is practicable, in the order in which they are filed.

### **Notice of registration application—Act, s 7(3)**

6.(1) For section 7(3)<sup>3</sup> of the Act, notice of a registration application must be published—

- (a) in the form decided by the registrar; and
- (b) at the applicant's cost, in—
  - (i) a newspaper circulating generally throughout the State; and
  - (ii) if the registrar so directs—the industrial gazette.

(2) The applicant must, within 7 days of the publication, file in the registrar's office—

- (a) if the page of the newspaper in which the notice is published has the newspaper's name, date and page number—a copy of the page; or
- (b) if the page does not have the newspaper's name, date and page number—a copy of the newspaper.

(3) If the application is for registration other than as an enterprise association the applicant must, as soon as is practicable after the publication, serve a copy of the notice on each organisation whose callings—

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<sup>2</sup> Section 8 (Applying for registration—employer associations) or section 9 (Applying for registration—employee associations) of the Act.

<sup>3</sup> Section 7 (Applying for registration—general) of the Act.

- (a) include the callings of the applicant's members; or
- (b) relate to the applicant's eligibility rules.

### **Withdrawing registration applications**

7. A registration application may be withdrawn by the association that filed it before the application is decided by the commission.

### **Reviewing small organisation's registration**

8.(1) This section applies if the commission is considering the justification for the continued registration of a small organisation under section 14<sup>4</sup> of the Act.

- (2) The commission must give the organisation an opportunity to—
- (a) make a written submission about a matter to be considered by the commission; and
  - (b) present oral arguments in support of any written submission.

### **Registering several organisations for the same calling—Act, s 15(5)**

9. For section 15(5)<sup>5</sup> of the Act, an organisation given notice under section 15(4) may be heard to oppose the registration application if within 7 days of being given the notice it—

- (a) files a notice of opposition in the form provided for in the rules of court; and
- (b) serves a copy of the notice on the applicant.

### **Objections to registration—Act, s 17**

10.(1) For section 17(1)<sup>6</sup> of the Act, a notice (an “**objection notice**”) objecting to a registration application must be—

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<sup>4</sup> Section 14 (Continued registration of small organisations) of the Act.

<sup>5</sup> Section 15 (Registering several organisations for the same calling) of the Act.

<sup>6</sup> Section 17 (Deciding application) of the Act.

- (a) in the form provided for in the rules of court; and
- (b) filed within 35 days of the publication of the application under section 6.<sup>7</sup>

(2) The objector must serve a copy of the objection notice on the association that filed the application within 7 days after the notice was filed.

### **Answering objections**

**11.(1)** The applicant may file a written statement in answer to an objection notice in the registrar's office within 14 days after the notice is served on the applicant.

(2) The statement must—

- (a) give the facts and issues relied on; and
- (b) be signed by an authorised officer of the applicant.

(3) The applicant must serve a copy of the statement on the objector within 7 days after filing it.

### **Grounds objector may rely on**

**12.(1)** The objector may only rely on a ground stated in the objection notice.<sup>8</sup>

(2) However, the commission may allow the objector to rely on another ground if—

- (a) the objector makes an application to it to rely on the other ground; and
- (b) gives adequate reasons for the application; and
- (c) the applicant is given an opportunity to be heard.

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<sup>7</sup> Section 6 (Notice of registration application—Act, s 7(3))

<sup>8</sup> The form provided for in the rules of court requires an objection notice to state the grounds and reasons.

**Hearing application and objections**

**13.(1)** For section 17(2)(b)<sup>9</sup> of the Act, notice of the hearing of objections must be given to each objector not less than 7 days before the day fixed for the hearing.

**(2)** In deciding a registration application the commission 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 section 10<sup>10</sup> an opportunity to be heard.

**(3)** The commission may allow the applicant and any objector to call oral evidence.

**PART 3—ORGANISATIONS' RULES***Division 1—Change of callings, name or eligibility rules***Application of div 1**

**14.** This division applies to an application by an organisation—

- (a) to change the calling for which it is registered under section 16<sup>11</sup> of the Act; or
- (b) for consent to change its name or amend its eligibility rules under section 37<sup>12</sup> of the Act.

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<sup>9</sup> Section 17(2) (Deciding application) of the Act.

<sup>10</sup> Section 10 (Objections to registration—Act, s 17)

<sup>11</sup> Section 16 (Change of callings) of the Act.

<sup>12</sup> Section 37 (Commission's consent needed for change or amendment) of the Act.

**How application is made**

**15.(1)** The application must be—

- (a) made in the form provided for in the rules of court; and
- (b) filed in the registrar's office.

**(2)** Applications must be dealt with, as far as is practicable, in the order in which they are filed.

**Notifying application**

**16.(1)** Notice of the application must be published—

- (a) in the form decided by the registrar; and
- (b) at the applicant's cost, in—
  - (i) a newspaper circulating generally throughout the State; and
  - (ii) if the registrar so directs—the industrial gazette.

**(2)** The applicant must, within 7 days of the publication file in the registrar's office—

- (a) if the page of the newspaper in which the notice is published has the newspaper's name, date and page number—a copy of the page; or
- (b) if the page does not have the newspaper's name, date and page number—a copy of the newspaper.

**(3)** The applicant, other than an enterprise association, must, as soon as is practicable after the publication, serve a copy of the notice on each organisation whose callings—

- (a) include the callings of the applicant's members; or
- (b) relate to the applicant's eligibility rules.

**Objections to application**

**17.(1)** A person (an “**objector**”) with an appropriate interest in the matter of an application may file an objection notice to the application in the form provided for in the rules of court within 35 days after the application is published under section 16.

(2) The objector must serve a copy of the objection notice on the applicant within 7 days after filing it.

### **Answering objections**

**18.(1)** The applicant may file a written statement in answer to an objection notice in the registrar's office within 14 days after the notice is served on the applicant.

(2) The statement must—

- (a) give the facts and issues relied on; and
- (b) be signed by an authorised officer of the applicant.

(3) The applicant must serve a copy of the statement on the objector within 7 days after filing it.

### **Grounds objector may rely on**

**19.(1)** The objector may only rely on a ground stated in the objection notice.<sup>13</sup>

(2) However, the commission may allow the objector to rely on another ground if—

- (a) the objector makes an application to it to rely on the other ground; and
- (b) gives adequate reasons for the application; and
- (c) the applicant is given an opportunity to be heard.

### **Hearing application and objections**

**20.(1)** The commission must—

- (a) fix a time and place to hear the application and any objections; and
- (b) give the applicant and any objector 7 days notice of the time and place of the hearing.

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<sup>13</sup> The form provided for in the rules of court requires an objection notice to state the grounds and reasons.

(2) In deciding the application the commission 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 section 17<sup>14</sup> an opportunity to be heard.

(3) The commission may allow the applicant and any objector to call oral evidence.

### *Division 2—Publishing candidates' statements*

#### **Publishing candidates' statements—Act, s 25(1)(c)(iii)**

21. For section 25(1)(c)(iii)<sup>15</sup> of the Act, an organisation's rules must require a candidate's statement to—

- (a) be published—
  - (i) on a single A4 sheet of paper, printed on 1 or both sides; and
  - (ii) in a way that is clearly readable; and
- (b) include the candidate's name and other details decided by the candidate.

*Examples of 'other details' a statement may include—*

A candidate's credentials, policies, union activity, views and work history.

### *Division 3—Exemptions from postal ballots for elections*

#### **Application for exemption—Act, s 26(3)**

22. An application for an exemption under section 26(3)<sup>16</sup> of the Act must state the grounds on which it is made.

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<sup>14</sup> Section 17 (Objections to application)

<sup>15</sup> Section 25 (Rules for elections and ballots) of the Act.

<sup>16</sup> Section 26 (Rules for elections by secret postal ballot) of the Act.

**Application to cancel exemption—Act, s 26(8)(a)**

**23.** An application to cancel an exemption under section 26(8)(a)<sup>17</sup> of the Act must state the grounds for the cancellation of the exemption.

**Exemption cancellation by registrar—Act, s 26(8)(b)(ii)**

**24.(1)** For section 26(8)(b)(ii) of the Act, the registrar must give the organisation an opportunity to show cause why an exemption given to it should not be cancelled by—

- (a) fixing a time and place to hear the matter; and
- (b) giving the organisation at least 7 days notice of the hearing.

**(2)** The notice must state—

- (a) the time and place for the organisation to show cause; and
- (b) the registrar's reasons for the proposed cancellation; and
- (c) that the organisation may be heard and make submissions under subsection (3) to the registrar to show cause why the exemption should not be cancelled.

**(3)** The organisation may make submissions about the proposed cancellation by—

- (a) filing written submissions in the registrar's office at least 2 days before the hearing; or
- (b) oral submissions at the hearing.

**Amending rules because of exemption cancellation—Act, s 26(9)**

**25.(1)** For section 26(9) of the Act, the registrar must give at least 7 days notice to an organisation that it may be heard before deciding amendments to its rules.

**(2)** The notice must state—

- (a) the time and place at which the registrar will decide the amendments; and

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<sup>17</sup> Section 26 (Rules for elections by secret postal ballot) of the Act

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- (b) that the registrar proposes to decide amendments to the organisation's rules necessary for them to comply with section 26(2) of the Act; and
  - (c) the proposed amendments; and
  - (d) that the organisation may be heard and make submissions to the registrar on the proposed amendments under subsection (3).
- (3) The organisation may make submissions about the proposed amendments by—
- (a) filing written submissions at least 2 days before the hearing; or
  - (b) oral submissions at the hearing.

*Division 4—Rule amendment hearings***Amendment of rules by registrar—Act, s 41(1)(b)**

**26.(1)** This section applies if the registrar proposes to amend an organisation's rules under section 41(1)<sup>18</sup> of the Act.

(2) For section 41(1)(b) of the Act, the registrar must give the organisation an opportunity to be heard on the matter by—

- (a) fixing a time and place to hear the matter; and
- (b) giving the organisation at least 7 days notice of the hearing.

(3) The notice must state the following—

- (a) the time and place of the hearing;
- (b) how the rules do not make provision as required by the Act;
- (c) that the organisation may be heard on the matter and make submissions under subsection (4).

(4) The organisation may make submissions about the proposed amendment by—

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<sup>18</sup> Section 41 (Registrar may amend rules—Cwlth s 203) of the Act.

- (a) filing written submissions at least 2 days before the hearing; or
- (b) oral submissions at the hearing.

**Amendment by commission if undertaking breached—Act, s 42(3)**

**27.(1)** This section applies if the commission proposes to amend an organisation's rules under section 42(2)<sup>19</sup> of the Act.

**(2)** For section 42(3) of the Act, the commission must give the organisations mentioned in section 42(2) of the Act an opportunity to be heard on the matter by—

- (a) fixing a time and place to hear the matter; and
- (b) giving the organisations at least 7 days notice of the hearing.

**(3)** The notice must state the following—

- (a) the time and place of the hearing;
- (b) the undertaking breached;
- (c) the overlap between the organisations' eligibility rules;
- (d) that the organisations may be heard on the matter and make submissions under subsection (4).

**(4)** The organisations may make submissions about the proposed amendment by—

- (a) filing written submissions at least 2 days before the hearing; or
- (b) oral submissions at the hearing.

**(5)** At the hearing, the commission may—

- (a) direct the way in which the hearing must proceed; and
- (b) if it has heard the organisations—
  - (i) decide the matter immediately; or
  - (ii) adjourn the matter; or

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<sup>19</sup> Section 42 (Commission may amend rules if undertaking breached—Cwlth s 203A) of the Act.

- (iii) if the organisations agree—decide the matter on a later day without further hearing.

## **PART 4—ELECTIONS AND BALLOTS—GENERAL**<sup>20</sup>

### *Division 1—Definition*

#### **Definition for pt 4**

**28.** In this part—

“**ballot**” means a ballot for—

- (a) an election; or
- (b) a proposed amalgamation under part 9<sup>21</sup> of the Act; or
- (c) a proposed withdrawal from amalgamation under part 10<sup>22</sup> of the Act.

### *Division 2—Exemptions from election or ballot if counterpart federal body*

#### **Application of div 2**

**29.** This division applies to an application for an exemption under section 34(2), 134(2) or 162(2)<sup>23</sup> of the Act.

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<sup>20</sup> The provisions in this part are those that are common to all elections and ballots. Parts 5 to 7 have separate provisions for elections and ballots for amalgamations or withdrawal from amalgamations.

<sup>21</sup> Part 9 (Amalgamating industrial organisations) of the Act.

<sup>22</sup> Part 10 (Withdrawal from amalgamations) of the Act.

<sup>23</sup> Section 34 (Exemption if federal election held), section 134 (Ballot exemption—recognising federal ballot), section 162 (Ballot exemption—recognising federal ballot) of the Act.

**Notice to members before application**

**30.(1)** The application may only be made if each applicant has given each of its members written notice stating details about the application.

**(2)** If an applicant publishes a journal or newsletter it gives its members free of charge, the applicant may give the notice by publishing it in the journal or newsletter.

**How application is made**

**31.** The application must—

- (a) be made in the form provided for in the rules of court; and
- (b) be filed in the registrar's office; and
- (c) be signed by—
  - (i) if the application is under section 34(2)<sup>24</sup> of the Act—a member of the organisation's management committee; or
  - (ii) if the application is under section 134(2) or 162(2)<sup>25</sup> of the Act—a management committee member of each of the organisations; and
- (d) state the grounds on which it is made; and
- (e) be accompanied by—
  - (i) a copy of any report or certificate required under the Commonwealth Act for the counterpart federal body's election or ballot that the application is about; and
  - (ii) an affidavit by a member of each applicant's management committee stating that section 30 has been complied with.

**Publishing notice**

**32.** The registrar must publish a notice stating details about the application within 21 days after the filing of the application in—

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<sup>24</sup> Section 34 (Exemption if federal election held) of the Act.

<sup>25</sup> Section 134 (Ballot exemption—recognising federal ballot), section 162 (Ballot exemption—recognising federal ballot) of the Act.

- (a) a newspaper circulating generally throughout the State; and
- (b) any other newspaper or publication the registrar considers appropriate.

### **Objections to exemption—Act, s 34(3)(b), 134(4)(b) or 162(3)(b)**

**33.(1)** For section 34(3)(b), 134(4)(b) or 162(3)(b)<sup>26</sup> of the Act, a member (an “**objector**”) of an organisation may make an objection by filing a notice (an “**objection notice**”) in the registrar’s office in the form provided for in the rules of court within 28 days of the application.

**(2)** The objector must serve a copy of the objection notice on each applicant within 7 days after filing it.

### **Answering objections**

**34.(1)** An applicant may file a written statement in answer to an objection notice in the registrar’s office within 14 days after the notice is served on the applicant.

**(2)** The statement must—

- (a) give the facts and issues relied on; and
- (b) be signed by—
  - (i) if the application is under section 34(2)<sup>27</sup> of the Act—a member of the organisation’s management committee; or
  - (ii) if the application is under section 134(2) or 162(2)<sup>28</sup> of the Act—a management committee member of each of the organisations.

**(3)** The applicant must serve a copy of the statement on the objector within 7 days after filing it.

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<sup>26</sup> Section 34 (Exemption if federal election held), section 134 (Ballot exemption—recognising federal ballot), section 162 (Ballot exemption—recognising federal ballot) of the Act.

<sup>27</sup> Section 34 (Exemption if federal election held) of the Act.

<sup>28</sup> Section 134 (Ballot exemption—recognising federal ballot), section 162 (Ballot exemption—recognising federal ballot) of the Act.

**Grounds objector may rely on**

**35.(1)** The objector may only rely on a ground stated in the objection notice.<sup>29</sup>

**(2)** However, the commission may allow the objector to rely on another ground if—

- (a) the objector makes an application to it to rely on the other ground; and
- (b) gives adequate reasons for the application; and
- (c) the applicant is given an opportunity to be heard.

**Hearing application and objections**

**36.(1)** The commission must—

- (a) fix a time and place to hear the application and any objections; and
- (b) give the applicant and any objector 7 days notice of the time and place of the hearing.

**(2)** In deciding the application the commission 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 section 33<sup>30</sup> an opportunity to be heard.

**(3)** The commission may allow the applicant and any objector to call oral evidence.

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<sup>29</sup> The form provided for in the rules of court requires an objection notice to state the grounds and reasons.

<sup>30</sup> Section 33 (Objections to exemption—Act, s 34(3)(b), 134(4)(b) or 162(3)(b))

***Division 3—Exemptions from requirement that electoral commission conduct an election or ballot***

***Subdivision 1—Applying for exemption***

**Application of sdiv 1**

**37.** This subdivision applies to an application for an exemption under—

- (a) section 48(1)<sup>31</sup> of the Act, by an organisation's or branch's management committee for an exemption from section 47(1)<sup>32</sup> of the Act; or
- (b) section 109(1)<sup>33</sup> of the Act, by an existing organisation's management committee for an exemption from section 108(1)<sup>34</sup> of the Act; or
- (c) section 166(1) of the Act, by the persons or the body mentioned in section 161(3) of the Act for an exemption from section 165(1)<sup>35</sup> of the Act.

**How application is made**

**38.** The application must—

- (a) be signed by—
  - (i) if the application is under section 48(1) or 109(1) of the Act—a member of the management committee; or

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<sup>31</sup> Section 48 (Application for exemption from s 47) of the Act.

<sup>32</sup> Section 47 (Electoral commission to conduct elections) of the Act.

<sup>33</sup> Section 109 (Application for exemption from s 108) of the Act.

<sup>34</sup> Section 108 (Electoral commission to conduct ballot) of the Act.

<sup>35</sup> Section 166 (Application for exemption from s 165), section 161(3) (Applications to the commission for ballots—Cwlth s 253ZJ), section 165 (Conducting ballot—Cwlth s 253ZM) of the Act.

- (ii) if the application is under section 166(1) of the Act—1 of the persons or a member of the body mentioned in section 161(3) of the Act; and
- (b) state the grounds on which it is made.

**Notifying resolution—Act, ss 48(2)(b), 109(2)(b) and 166(2)(b)**

**39.** For sections 48(2)(b), 109(2)(b) and 166(2)(b)<sup>36</sup> of the Act, a member of the organisation, branch or constituent part is notified of the making of the resolution—

- (a) if the member is given a copy of the resolution; or
- (b) if the organisation, branch or constituent part publishes a journal or newsletter it gives its members free of charge—a notice of the making of the resolution is published in the journal or newsletter.

**Publishing notice—Act, ss 48(4), 109(4) and 166(4)**

**40.(1)** For sections 48(4), 109(4) and 166(4) of the Act, a notice stating details about the application must be published in—

- (a) a newspaper circulating generally throughout the State; and
- (b) any other newspaper or publication the registrar considers appropriate.

**(2)** The notice must be published within 21 days after the application is filed in the registrar's office.

**Objections to application**

**41.(1)** An objection under sections 49(1), 110(1) or 167(1)<sup>37</sup> of the Act to the application must be made by filing in the registrar's office a notice (an

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<sup>36</sup> Section 48 (Application for exemption from s 47), section 109 (Application for exemption from s 108), section 166 (Application for exemption from s 165) of the Act.

<sup>37</sup> Section 49 (Objections to application for exemption), section 110 (Objections to application for exemption), section 167 (Objections to application for exemption) of the Act.

“**objection notice**”) in the form provided for in the rules of court.

(2) The objection notice must be filed within 28 days after the publication of the notice mentioned in section 40.

(3) The objector must serve a copy of the objection notice on the applicant within 7 days of filing it.

### **Answering objections**

**42.(1)** The applicant may file a written statement in answer to an objection notice in the registrar’s office within 14 days after the notice is served on the applicant.

(2) The statement must—

(a) give the facts and issues relied on; and

(b) be signed by—

(i) if the application is under sections 48(1) or 109(1)<sup>38</sup> of the Act—a member of the management committee; or

(ii) if the application is under section 166(1) of the Act—1 of the persons or a member of the body mentioned in section 161(3)<sup>39</sup> of the Act.

(3) The applicant must serve a copy of the statement on the objector within 7 days after filing it.

### **Grounds objector may rely on**

**43.(1)** The objector may only rely on a ground stated in the objection notice.<sup>40</sup>

(2) However, the commission may allow the objector to rely on another ground if—

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<sup>38</sup> Section 48 (Application for exemption from s 47), section 109 (Application for exemption from s 108) of the Act.

<sup>39</sup> Section 166 (Application for exemption from s 165), section 161 (Applications to the commission for ballots—Cwlth s 253ZJ) of the Act.

<sup>40</sup> The form provided for in the rules of court requires an objection notice to state the grounds and reasons.

- (a) the objector makes an application to it to rely on the other ground; and
- (b) gives adequate reasons for the application; and
- (c) the applicant is given an opportunity to be heard.

**Hearing application and objections—Act, ss 49(2), 110(2) and 167(2)**

**44.(1)** For sections 49(2), 110(2) or 167(2)<sup>41</sup> of the Act, the commission must—

- (a) fix a time and place to hear the application and any objections; and
- (b) give the applicant and any objector 7 days notice of the time and place of the hearing.

**(2)** In deciding the application the commission 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 section 41<sup>42</sup> an opportunity to be heard.

**(3)** The commission may allow the applicant and any objector to call oral evidence.

***Subdivision 2—Cancelling exemptions from s 47, 108 or 165 of the Act*****Management committee application for cancellation**

**45.(1)** This section applies if the management committee of an organisation, branch or constituent part applies under section 50(3)(a), 111(3)(a) or 168(3)(a)<sup>43</sup> of the Act to cancel an exemption.

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<sup>41</sup> Section 49 (Objections to application for exemption), section 110 (Objections to application for exemption) of the Act.

<sup>42</sup> Section 41 (Objections to application)

<sup>43</sup> Section 50 (Commission may give exemption from s 47), section 111 (Commission may give exemption from s 108), section 168 (Commission may give exemption from s 165) of the Act.

(2) The application must be accompanied by a written statement signed by a member of the management committee stating the committee has resolved to make the application.

**Cancellation by commission—Act, ss 50(3)(b)(ii), 111(3)(b)(ii) and 168(3)(b)(ii)**

46. For sections 50(3)(b)(ii), 111(3)(b)(ii) and 168(3)(b)(ii) of the Act, the commission must give the management committee of the organisation, branch or constituent part an opportunity to show cause why an exemption should not be cancelled by—

- (a) fixing a time and place for the committee to show cause; and
- (b) giving the committee—
  - (i) notice of the time and place; and
  - (ii) a statement of the commission's reasons for the proposed cancellation.

*Division 4—Miscellaneous*

**Delegation by election or ballot managers**

47.(1) This section applies if an election or ballot is being conducted by a person other than the electoral commission.

(2) The manager of the election or ballot may delegate the manager's powers to an appropriately qualified person.<sup>44</sup>

(3) However, the delegate must not be an employee, member or officer of an organisation, proposed organisation or branch the election or ballot is about.

**Declaration of election or ballot result**

48.(1) A person who conducts an election or ballot must—

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<sup>44</sup> For delegation by the electoral commission see the *Electoral Act 1992*, section 18 (Delegation by the commission).

- (a) make a signed declaration of the result of the election or ballot as soon as possible after the counting of votes for the election or ballot; and
  - (b) within 1 day of the declaration give a copy of it to—
    - (i) the organisation, branch, or constituent part the election or ballot was about; and
    - (ii) for an election—each candidate.
- (2) The declaration may be countersigned by a scrutineer.

**Prescribed particulars for election and ballot result reports—Act, ss 52(1), 113(1) and 170(1)**

**49.** For a report under section 52(1), 113(1) or 170(1)<sup>45</sup> of the Act, the following particulars are prescribed—

- (a) how many ballot papers were printed;
- (b) how many eligible voters were on the roll for the election or ballot, including a supplementary roll;
- (c) how many ballot papers were given;
- (d) how many duplicate ballot papers were given;
- (e) how many ballot papers were not given;
- (f) how many ballot papers were returned;
- (g) how many votes were informal;
- (h) how many votes were rejected for a reason other than being informal and the reason for each rejection;
- (i) how many ballot papers were counted;
- (j) the percentage of eligible voters who voted;
- (k) how many ballot papers were returned as unclaimed mail;
- (l) how many ballot papers were not returned;

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<sup>45</sup> Section 52 (Election result report), section 113 (Ballot result report), section 170 (Ballot result report) of the Act.

- (m) how many formal votes were—
  - (i) for an election—for each candidate; or
  - (ii) for a proposed amalgamation under part 9 of the Act or withdrawal from amalgamation under part 10<sup>46</sup> of the Act—for and against the proposal;
- (n) if the report is a ballot result report under section 113<sup>47</sup> of the Act and votes about an alternative provision were counted under section 136(2)<sup>48</sup> of the Act, the number of votes—
  - (i) for and against the provision; and
  - (ii) that were informal.

*Examples of reasons for rejection under paragraph (h)—*

For a postal vote under part 9 or 10 of the Act, the voter's voting declaration was not—

- (a) filled in or signed; or
- (b) put in the return envelope; or
- (c) taken from the return envelope before the manager of the ballot received the return envelope.

### **Copies of result reports to be given**

**50.** A person who conducts an election or ballot must within 1 day of the giving of the report for the election or ballot under section 52(1), 113(1) or 170(1)<sup>49</sup> of the Act, give a copy of the report to—

- (a) the organisation, branch, or constituent part the election or ballot was about; and
- (b) for an election—each candidate.

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<sup>46</sup> Part 9 (Amalgamating industrial organisations), part 10 (Withdrawal from amalgamations) of the Act.

<sup>47</sup> Section 113 (Ballot result report) of the Act.

<sup>48</sup> Section 136 (Members' secret postal ballot) of the Act.

<sup>49</sup> Section 52 (Election result report), section 113 (Ballot result report), section 170 (Ballot result report) of the Act.

**Voters may ask for information about ballot**

**51.** A voter may ask a manager of a ballot to give stated information that—

- (a) is in the manager's knowledge; and
- (b) may allow the voter to find out whether there has been an irregularity for the ballot.

*Examples of information a voter may ask for—*

1. Whether ballot papers were posted on the same day.
2. If all material required to be given to voters for a ballot was given.

**Unauthorised action in conducting ballot**

**52.** A person, other than the manager of a ballot, must not do, or purport to do, an act in the conduct of the ballot unless authorised by the manager.

Maximum penalty—20 penalty units.

## **PART 5—ELECTIONS**

**Prescribed information for elections—Act, s 53(2)**

**53.(1)** For section 53(2)<sup>50</sup> of the Act, the following information is prescribed—

- (a) the name of each office for which an election is required;
- (b) whether the election is because—
  - (i) the term of the office has ended; or
  - (ii) there is a casual vacancy in the office; or
  - (iii) of a new office created under the organisation's or branch's rules;

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<sup>50</sup> Section 53 (Registrar to arrange for elections) of the Act.

- (c) the number of offices;
- (d) the membership figures, if any, used to calculate how many offices if—
  - (i) more than 1 office for which an election is required has the same name; and
  - (ii) the number of the offices can, under the organisation's or branch's rules, be calculated before the prescribed day under subsection (4);
- (e) if the electorate consists of only members of a branch, section or other division of an organisation—the name of the branch, section or division;
- (f) the day and time of the start and end of the term for which candidates' nominations for the election will be called for, or may be made, under the organisation's or branch's rules;
- (g) whether the organisation or branch has adopted the model election rules without change;
- (h) if the organisation or branch has not adopted the model election rules or has adopted the model election rules with changes—
  - (i) whether the voting system for the election is a direct voting system or a collegiate electoral system; and
  - (ii) how the organisation's or branch's rules require the result of the election to be decided.

(2) The information under subsection (1)(h) may be given by giving the registrar a copy of the provisions of the organisation's or branch's rules that contain the information.

(3) The prescribed information must be accompanied by a statement signed by an authorised officer of the organisation or branch stating the information is being filed under section 53(2) of the Act.

(4) For section 53(2) of the Act, the prescribed day is the day 2 months before the first day on which a person may become a candidate in the election under the organisation's or branch's rules.<sup>51</sup>

### **Prescribed election help—Act, s 58(b)**

54. For section 58(b)<sup>52</sup> of the Act, an organisation must help a candidate for an election by publishing the candidate's statement under section 25(1)(c)<sup>53</sup> of the Act, in the way prescribed under section 21.<sup>54</sup>

### **Time to request registrar to conduct election—Act, s 72(3)**

55. For section 72(3)<sup>55</sup> of the Act, a request to the registrar to conduct an election must be made not earlier than 1 month before or later than 3 months after the last day on which a person may become a candidate in the election.

### **Ballot security**

56. The manager of an election must ensure each ballot paper for the election—

- (a) has a unique pattern, watermark or other distinctive pattern that prevents it from being reproduced other than by the manager or a person authorised by the manager; and
- (b) is of paper that will hide a vote marked on it from view when it is folded once.

Maximum penalty—20 penalty units.

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<sup>51</sup> However, under section 53(2) (Registrar to arrange for elections) of the Act, the registrar may allow the prescribed information to be filed on a later day than the prescribed day.

<sup>52</sup> Section 58 (Election help) of the Act.

<sup>53</sup> Section 25 (Rules for elections and ballots) of the Act.

<sup>54</sup> Section 21 (Publishing candidates' statements—Act, s 25(1)(c)(iii))

<sup>55</sup> Section 72 (Registrar to conduct elections on request) of the Act.

## **PART 6—AMALGAMATING INDUSTRIAL ORGANISATIONS**

### *Division 1—Preliminary*

#### **Definitions for pt 6**

57. In this part—

**“applicant”**, for a proposed amalgamation, means an organisation or association that is a party to an application under section 104<sup>56</sup> of the Act.

**“ballot”** means a ballot for a proposed amalgamation under part 9<sup>57</sup> of the Act.

**“ballot box”** means a ballot box kept under section 84.<sup>58</sup>

**“ballot envelope”** see section 83(1)(d).<sup>59</sup>

**“latest version”** means—

- (a) for a ‘yes’ or ‘no’ case—the ‘yes’ or ‘no’ case, including any amendments to it under section 129<sup>60</sup> of the Act; or
- (b) for a scheme—the scheme, including any amendments to it under section 131<sup>61</sup> of the Act; or
- (c) for a scheme outline—the scheme outline, including any amendments under section 104 of the Act.

**“return envelope”** see section 83(1)(c).

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<sup>56</sup> Section 104 (Application to submit proposal to a ballot) of the Act.

<sup>57</sup> Part 9 (Amalgamating industrial organisations) of the Act.

<sup>58</sup> Section 84 (Manager must keep a ballot box)

<sup>59</sup> Section 83 (Postal ballots—distributing voting material)

<sup>60</sup> Section 129 (Amending ‘yes’ or ‘no’ cases) of the Act.

<sup>61</sup> Section 131 (Amending schemes) of the Act.

**“scrutineer”** means a person appointed as scrutineer under section 89(1)<sup>62</sup> or allowed to be a scrutineer under section 89(5).

**“voting declaration”** see section 83(1)(d).

**“voting material”** see section 83(1).

## **Federations**

**58.(1)** An application under section 98(1)<sup>63</sup> of the Act must be—

- (a) in the form provided for in the rules of court; and
- (b) accompanied by a copy of the—
  - (i) proposed federation’s rules; or
  - (ii) agreement about the proposed federation’s functions and powers.

**(2)** For section 98(2)(b) of the Act, the following particulars are prescribed for an application for recognition as a federation—

- (a) the proposed federation’s name;
- (b) its constituent organisations’ names;
- (c) its postal address or address for service;
- (d) its proposed officers’ names.

**(3)** For section 98(3) of the Act, the prescribed period is 3 years.

**(4)** For section 98(4) of the Act, the following particulars are prescribed—

- (a) the federation’s name;
- (b) its constituent organisations’ names.

**(5)** If under section 98(7) of the Act, a federation amends its composition, the registrar must enter particulars of the variation in the register maintained under section 289(3)<sup>64</sup> of the Act.

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<sup>62</sup> Section 89 (Scrutineers—appointment)

<sup>63</sup> Section 98 (Federations) of the Act.

<sup>64</sup> Section 289 (Functions and powers of registrar) of the Act.

(6) For section 98(8)(b) of the Act, the prescribed period is 3 years.

(7) For section 98(8)(c) of the Act, the following persons are prescribed—

- (a) the Minister;
- (b) a person or organisation with sufficient interest to make an application under that provision.

(8) A federation registered under section 98 of the Act must give a statement to the registrar if there is a change in—

- (a) a particular about the federation of a kind mentioned in subsection (2); or
- (b) the federation's rules; or
- (c) the agreement about the federation's functions and powers.

(9) A statement under subsection (8) must—

- (a) be filed in the registrar's office within 28 days of the change; and
- (b) state full particulars of the change.

(10) A federation must not fail to file a statement under subsection (9) without reasonable excuse.

Maximum penalty—20 penalty units.

### *Division 2—Starting amalgamation procedure*

#### **Community of interest declaration—applications**

**59.** An application under section 103(1)<sup>65</sup> of the Act must—

- (a) state the grounds on which it is made; and
- (b) be signed by an authorised officer of each joint applicant.

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<sup>65</sup> Section 103 (Community of interest declaration) of the Act.

**Ballot applications**

**60.(1)** A ballot application must—

- (a) be in the form provided for in the rules of court; and
- (b) state 1 of the applicants as the applicant authorised to receive on the applicants' behalf service of documents for the application, proposed amalgamation and each proposed alternative amalgamation; and
- (c) be signed by an authorised officer of each joint applicant; and
- (d) be accompanied by a copy of each resolution for the proposed amalgamation under section 102(3)<sup>66</sup> of the Act, signed by an authorised officer of the applicant whose management committee passed it.

**(2)** Service of a document on the applicant stated for subsection (1)(b) is taken to be service on each of the applicants.

**Application for exemption from ballot**

**61.** An application under section 106(1)<sup>67</sup> of the Act must—

- (a) state the grounds on which it is made; and
- (b) be signed by an authorised officer of the organisation filing it.

**Applying for alternative ballot**

**62.** An application under section 107(1)<sup>68</sup> of the Act must—

- (a) state, or be accompanied by, the proposed alternative ballot; and
- (b) be signed by an authorised officer of the organisation filing it.

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<sup>66</sup> Section 102 (Management committee approval) of the Act.

<sup>67</sup> Section 106 (Application for exemption from holding ballot) of the Act.

<sup>68</sup> Section 107 (Application for alternative ballot) of the Act.

**Withdrawing applications—Act, s 103, 104, 106 or 107**

**63.(1)** A party to an application under section 103(1) or 104(1)<sup>69</sup> of the Act may file a notice in the registrar's office of the party's withdrawal from the application.

(2) If a notice is filed under subsection (1), the registrar must take steps the registrar thinks are necessary to ensure the notice is brought to the attention of the organisations, associations and persons likely to be affected by the withdrawal.

(3) The parties to an application under section 103(1) or 104(1) of the Act may jointly file a notice of withdrawal of the application under subsection (1).

(4) An applicant under section 106(1) or 107(1) of the Act may file a notice of withdrawal of the application in the registrar's office.

(5) The party or applicant filing a notice of withdrawal must file with the notice a statement that the party's or applicant's management committee has passed a resolution approving the proposed withdrawal.

(6) A statement must be signed by an authorised officer of the party or applicant.

***Division 3—Amalgamation hearings******Subdivision 1—General*****Prescribed matters for submissions—Act, s 119(2)**

**64.** For section 119(2)(a)<sup>70</sup> of the Act, a proposed amendment of an existing organisation's eligibility rules or name is prescribed.

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<sup>69</sup> Section 103 (Community of interest declaration), section 104 (Application to submit proposal to a ballot) of the Act.

<sup>70</sup> Section 119 (Submissions at amalgamation hearings) of the Act.

**Notifying refusal of ballot application—Act, s 120**

**65.(1)** This section applies if under section 120(3)(a)<sup>71</sup> of the Act, the commission refuses to approve a ballot application.

(2) The registrar must publish a notice of the refusal in a newspaper in a way that, in the registrar's opinion, is likely to come to the attention of persons likely to be affected by the application's proposed amalgamation.

(3) The notice must state the—

- (a) grounds stated in section 67 for an objection under section 121<sup>72</sup> of the Act; and
- (b) day under section 68<sup>73</sup> an objection notice must be filed by.

***Subdivision 2—Amalgamations involving extension of eligibility rules*****Prescribed persons for objections—Act, s 121**

**66.** For section 121(2)(b) of the Act, an objection may be made by—

- (a) a member of an existing or proposed organisation; or
- (b) another person with sufficient interest in the proposed amalgamation.

**Prescribed grounds—Act, s 121**

**67.(1)** For section 121(2)(b) of the Act, each of the following grounds is a ground for an objection to a proposed amalgamation—

- (a) if the amalgamation involves a proposed organisation—
  - (i) the registration of the proposed organisation would not further the Act's objects; or

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<sup>71</sup> Section 120 (Ballot approval not extending eligibility rules etc.) of the Act.

<sup>72</sup> Section 121 (Objections about amalgamation involving extending eligibility rules etc.) of the Act.

<sup>73</sup> Section 68 (Making objection—Act, s 121)

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- (ii) there is an organisation to which the members of the proposed organisation could more conveniently belong that would more effectively represent the members; or
  - (iii) the name of the proposed organisation has the same name as an organisation's name; or
  - (iv) the proposed organisation is not a genuine association of a kind mentioned in section 8 or 9<sup>74</sup> of the Act; or
  - (v) the proposed organisation does not meet (or, if the amalgamation takes effect, will not meet) the requirements for registration;
- (b) if the proposed amalgamation involves a change of an organisation's name—the proposed new name is the same name as another organisation's name;
- (c) if the proposed amalgamation involves widening an existing organisation's eligibility rules—there is another organisation to which persons could more conveniently belong if the persons—
- (i) are potential members of the amalgamating organisations; and
  - (ii) would be ineligible to join any amalgamating organisation if their rules were not widened; and
  - (iii) would be more effectively represented by the other organisation.

(2) In this section—

**“same name”** means a name that is—

- (a) the same as another organisation's name; or
- (b) so similar to another organisation's name as to be likely to cause confusion.

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<sup>74</sup> Section 8 (Applying for registration—employer associations), section 9 (Applying for registration—employee associations) of the Act.

**Making objection—Act, s 121**

**68.(1)** An objection under section 121<sup>75</sup> of the Act must be made by filing an objection notice in the registrar's office—

- (a) by the day fixed by the commission; or
- (b) if the commission substitutes a later day for the fixed day—the substituted day; or
- (c) if no day is fixed—within 28 days from when a notice under section 65<sup>76</sup> for the proposed amalgamation is first published.

**(2)** The notice must state—

- (a) the objector's name and address; and
- (b) the grounds of the objection; and
- (c) particulars of the grounds.

**(3)** An objection notice from an organisation must be under the organisation's seal or be signed by the organisation's authorised officer.

**Objection notices**

**69.** A person who files an objection notice mentioned in section 68 must serve a copy of the notice on the applicants within 7 days after the filing.

**Answering objection**

**70.(1)** If a copy of an objection notice has been served under section 69, the applicants may jointly file a statement answering the notice.

**(2)** The statement must—

- (a) be signed by an authorised officer of each applicant; and
- (b) state the facts relied on in answer to the objection; and
- (c) be filed in the registrar's office within 14 days after the objection notice is served on the applicant.

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<sup>75</sup> Section 121 (Objections about amalgamation involving extending eligibility rules etc.) of the Act.

<sup>76</sup> Section 65 (Notifying refusal of ballot application—Act, s 120)

(3) The applicants must serve a copy of the statement on each party to the objection notice within 7 days after filing it.

### **Hearing objection—Act, s 121(3)**

**71.(1)** For section 121(3)<sup>77</sup> of the Act, the commission must when deciding an application for a proposed amalgamation—

- (a) fix a time and place to hear objections to the application; and
- (b) give the applicant and any objector notice of the time and place of the hearing.

(2) The commission may fix separate hearings for different objections.

(3) In fixing a time the commission must have regard to any objections or answers to objections under section 69 or 70.<sup>78</sup>

(4) The commission may allow oral evidence to be given at the hearing.

### **Applicants must be heard before refusing ballot approval**

**72.** Before deciding to refuse the submission of an amalgamation to ballot under section 122<sup>79</sup> of the Act, the commission must give the applicants an opportunity to be heard.

## *Division 4—Conducting ballots*

### *Subdivision 1—General*

#### **Roll—preparation**

**73.(1)** A roll for a ballot must be prepared at the direction of the manager of the ballot.

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<sup>77</sup> Section 121 (Objections about amalgamation involving extending eligibility rules etc.) of the Act.

<sup>78</sup> Section 69 (Objection notices), section 70 (Answering objection)

<sup>79</sup> Section 122 (Ballot approval if ballot extends eligibility rules etc.) of the Act.

(2) The manager must ensure the roll—

- (a) states each voter's name and address; and
- (b) is completed no more than 14 days before the ballot starts.

Maximum penalty—20 penalty units.

### **Roll—inspection**

**74.(1)** A manager of a ballot must make the roll for the ballot available for inspection—

- (a) in the term that—
  - (i) starts on the day after the roll must be completed under section 73(2)(b); and
  - (ii) ends 30 days after the ballot result is declared; and
- (b) during ordinary business hours at the place the manager carries out the manager's duties for the ballot.

Maximum penalty—20 penalty units.

(2) A member of the organisation the ballot is about or a person authorised by the manager may at the times and place stated in subsection (1)—

- (a) inspect the roll, free of charge; or
- (b) take a copy of the roll or of part of the roll.

### **Notice of ballot**

**75.(1)** A manager of a ballot must give notice to each member of an existing organisation the ballot is about of the starting and finishing days of the ballot fixed by the commission under section 123(2)<sup>80</sup> of the Act before the ballot starts.

Maximum penalty—20 penalty units.

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<sup>80</sup> Section 123 (Fixing ballot period) of the Act.

(2) If the commission has approved an alternative ballot under section 135(2)<sup>81</sup> of the Act but not fixed the starting and finishing times of the member's meeting for the ballot, the manager of the ballot must—

- (a) fix the place for the meeting, and its starting and finishing times; and
- (b) give at least 21 days notice to each voter of the—
  - (i) place and times; and
  - (ii) procedure to obtain and cast an absentee vote in the ballot.

Maximum penalty—20 penalty units.

(3) A notice under this section may be given by—

- (a) post; or
- (b) newspaper advertisement; or
- (c) another way the manager thinks will reasonably bring the notice to the members' attention.

### **Action and directions by manager of ballot**

**76.** A manager of a ballot may take action and give directions the manager reasonably considers are necessary to ensure no unlawful disclosure or irregularity happens in the ballot.

### **Registrar to supply scheme documents**

**77.(1)** After ballot documents are filed with the registrar, the registrar must promptly give a copy of them to—

- (a) the electoral commission; and
- (b) if the ballot is not conducted by the electoral commission—the returning officer for the ballot when the registrar is given notice of the returning officer's name under section 112<sup>82</sup> of the Act.

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<sup>81</sup> Section 135 (Alternative ballot approval) of the Act.

<sup>82</sup> Section 112 (Duties of organisation if exemption given) of the Act.

(2) In subsection (1)—

“**ballot documents**” means—

- (a) the scheme, scheme outline and ‘yes’ case for a ballot application; or
- (b) each ‘no’ case for the application’s proposed amalgamation; or
- (c) each amendment of, or document filed in substitution for, a document mentioned in paragraphs (a) and (b).

### **Manager of ballot must give scheme and outline if asked**

**78.(1)** This section applies if—

- (a) a manager of a ballot has received a copy of a scheme or scheme outline for a ballot application; and
- (b) a voter asks for a copy of the scheme or scheme outline.

(2) The manager must promptly give the voter the copy, free of charge.

### **Ballot paper—form**

**79.** A ballot paper must be in the form provided for in the rules of court.<sup>83</sup>

### *Subdivision 2—Distributing ballot papers and material*

### **Material for alternative ballots**

**80.(1)** The manager of an alternative ballot must post to each voter at their postal address on the roll—

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<sup>83</sup> The rules of court have separate forms for ballots with or without an alternative provision.

Under section 136(3) (Members’ secret postal ballot) of the Act if 2 or more ballots of an organisation’s members must be held, the same ballot paper must be used for all of them.

- (a) a copy of the latest version of—
  - (i) the scheme outline for the proposed amalgamation; and
  - (ii) each ‘yes’ case or ‘no’ case for the proposed amalgamation; and
- (b) a statement that a voter may obtain a copy of the latest version of the scheme and how and where the copy may be obtained.

(2) A document must be posted under subsection (1) in enough time for it, in the ordinary course of post, to be delivered at least 7 days before the starting day of the ballot.

### **Alternative ballots—distributing ballot papers**

**81.(1)** The manager of an alternative ballot must give a ballot paper initialled by the manager to each voter at the meeting at which the ballot is to be held.

(2) However, if a voter tells the manager the voter will be absent from the meeting, the manager must give the voter a ballot paper before the meeting starts.

### **Duplicate ballot papers—alternative ballot**

**82.(1)** If a voter at an alternative ballot satisfies the manager of the ballot, before putting the ballot paper in the ballot box, that the voter has spoiled the paper, the manager must—

- (a) mark ‘spoilt’ on the paper; and
- (b) initial the paper where marked and keep it; and
- (c) give a fresh ballot paper to the voter.

(2) If a voter at an alternative ballot satisfies the manager of the ballot before the ballot finishes that the voter’s ballot paper has been lost, stolen or destroyed, the manager must give the voter a duplicate ballot paper.

**Postal ballots—distributing voting material**

**83.(1)** A manager of a secret postal ballot must post the following material (the **“voting material”**) for the ballot to each voter<sup>84</sup>—

- (a) a ballot paper initialled by the manager;
- (b) each document the Act requires to be sent with the ballot paper;<sup>85</sup>
- (c) an unsealed reply paid envelope (a **“return envelope”**) addressed to the manager;
- (d) a ballot envelope (a **“ballot envelope”**) and a voting declaration (a **“voting declaration”**);
- (e) other material the manager considers appropriate for the ballot including, for example, directions or notes to help the voter to comply with this regulation and cast a valid vote;
- (f) a statement that the voter may obtain a copy of the latest version of the proposed amalgamation’s scheme and how and where the copy may be obtained.

**(2)** The voting material must be posted to a voter—

- (a) in a sealed envelope to the voter’s address on the roll; and
- (b) as soon as practicable, but not earlier than 2 days before the starting day of the ballot.

**(3)** The voting declaration must state ‘I certify I am the person whose name appears on this envelope and I have voted on the ballot paper enclosed.’.

**(4)** If a voter gives the manager notice that the voter will be absent from the address stated on the roll when voting material is to be given, the manager must post the material to the address stated in the notice.

**(5)** Before posting voting material to a voter, the manager must mark a different ballot number for each voter on—

- (a) the roll against the voter’s name; and

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<sup>84</sup> Under section 130 (‘Yes’ and ‘no’ cases to be sent to voters) of the Act, the manager must also send the ‘yes’ and ‘no’ cases with the ballot papers.

<sup>85</sup> See section 136(5) (Members’ secret postal ballot) of the Act.

- (b) the voting declaration; and
- (c) the return envelope.

(6) The ballot numbers must start with a number chosen by the manager.

(7) A ballot paper or a ballot envelope must not be marked in a way that could identify the voter.

### **Manager must keep a ballot box**

**84.(1)** After giving ballot papers, the manager of the ballot must obtain a ballot box.

(2) The manager must—

- (a) keep the box in a safe place; and
- (b) seal the box in a way that—
  - (i) allows voting material to be placed in it until the ballot finishes; and
  - (ii) prevents voting material from being taken from it until votes for the ballot are to be counted.

### **Duplicate ballot documents—postal voting**

**85.(1)** This section applies if a ballot document posted to a voter—

- (a) has not been received by the voter; or
- (b) has been lost or destroyed; or
- (c) if the ballot document is a ballot paper—has been spoilt.

(2) The voter may apply to the manager of the ballot for a duplicate of the ballot document.

(3) The application must—

- (a) be received by the manager on or before the finishing day of the ballot; and
- (b) state the grounds for the application; and
- (c) if practicable—be substantiated by evidence verifying, or tending to verify, the grounds; and

- (d) state the voter has not voted at the ballot; and
  - (e) if the ballot document is a spoiled ballot paper—be accompanied by the ballot paper.
- (4) If the application complies with subsection (3), the manager must—
- (a) if the ballot document is a spoiled ballot paper—
    - (i) mark ‘spoilt’ on the paper; and
    - (ii) initial the paper where marked and keep the paper; and
    - (iii) give a fresh ballot paper to the voter; or
  - (b) if the ballot document is not a spoiled ballot paper—give a duplicate of the document to the voter.
- (5) In this section—

**“ballot document”** means—

- (a) a ballot paper given to a voter under section 81(2) to cast an absentee vote in an alternative ballot; or
- (b) a document that is voting material posted to a voter under section 83(1).<sup>86</sup>

### *Subdivision 3—Voting and counting votes*

#### **How to vote in an alternative ballot**

**86.(1)** This section applies to a vote at a meeting for an alternative ballot.

(2) The voter must vote by—

- (a) completing a ballot paper; and
- (b) complying with the instructions on the paper and putting it in the ballot box.

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<sup>86</sup> Section 81 (Alternative ballots—distributing ballot papers), section 83 (Postal ballots—distributing voting material)

**How to vote by post**

**87.(1)** This section applies if—

- (a) a ballot is a secret postal ballot; or
- (b) a voter is given voting material under section 81(2)<sup>87</sup> to cast an absentee vote in an alternative ballot.

**(2)** The voter may vote only by completing the following steps—

- (a) completing a ballot paper by complying with the instructions on the paper;<sup>88</sup>
- (b) putting the ballot paper in the ballot envelope;
- (c) sealing the ballot envelope;
- (d) filling in and signing the voting declaration;
- (e) putting the voting declaration and the ballot envelope in the return envelope;
- (f) sealing the return envelope;
- (g) complying with any direction under section 83(1)(e);<sup>89</sup>
- (h) returning the return envelope to the manager of the ballot before the ballot finishes by—
  - (i) posting it so that the manager receives it before the ballot finishes; or
  - (ii) putting it in the ballot box before the ballot finishes.

**How ballot manager must deal with voting material**

**88.(1)** A manager of a ballot must keep voting material for the ballot that has been returned to the manager in a safe place until the vote has been counted.

Maximum penalty—20 penalty units.

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<sup>87</sup> Section 81 (Alternative ballots—distributing ballot papers)

<sup>88</sup> Under section 79 (Ballot paper—form) a ballot paper must be in the form provided in the rules of court.

<sup>89</sup> Section 83 (Postal ballots—distributing voting material)

(2) If, after the finishing day of the ballot, the manager receives a return envelope purporting to contain a ballot paper for the ballot, the manager must—

- (a) keep the envelope sealed; and
- (b) mark the envelope ‘Received after the finishing day’; and
- (c) keep the envelope in safe custody, separately from voting material received before the finishing day; and
- (d) identify the voter on the roll from the ballot number on the envelope; and
- (e) record on the roll that the voter’s return envelope was returned after the finishing day.

Maximum penalty—20 penalty units.

### **Scrutineers—appointment**

**89.(1)** An existing organisation’s management committee may appoint members of the organisation as scrutineers for a ballot to safeguard the interests of members for a proposed amalgamation.

(2) The appointment must be made by instrument signed by an authorised officer of the organisation on the committee’s behalf.

(3) The management committee must notify the manager of the ballot of each appointee’s name as soon as possible after the appointment.

(4) The manager may refuse to allow a scrutineer appointed under subsection (1) to attend the counting of the votes in the ballot or act as a scrutineer if—

- (a) the manager asks to inspect the instrument; and
- (b) the appointee does not produce it.

(5) If an existing organisation's members have filed a 'no' case, the manager must allow, subject to subsection (6) and section 91,<sup>90</sup> any member of the organisation to be a scrutineer to safeguard the interests of members against the proposal.

Maximum penalty—20 penalty units.

(6) A member may only be a scrutineer under subsection (5) if the manager is satisfied the member represents the members who filed the 'no' case.

### **Scrutineers' rights**

**90.(1)** Subject to section 91, a scrutineer may be present at the—

- (a) preparation and giving of ballot papers or other voting material for a ballot; or
- (b) receipt of voting material and placing the material in safe custody under section 88;<sup>91</sup> or
- (c) counting of votes.

(2) A scrutineer may make an objection or advise the manager of the ballot if the scrutineer considers an error has been made under section 94(1)(b).<sup>92</sup>

### **Scrutineers—numbers attending**

**91.** An existing organisation's management committee or the existing organisation's members who have filed a 'no' case may only have 1 scrutineer exercising a right under section 90 for each official present.

### **Initial scrutiny of postal votes**

**92.(1)** This section applies if a vote is made under section 87.<sup>93</sup>

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<sup>90</sup> Section 91 (Scrutineers—numbers attending)

<sup>91</sup> Section 88 (How ballot manager must deal with voting material)

<sup>92</sup> Section 94 (Scrutineers' objections)

<sup>93</sup> Section 87 (How to vote by post)

**(2)** As soon as possible after the ballot finishes, the manager of the ballot must—

- (a) seal the ballot box in a way that prevents anything from being placed in it; and
- (b) take the ballot box to the place votes are to be counted; and
- (c) deal with the voting material under this section.

**(3)** After the ballot box has been taken to the place where votes are to be counted, the manager must—

- (a) unseal the ballot box and take out the return envelopes; and
- (b) open each return envelope and take out the ballot envelope and the voting declaration; and
- (c) if a return envelope contained more than 1 ballot envelope—mark each of the ballot envelopes from the return envelope ‘informal under section 93(3)(e)’; and
- (d) examine the declaration and mark off the voter’s name on the roll; and
- (e) check the ballot number on the declaration against the ballot number marked against the voter’s name on the roll; and
- (f) ensure the declaration is signed.

**(4)** After complying with subsection (3), the manager must put the ballot envelopes and the declarations into separate containers if satisfied—

- (a) each declaration is signed; and
- (b) the ballot number on each declaration corresponds with the ballot number marked beside the voter’s name on the roll.

**(5)** However, the manager must not put a ballot envelope or a declaration in the containers mentioned in subsection (4) if—

- (a) the manager reasonably believes the voter to whom it was sent did not sign the declaration; or
- (b) the person named on the declaration is not the person to whom it was sent.

**(6)** The manager must keep ballot envelopes and declarations excluded under subsection (5) separate from other ballot envelopes and declarations.

(7) Subsection (5) does not apply if the manager is satisfied the person who filled in and signed the declaration—

- (a) is a voter and has not previously voted in the ballot; and
- (b) has a reasonable explanation for using the ballot material.

(8) If subsection (4) or (7) applies, the manager must—

- (a) accept the declaration as valid; and
- (b) note the acceptance on the declaration; and
- (c) record the correct ballot number on the roll against the name of the voter who signed the declaration.

(9) After separating the ballot envelopes and the declarations, the manager must in the following order—

- (a) seal the container holding declarations;
- (b) open the ballot envelopes not excluded under subsection (5) and take out the ballot papers;
- (c) if a ballot envelope is marked ‘informal under section 93(3)(e)’—mark each of the ballot papers from the envelope ‘informal under section 93(3)(e)’;
- (c) if a ballot envelope contained more than 1 ballot paper—mark each of the ballot papers from the envelope ‘informal under section 93(3)(f)’;
- (d) put all of the ballot papers in the ballot box.

### **Counting votes**

**93.(1)** To count votes the manager must—

- (a) admit the valid votes and reject the informal votes; and
- (b) count the valid votes, and record the number for and against the proposal; and
- (c) count the informal votes.

(2) If a scheme contains a proposed alternative provision and the manager is satisfied the result of the ballot on the provision may need to be known for the Act, the manager must—

- (a) admit the valid votes, and reject the informal votes, on the provision; and
  - (b) count the valid votes, and record the number for and against the provision; and
  - (c) count the informal votes on the provision.
- (3)** A vote is only informal if—
- (a) the ballot paper is not initialled by the manager and the manager is not satisfied the paper is authentic; or
  - (b) the ballot paper is marked in a way that allows 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 section 83(1)(e);<sup>94</sup> or
  - (e) the ballot envelope from which the ballot paper was taken was returned in a return envelope that contained another ballot envelope; or
  - (f) the ballot envelope from which the ballot paper was taken contained more than 1 ballot paper.

### **Scrutineers' objections**

- 94.(1)** At a count of votes for a ballot a scrutineer may—
- (a) object to a ballot paper being admitted as valid or rejected as informal; or
  - (b) advise the manager of the ballot if the scrutineer considers an error has been made in conducting the ballot or counting votes.
- (2)** If an objection is made under subsection (1)(a), the manager must—
- (a) decide whether the ballot paper is to be admitted or rejected; and
  - (b) note the decision on the ballot paper and initial the note.

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<sup>94</sup> Section 83 (Postal ballots—distributing voting material)

(3) If the manager is advised under subsection (1)(b), the manager must—

- (a) decide whether the error has been made; and
- (b) if appropriate—direct action to correct or mitigate the error.

### **Direction to leave count**

**95.(1)** A manager of a ballot may direct a person to leave the place where votes for the ballot are being counted if the manager reasonably believes the person—

- (a) does not have the right to be present, or remain present, at the count; or
- (b) is interrupting the count, other than to exercise a scrutineer's right.

(2) A person must not contravene a direction under subsection (1) without reasonable excuse.

Maximum penalty—10 penalty units.

## ***Division 5—Irregularity inquiries***

### **Definition for div 5**

**96.** In this division—

“**inquiry**” means an inquiry by the court into an alleged irregularity in a ballot under section 139<sup>95</sup> of the Act.

### **Applying for an inquiry—form**

**97.** An application for an inquiry must be filed in the registrar's office and made in the form provided for in the rules of court.

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<sup>95</sup> Section 139 (Irregularity inquiries) of the Act.

**Inspection of documents**

**98.(1)** If the court decides to conduct an inquiry it may, for the inquiry, authorise a person to inspect ballot records for the ballot the inquiry is about.<sup>96</sup>

(2) The court may give an authorisation before the inquiry begins.

(3) A person must not prevent another person carrying out an inspection authorised under subsection (1).

Maximum penalty—10 penalty units.

***Division 6—Amalgamation taking effect*****Public notice of amalgamation day**

**99.** If the commission has fixed an amalgamation day by gazette notice under section 141(1)<sup>97</sup> of the Act, the registrar must publish the notice in—

- (a) the industrial gazette; and
- (b) a newspaper circulating generally throughout the State.

**Particulars for amalgamated organisation’s registration—Act, s 142(a)**

**100.** For section 142(a)<sup>98</sup> of the Act, the particulars about a proposed amalgamated organisation that must be entered in the register include the organisation’s name.

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<sup>96</sup> Under the definition “ballot records” in the dictionary in the schedule to the Act, “ballot records” includes ballot papers, envelopes or other records used in connection with the ballot.

<sup>97</sup> Section 141 (Fixing amalgamation day) of the Act.

<sup>98</sup> Section 142 (Action on amalgamation) of the Act.

## **PART 7—WITHDRAWAL FROM AMALGAMATION**

### *Division 1—Preliminary*

#### **Definitions for pt 7**

**101.** In this part—

**“applicant”**, for a ballot, means a person who is—

- (a) a constituent member, or one of the constituent members, who apply for a ballot; or
- (b) a member of a management committee that applies for a ballot.

**“attendance ballot”** means a ballot under section 164(1)<sup>99</sup> of the Act that is ordered to be a ballot at a meeting of the constituent members.

**“ballot”** means a ballot under part 10<sup>100</sup> of the Act.

**“ballot application”** means an application for a ballot under section 161(1)<sup>101</sup> of the Act.

**“ballot box”** means a ballot box kept under section 116.

**“ballot envelope”** see section 115(2)(c).

**“finishing day”**, for a ballot, means the day the ballot finishes under section 105.

**“instrument”** see section 96<sup>102</sup> of the Act, definition **“instrument”**.

**“management committee”**, of a constituent part, means a management committee elected entirely or substantially by the part’s constituent members.

**“proposed withdrawal”** means the proposed withdrawal of a constituent part from an amalgamated organisation.

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<sup>99</sup> Section 164 (Orders for ballots—Cwlth s 253ZL) of the Act.

<sup>100</sup> Part 10 (Withdrawal from amalgamations) of the Act.

<sup>101</sup> Section 161 (Applications to the commission for ballots—Cwlth s 253ZJ) of the Act.

<sup>102</sup> Section 96 (Definitions for pt 9) of the Act.

**“representative constituent member”** means a representative constituent member under section 103(b).

**“return envelope”** see section 115(2)(b).

**“scrutineer”** means a person appointed as a scrutineer under section 121(1) or (3).

**“starting day”**, for a ballot, means the day the ballot starts under section 105.

**“voting declaration”** section 115(2)(c).

**“voting material”** see section 115(2).

**“withdrawal day”**, for a constituent part, means the day fixed under section 174(1)(a)<sup>103</sup> of the Act as the day on which the withdrawal of the constituent part takes effect.

### *Division 2—Ballot applications*

#### **Prescribed number of constituent members—Act, s 161(3)(a)**

**102.** For section 161(3)(a)<sup>104</sup> of the Act, the prescribed number of constituent members for a ballot application is the lesser of—

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

#### **Prescribed form for ballot applications—Act, s 161(4)**

**103.** For section 161(4) of the Act, a ballot application must—

- (a) be in the form provided for in the rules of court; and
- (b) state a person to be the applicant’s **“representative constituent member”** for the ballot—

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<sup>103</sup> Section 174 (Deciding the day of withdrawal—Cwlth s 253ZP) of the Act.

<sup>104</sup> Section 161(Applications to the commission for ballots—Cwlth s 253ZJ) of the Act.

- (i) to receive documents on the applicant's behalf; and
- (ii) for other purposes under this part.

### **Authorised persons for submissions—Act, s 164(2)**

**104.** For section 164(2)<sup>105</sup> of the Act, the following persons are authorised to make submissions—

- (a) the applicant;
- (b) the amalgamated organisation;
- (c) a creditor of the amalgamated organisation;
- (d) another person who would be affected by the proposed withdrawal.

## *Division 3—Conducting ballots*

### *Subdivision 1—General*

#### **Starting and finishing days of ballot**

**105.(1)** This section applies if the commission—

- (a) orders a postal ballot under section 164<sup>106</sup> of the Act; and
- (b) does not fix the starting day or finishing day for the ballot.

**(2)** If the commission has not fixed the starting day, it is—

- (a) the 35th day after the order; or
- (b) if the 35th day is not a business day—the next business day.

**(3)** If the commission has not fixed the finishing day, it is—

- (a) the 21st day after the starting day; or

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<sup>105</sup> Section 164 (Orders for ballots—Cwlth s 253ZL) of the Act.

<sup>106</sup> Under section 164(1)(Orders for ballots—Cwlth s 253ZL) of the Act, the court may order a ballot at a meeting, rather than a postal ballot. If so, it may make orders for the meeting's time and place.

- (b) if the 21st day is not a business day—the next business day.

### **Roll—preparation**

**106.(1)** The roll for a ballot is the roll of persons who on the eligibility day—

- (a) are members of the amalgamated organisation; and
  - (b) have the right to be a member of the constituent part under its proposed eligibility rules after the withdrawal day.
- (2)** The roll must be prepared at the direction of the manager of the ballot.
- (3)** The manager must ensure the roll—
- (a) states each voter’s name and, opposite their name, their address; and
  - (b) is completed no more than 14 days before the starting day for the ballot.

Maximum penalty—20 penalty units.

- (4)** In this section—

“**eligibility day**” means the day that is the earlier of—

- (a) the day the commission ordered a vote be taken; and
- (b) 35 days before the starting day of the ballot.

### **Roll—inspection**

**107.(1)** A manager of a ballot must make the roll for the ballot available for inspection—

- (a) in the term that—
  - (i) starts on the day after the roll must be completed under section 106(4)(b);<sup>107</sup> and
  - (ii) ends 30 days after the ballot result is declared; and

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<sup>107</sup> Section 106 (Roll—preparation)

- (b) during ordinary business hours at the place the manager carries out the manager's duties for the ballot.

(2) A member of the amalgamated organisation or a person authorised by the manager may, at the times and place mentioned in subsection (1)—

- (a) inspect the roll, free of charge; or
- (b) take a copy of the roll or of part of the roll.

### **Notice of ballot**

**108.(1)** If the commission orders a postal ballot under section 164<sup>108</sup> of the Act, the manager of the ballot must give notice to each member of the amalgamated organisation of the starting and finishing days of the ballot before it starts.

Maximum penalty—20 penalty units.

(2) If the commission orders a vote be taken by a secret ballot at a meeting of members of the constituent part under section 164 of the Act but has not fixed the starting and finishing times for the meeting, the manager of the ballot must—

- (a) fix the place for the meeting, and its starting and finishing times; and
- (b) give notice to each voter of the—
  - (i) place and times; and
  - (ii) procedure to obtain and cast an absentee vote in the ballot.

Maximum penalty—20 penalty units.

(3) A notice under this section may be given by—

- (a) post; or
- (b) newspaper advertisement; or
- (c) another way the manager thinks will reasonably bring the notice to the members' attention.

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<sup>108</sup> Section 164 (Orders for ballots—Cwlth s 253ZL) of the Act.

**Action and directions by ballot managers**

**109.** A manager of a ballot may take action and give directions the manager reasonably considers are necessary to ensure no unlawful disclosure or irregularity happens in the ballot.

**Registrar to supply ballot application**

**110.** When a ballot application has been filed in the registrar's office, the registrar must promptly give a copy of it to—

- (a) the electoral commission; and
- (b) if the ballot is not conducted by the electoral commission—the returning officer when the registrar is given notice of the returning officer's name under section 169<sup>109</sup> of the Act.

**Manager must give copy of application if asked**

**111.** If a manager of a ballot has received a copy of the ballot application for the ballot, the manager must give a copy of the application to a voter if the voter asks.

**Ballot paper—form**

**112.** A ballot paper must be in the form provided for in the rules of court.

***Subdivision 2—Distributing ballot papers and material*****Attendance ballots—distributing ballot papers**

**113.(1)** The manager of an attendance ballot must give a ballot paper initialled by the manager to each voter at the meeting at which the ballot is to be held.

**(2)** However, if a voter tells the manager the voter will be absent from the meeting, the manager must give the voter a ballot paper before the meeting starts.

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<sup>109</sup> Section 169 (Duties of constituent part if exemption given) of the Act.

**Duplicate ballot papers—attendance ballots**

**114.(1)** If a voter at an attendance ballot satisfies the manager of the ballot, before putting the ballot paper in the ballot box, that the voter has spoiled the paper, the manager must—

- (a) mark ‘spoilt’ on the paper; and
- (b) initial the paper where marked and keep it; and
- (c) give a fresh ballot paper to the voter.

**(2)** If a voter at an attendance ballot satisfies the manager before the ballot finishes that the voter’s ballot paper has been lost, stolen or destroyed, the manager must give the voter a duplicate ballot paper.

**Postal ballots—distributing voting material**

**115.(1)** The section applies if the commission orders a secret ballot under section 164(1)<sup>110</sup> of the Act to be a secret postal ballot.

**(2)** The manager of the ballot must post the following material (the “**voting material**”) for the ballot to each voter—

- (a) a ballot paper initialled by the manager;
- (b) an unsealed reply paid envelope (a “**return envelope**”) addressed to the manager;
- (c) a ballot envelope (a “**ballot envelope**”) and a voting declaration (a “**voting declaration**”);
- (d) other material the manager considers appropriate for the ballot including, for example, directions or notes to help the voter to comply with this regulation and cast a valid vote.

**(3)** Voting material must be posted to each voter—

- (a) in a sealed envelope to the voter’s address on the roll; and
- (b) as soon as practicable, but not earlier than 2 days before the starting day of the ballot.

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<sup>110</sup> Section 164 (Orders for ballots—Cwlth s 253ZL) of the Act.

(4) The voting declaration must state ‘I certify I am the person whose name appears on this envelope and I have voted on the ballot paper enclosed.’.

(5) If a voter gives the manager notice that the voter will be absent from the address stated on the roll when voting material is to be given, the manager must post the material to the address stated in the notice.

(6) Before posting voting material to a voter, the manager must mark a different ballot number for each voter on—

- (a) the roll against the voter’s name; and
- (b) the voting declaration; and
- (c) the return envelope.

(7) The ballot numbers must start with a number chosen by the manager.

(8) A ballot paper or a ballot envelope must not be marked in a way that could identify the voter.

### **Ballot manager must keep a ballot box**

**116.(1)** After giving ballot papers, the manager of the ballot must obtain a ballot box.

(2) The manager must—

- (a) keep the box in a safe place; and
- (b) seal the box in a way that—
  - (i) allows voting material to be placed in it until the ballot finishes; and
  - (ii) prevents voting material from being taken from it until votes for the ballot are to be counted.

### **Duplicate ballot documents—postal voting**

**117.(1)** This section applies if a ballot document posted to a voter—

- (a) has not been received by the voter; or
- (b) has been lost or destroyed; or

(c) if the ballot document is a ballot paper—has been spoiled.

(2) The voter may apply to the manager of the ballot for a duplicate of the ballot document.

(3) The application must—

- (a) be received by the manager on or before the finishing day of the ballot; and
- (b) state the grounds of the application; and
- (c) if practicable—be substantiated by evidence verifying, or tending to verify, the grounds; and
- (d) state that the voter has not voted at the ballot; and
- (e) if the ballot document is a spoiled ballot paper—be accompanied by the ballot paper.

(4) If the application complies with subsection (2), the manager must—

- (a) if the ballot document is a spoiled ballot paper—
  - (i) mark ‘spoilt’ on the paper; and
  - (ii) initial the paper where marked and keep the paper; and
  - (iii) give a fresh ballot paper to the voter; or
- (b) if the ballot document is not a spoiled ballot paper—give a duplicate of the document to the voter.

(5) In this section—

**“ballot document”** means—

- (a) a ballot paper given to a voter under section 113(2) to cast an absentee vote in an alternative ballot; or
- (b) a document that is voting material posted to a voter under section 115(2).<sup>111</sup>

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<sup>111</sup> Section 113 (Attendance ballots—distributing ballot papers), section 115 (Postal ballots—distributing voting material)

**Subdivision 3—Voting and counting votes****How to vote in an attendance ballot**

**118.(1)** This section applies to a vote at a meeting for an attendance ballot.

**(2)** The voter must vote by—

- (a) completing a ballot paper; and
- (b) complying with the instructions on the paper and putting it in the ballot box.

**How to vote by post**

**119.(1)** This section applies if—

- (a) a ballot is a secret postal ballot; or
- (b) a voter is given voting material under section 113(2) to cast an absentee vote in an attendance ballot.

**(2)** The voter may vote only by completing the following steps—

- (a) completing a ballot paper by complying with the instructions on the paper;<sup>112</sup>
- (b) putting the ballot paper in the ballot envelope;
- (c) sealing the ballot envelope;
- (d) filling in and signing the voting declaration;
- (e) putting the voting declaration and the ballot envelope in the return envelope;
- (f) sealing the return envelope;
- (g) complying with any direction under section 115(2)(d);<sup>113</sup>

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<sup>112</sup> Under section 112 (Ballot paper—form) a ballot paper must be in the form provided in the rules of court.

<sup>113</sup> Section 115 (Postal ballots—distributing voting material)

- (h) returning the return envelope to the manager of the ballot before the ballot finishes by—
  - (i) posting it so that the manager receives it before the ballot finishes; or
  - (ii) putting it in the ballot box before the ballot finishes.

### **How ballot manager must deal with voting material**

**120.(1)** A manager of a ballot must keep voting material for the ballot that has been returned to the manager in a safe place until the vote has been counted.

Maximum penalty—20 penalty units.

**(2)** If, after the finishing day of the ballot, the manager receives a return envelope purporting to contain a ballot paper for the ballot, the manager must—

- (a) keep the envelope sealed; and
- (b) mark the envelope ‘Received by the manager of the ballot after the finishing day’; and
- (c) keep the envelope in safe custody, separately from voting material received before the finishing day; and
- (d) identify the voter on the roll from the ballot number on the envelope; and
- (e) record on the roll that the voter’s return envelope was returned after the finishing day of the ballot.

Maximum penalty—20 penalty units.

### **Scrutineers—appointment**

**121.(1)** A management committee or representative constituent member of a constituent part may appoint members of the part as scrutineers for the ballot to represent the interests of the part.

**(2)** An appointment under subsection (1) must be made by instrument signed—

- (a) for the part's management committee, by an officer of the part authorised by the committee or the part's rules; or
- (b) by the representative constituent member.

(3) An amalgamated organisation's management committee may appoint members of the organisation as scrutineers for the ballot to represent the interests of the amalgamated organisation.

(4) An appointment under subsection (3) must be made by instrument signed for the amalgamated organisation's management committee by an officer authorised by the committee or the amalgamated organisation's rules.

(5) A management committee or representative constituent member who appoints a scrutineer must notify the manager of the ballot of the appointee's name as soon as possible after the appointment.

(6) The manager may refuse to allow a scrutineer to attend the counting of the votes in the ballot or act as a scrutineer if—

- (a) the manager asks to inspect the scrutineer's instrument of appointment; and
- (b) the scrutineer does not produce it.

### **Scrutineers' rights**

**122.(1)** Subject to section 123, a scrutineer may be present at the—

- (a) preparation and giving of voting material and ballot papers for a ballot; or
- (b) receipt of ballot material and placing the material in safe custody under section 120;<sup>114</sup> or
- (c) counting of votes.

(2) A scrutineer may make an objection or advise the manager of the ballot if the scrutineer considers an error has been made under section 126(1)(b).<sup>115</sup>

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<sup>114</sup> Section 120 (How ballot manager must deal with voting material)

<sup>115</sup> Section 126 (Scrutineers' objections)

**Scrutineers—numbers attending**

**123.** A management committee or representative constituent member of a constituent part or an amalgamated organisation's management committee may only have 1 scrutineer exercising a right under section 122 for each official present.

**Initial scrutiny of postal votes**

**124.(1)** This section applies if a vote is made under section 119.<sup>116</sup>

**(2)** As soon as possible after the ballot finishes, the manager of the ballot must—

- (a) seal the ballot box so that nothing can be placed in it; and
- (b) take the ballot box to the place votes are to be counted; and
- (c) deal with the voting material under this section.

**(3)** After the ballot box has been taken to the place where votes are to be counted, the manager must—

- (a) unseal the ballot box and take out the return envelopes; and
- (b) open each return envelope and take out the ballot envelope and the voting declaration; and
- (c) if a return envelope contained more than 1 ballot envelope—mark each of the ballot envelopes from the return envelope 'informal under section 125(2)(e)'; and
- (d) examine the declaration and mark off the voter's name on the roll; and
- (e) check the ballot number on the declaration against the ballot number marked against the voter's name on the roll; and
- (f) ensure the declaration is signed.

**(4)** After complying with subsection (3), the manager must put the ballot envelopes and the declarations into separate containers if satisfied—

- (a) each declaration is signed; and

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<sup>116</sup> Section 119 (How to vote by post)

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- (b) the ballot number on each declaration corresponds with the ballot number marked beside the voter's name on the roll.

(5) However, the manager must not put a ballot envelope or a declaration in the containers mentioned in subsection (4) if—

- (a) the manager reasonably believes the voter to whom it was sent did not sign the declaration; or
- (b) the person named on the declaration is not the person to whom it was sent.

(6) The manager must keep ballot envelopes and declarations excluded under subsection (5) separate from other ballot envelopes and declarations.

(7) Subsection (5) does not apply if the manager is satisfied the person who filled in and signed the declaration—

- (a) is a voter and has not previously voted in the ballot; and
- (b) has a reasonable explanation for using the ballot material.

(8) If subsection (4) or (7) applies, the manager must—

- (a) accept the declaration as valid; and
- (b) note the acceptance on the declaration; and
- (c) record the correct ballot number on the roll against the name of the voter who signed the declaration.

(9) After separating the ballot envelopes and the declarations, the manager must in the following order—

- (a) seal the container holding declarations;
- (b) open the ballot envelopes not excluded under subsection (5) and take out the ballot papers;
- (c) if a ballot envelope is marked 'informal under section 125(2)(e)'—mark each of the ballot papers from the envelope 'informal under section 125(2)(e)';
- (d) if a ballot envelope contained more than 1 ballot paper—mark each of the ballot papers from the envelope 'informal under section 125(2)(f)';
- (e) put all of the ballot papers in the ballot box.

**Counting votes**

**125.(1)** To count votes the manager must—

- (a) admit the valid votes and reject the informal votes; and
- (b) count the valid votes, and record the number for and against the proposal; and
- (c) count the informal votes.

**(2)** A vote is only informal if—

- (a) the ballot paper is not initialled by the manager and the manager is not satisfied the paper is authentic; or
- (b) the ballot paper is marked in a way that allows 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 section 115(2)(d);<sup>117</sup> or
- (e) the ballot envelope from which the ballot paper was taken was returned in a return envelope that contained another ballot envelope; or
- (f) the ballot envelope from which the ballot paper was taken contained more than 1 ballot paper.

**Scrutineers' objections**

**126.(1)** At a count of votes for a ballot a scrutineer may—

- (a) object to a ballot paper being admitted as valid or rejected as informal; or
- (b) advise the manager of the ballot if the scrutineer considers an error has been made in conducting the ballot or counting votes.

**(2)** If an objection is made, the manager must—

- (a) decide whether the ballot paper is to be admitted or rejected; and

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<sup>117</sup> Section 115 (Postal ballots—distributing voting material)

- (b) note the decision on the ballot paper and initial the note.
- (3) If the manager is advised under subsection (1), the manager must—
  - (a) decide whether the error has been made; and
  - (b) if appropriate—direct action to correct or mitigate the error.

**Direction to leave count**

**127.(1)** A manager of a ballot may direct a person to leave the place where votes for the ballot are being counted if the manager reasonably believes the person—

- (a) does not have the right to be present, or remain present, at the count; or
- (b) is interrupting the count, other than to exercise a scrutineer's right.

(2) A person must not contravene a direction under subsection (1) without reasonable excuse.

Maximum penalty—10 penalty units.

***Division 4—Irregularity inquiries*****Definition for div 4**

**128.** In this division—

“**inquiry**” means an inquiry by the court into an alleged irregularity in a ballot under section 173<sup>118</sup> of the Act.

**Applying for an inquiry—form**

**129.** An application for an inquiry must be made in the form provided for in the rules of court and filed in the registrar's office.

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<sup>118</sup> Section 173 (Irregularity inquiries) of the Act.

**Inspection of documents**

**130.(1)** If the court decides to conduct an inquiry it may, for the inquiry, authorise a person to inspect ballot records for the ballot the inquiry is about.<sup>119</sup>

(2) The court may give an authorisation before the inquiry begins.

(3) A person must not prevent another person carrying out an inspection authorised under subsection (1).

Maximum penalty—10 penalty units.

***Division 5—Withdrawal from amalgamation taking effect*****Withdrawal day—application and notice**

**131.(1)** An application by a constituent part for a determination or an order under section 174(1)<sup>120</sup> of the Act may be made by the part's management committee or by a person authorised by its rules.

(2) In deciding whether to make an order to give effect to the withdrawal, the commission must consider whether the part's proposed rules after the withdrawal day comply with the Act.

(3) If the commission fixes a withdrawal day it must publish the day by gazette notice.

(4) The registrar must also publish a notice of the day in—

- (i) the industrial gazette; and
- (ii) a newspaper circulating generally throughout the State.

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<sup>119</sup> Under the definition “ballot records” in the dictionary in the schedule to the Act, “ballot records” includes ballot papers, envelopes or other records used in connection with the ballot.

<sup>120</sup> Section 174 (Deciding the day of withdrawal—Cwlth s 253ZP) of the Act.

**Particulars for constituent part's registration—Act, s 175(b)**

**132.** For section 175(b)<sup>121</sup> of the Act, the particulars about a newly registered organisation that must be entered in the register include the organisation's name.

**Effect on agreements, arrangements or other instruments**

**133.(1)** This section applies if an agreement, arrangement or other instrument<sup>122</sup>—

- (a) operated immediately before a newly registered organisation's registration day; and
- (b) is an agreement, arrangement or other instrument—
  - (i) that applied to the amalgamated organisation from which a constituent part withdrew to form the newly registered organisation; or
  - (ii) given to, or in favour of, the amalgamated organisation; or
  - (iii) that refers to the amalgamated organisation; or
  - (iv) under which a right or liability accrues, or may accrue, to the amalgamated organisation for the constituent part and its members.

**(2)** The agreement, arrangement or other instrument, as far as its context permits, continues to operate under its provisions after the registration day as if a reference to the amalgamated organisation included a reference to the newly registered organisation.

**Pending proceedings involving amalgamated organisation**

**134.(1)** This section applies if—

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<sup>121</sup> Section 175 (Registration of constituent part—Cwlth s 253ZQ) of the Act.

<sup>122</sup> For the withdrawal's effect on commission orders, awards and certified agreements see section 177 (Orders of the commission, awards etc.—Cwlth s 253ZS) of the Act.

- (a) an amalgamated organisation from which a constituent part withdrew to form a newly registered organisation was a party to a proceeding immediately before the withdrawal day; and
- (b) the proceedings were—
  - (i) pending or existing on the withdrawal day; and
  - (ii) in whole or in part about the constituent members' interests.

(2) On and from the withdrawal day, for the proceeding the newly registered organisation—

- (a) if the proceeding was—
  - (i) wholly about the constituent members' interests—is substituted for the amalgamated organisation; or
  - (ii) partly about the constituent members' interests—becomes a party; and
- (b) has the same rights and obligations as the amalgamated organisation.

(3) In this section—

“**proceeding**” includes a proceeding in any court or tribunal.

### **Holding office after withdrawal**

**135.(1)** A newly registered organisation's rules may allow for a person to hold an elected office in the organisation if the person—

- (a) was elected to an equivalent office in the constituent part of the amalgamated organisation; and
- (b) held the office immediately before the withdrawal day for the constituent part.

(2) However, the rules may not allow the person to hold the office without an election for more than the longer of—

- (a) the person's unexpired office term immediately before the withdrawal day; or
- (b) 1 year from the withdrawal day.

## **PART 8—CANCELLING REGISTRATION**

### **Applying to cancel registration under Act, s 189**

**136.(1)** An application under section 189(1)(b) or (c)<sup>123</sup> of the Act to cancel an organisation's registration must—

- (a) if the application is made by—
  - (i) an organisation—be under the applicant's seal or signed by 2 of the applicant's officers authorised to sign the application; or
  - (ii) a corporation other than an organisation—be signed by a person authorised by the applicant to sign the application; or
  - (iii) another person—be signed by the applicant; and
- (b) state—
  - (i) the grounds for the application; and
  - (ii) the facts and issues the applicant relies on to support the application; and
- (c) be filed in the registrar's office.

**(2)** If the applicant is not the organisation the application is about—

- (a) the applicant must serve a copy of the application on the organisation no more than 7 days after the application is filed; and
- (b) the full court must give the organisation the application is about an opportunity to make written submissions.

### **Registrar's application to cancel defunct organisation's registration**

**137.(1)** This section applies if the registrar proposes to apply to cancel an organisation's registration under section 189(1)(d)<sup>124</sup> of the Act on the ground that the organisation is defunct.

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<sup>123</sup> Section 189 (Cancelling registration on other grounds) of the Act.

<sup>124</sup> Section 189 (Cancelling registration on other grounds) of the Act.

(2) The registrar must make appropriate inquiries by letters sent by post to the—

- (a) organisation's registered office; and
- (b) members of the organisation's management committee last known to the registrar at their postal addresses last known to the registrar.

(3) If, after the inquiries, the registrar is satisfied the organisation is defunct the registrar must publish a notice in the industrial gazette stating that—

- (a) the registrar will apply after 1 month from the notice's publication to cancel the organisation's registration on the ground that it is defunct; and
- (b) a person (an **“objector”**) who wishes to show cause why the registration should not be cancelled may file a notice (an **“objection notice”**) in the form provided for in the rules of court in the registrar's office within 1 month of the publication.

(4) If an objection notice is filed the registrar must—

- (a) give the objector an opportunity to appear before the registrar and be heard in support of the objection before the registrar decides to make the application; and
- (b) if the registrar makes the application—ensure a copy of the objection notice accompanies the application.

(5) The court must not grant the application without giving an objector who has filed an objection notice an opportunity to be heard.

## **PART 9—ACCOUNTS AND AUDIT**

### *Division 1—Accounts and accounting records*

#### **What is a low income organisation**

**138.** An organisation is a “**low income organisation**” for a financial year if the registrar has issued a certificate to the organisation for the year under section 223(2)<sup>125</sup> of the Act.

#### **Accounting records for income and expenditure—Act, s 198(3)**

**139.(1)** For section 198(3)<sup>126</sup> of the Act, an organisation’s accounting records for income and expenditure must be kept for each of its financial years as follows—

- (a) if the organisation is a low income organisation in a financial year—the records may be kept on an accrual basis or a cash basis;
- (b) if the organisation is not a low income organisation in a financial year—the records must be kept on an accrual basis.

**(2)** In subsection (1)—

“**accrual basis**” see Australian accounting standards.<sup>127</sup>

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<sup>125</sup> Section 223 (Accounts and audits for low income organisations) of the Act.

<sup>126</sup> Section 198 (Organisations must keep proper accounting records) of the Act.

<sup>127</sup> Under the current Australian accounting standard AAS6 (Accounting policies), paragraph 7 (Definitions) at the commencement, issued September 1995—

“**accrual basis**” means the accounting basis where the assets, liabilities, equity, revenues and expenses are recognised in the reporting periods to which they relate, regardless of when cash is received or paid.

The standards do not define what a ‘cash basis’ is.

**Prescribed accounts—Act, s 199(1)**

**140.** For section 199(1)<sup>128</sup> of the Act, each of the accounts stated in schedule 1, part 1<sup>129</sup> is prescribed for each of an organisation's financial years, other than a financial year for which it was a low income organisation.

**Prescribed accounts for low income organisations—Act, s 223(6)(a)**

**141.** For section 223(6)(a)<sup>130</sup> of the Act, each of the accounts stated in schedule 1, part 2<sup>131</sup> is prescribed for each of an organisation's financial years for which it was a low income organisation.

**Certificates to be given in accounts**

**142.(1)** An organisation's accounts for each financial year must contain a certificate by the organisation's—

- (a) officer responsible for keeping its accounting records about the matters in schedule 2, part 1;<sup>132</sup> and
- (b) management committee about the matters in schedule 2, part 2.<sup>133</sup>

**(2)** A management committee's certificate must be—

- (a) given under a management committee resolution about the matters in schedule 2, part 2; and
- (b) signed for the committee by 2 of its members.

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<sup>128</sup> Section 199 (Preparing accounts) of the Act.

<sup>129</sup> Schedule 1 (Prescribed accounts), part 1 (Accounts other than for low income organisations)

<sup>130</sup> Section 223 (Accounts and audits for low income organisations) of the Act.

<sup>131</sup> Schedule 1 (Prescribed accounts), part 2 (Accounts for low income organisations)

<sup>132</sup> Schedule 2 (Matters for account certificates), part 1 (Accounting officer's certificates)

<sup>133</sup> Schedule 2 (Matters for account certificates), part 2 (Management committee certificates)

(3) A management committee's certificate about a matter mentioned in schedule 2, section 14<sup>134</sup> is inadmissible in evidence in proceedings against the organisation under the following sections of the Act—

- 209(1)<sup>135</sup>
- 211(2)<sup>136</sup>
- 212(1)<sup>137</sup>
- 223(6), (8), (9) and (10).<sup>138</sup>

### **Management committee must report insolvency to members**

**143.(1)** This section applies if an organisation's accounts show the organisation is, or is likely to become insolvent.

(2) The organisation's management committee must notify each of the organisation's members within 14 days if the organisation's accounts show it is insolvent or likely to become insolvent.

(3) Each committee member must ensure the committee complies with subsection (2).

Maximum penalty—20 penalty units.

(4) In this section—

**“insolvent”**, for an organisation, means the organisation is unable to pay all of its debts as and when they become due and payable.

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<sup>134</sup> Schedule 2, section 14 (Audit report and accounts for the last financial year)

<sup>135</sup> Section 209 (Presentation to annual general meeting) of the Act.

<sup>136</sup> Section 211 (Presentation to committee meeting if a deficiency) of the Act.

<sup>137</sup> Section 212 (Copies of report must be given to members) of the Act.

<sup>138</sup> Section 223 (Accounts and audits for low income organisations) of the Act.

***Division 2—Applying for prescribed information—s 201 of the Act*****How to apply for information—Act, s 201(1)**

**144.** An application to an organisation for prescribed information under section 201(1)<sup>139</sup> of the Act must be—

- (a) addressed to the organisation’s secretary; and
- (b) delivered by hand at, or sent by prepaid post to, the organisation’s registered office; and
- (c) state the information applied for.

**Prescribed information—Act, s 201(1)**

**145.** For section 201(1) of the Act, the information prescribed is the information stated in schedule 3<sup>140</sup> about the organisation’s last financial year for which accounts were prepared.

**Prescribed time and way of giving information—Act, s 201(2)**

**146.(1)** For section 201(2) of the Act, the prescribed information must be given—

- (a) by a signed notice by the organisation’s secretary; or
- (b) if the registrar applied for the information—by hand delivery or prepaid post to the registrar’s office; or
- (c) if a member of the organisation applied for the information and stated the member’s address—by prepaid post to the address; or
- (d) if the member did not state an address—by leaving it for collection by the member at the organisation’s registered office.

**(2)** For section 201(2) of the Act, the prescribed time is—

- (a) 28 days after the application is received; or

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<sup>139</sup> Section 201 (Members may apply for information) of the Act.

<sup>140</sup> Schedule 3 (Prescribed information for previous financial year—Act, section 201(1))

- (b) 6 weeks after the application is received if—
- (i) a member of the organisation applied for the information; and
  - (ii) the organisation's secretary makes an application to the registrar, either before or after the time under paragraph (a) ends; and
  - (iii) the registrar certifies the registrar is satisfied it was, or is, impracticable for the organisation to give the information within the time under paragraph (a) for reasons beyond its control.

### **Member asking registrar to apply for information**

**147.** If a person asks the registrar to apply for information from an organisation under section 201(1) of the Act, the registrar may require the person to give evidence the person is a member of the organisation.

### ***Division 3—Miscellaneous***

#### **Prescribed circumstances—Act, s 197(1)**

**148.** For an application by a branch of an organisation under section 197(1)<sup>141</sup> of the Act, the prescribed circumstances are the filing in the registrar's office—

- (a) of a statement by the organisation that the branch conducted no financial affairs in the financial year applied for; and
- (b) with the statement, of a statutory declaration by the organisation's secretary certifying the statement to be correct.

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<sup>141</sup> Section 197 (Exemption for branches without financial affairs—Cwlth s 271A) of the Act.

**Circumstances in which registrar may conduct other investigations—Act, s 217**

**149.** For section 217<sup>142</sup> of the Act, the stated circumstances are—

- (a) a matter disclosed in a report by the organisation's auditor to the registrar under section 204(3)<sup>143</sup> of the Act and the registrar considers the matter should be investigated; or
- (b) an officer or member of the organisation has complained about a matter to the registrar and the registrar, after consulting the organisation, considers there are reasonable grounds to investigate the matter.

**Statements of political expenditure—Act, s 231**

**150.(1)** For section 231(1)(a)<sup>144</sup> of the Act, the prescribed time is 4 months.

**(2)** For section 231(5) of the Act, the prescribed way in which a statement must be made available for inspection is by a written request to the registrar at least 24 hours before the day the inspection is sought.

**PART 10—MODEL ELECTION RULES****Application of pt 10**

**151.** This part applies to the election of an organisation's management committee only if the management committee consists of the organisation's president, secretary and at least 3 other officers.<sup>145</sup>

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<sup>142</sup> Section 217 (Registrar may conduct other investigations—Cwlth s 280A) of the Act.

<sup>143</sup> Section 204 (Auditor's functions) of the Act.

<sup>144</sup> Section 231 (Filing statements of political expenditure) of the Act.

<sup>145</sup> An organisation may also decide to elect other officers, including a vice-president and assistant secretary.

**Model election rules**

**152.** The model election rules for the election of an organisation's management committee are in schedule 4.<sup>146</sup>

**Rules apply to branches**

**153.** The model election rules apply to elections for all offices in an organisation, including offices in the organisation's branches.

**Object of rules**

**154.(1)** The main object of the model election rules is to provide a system for electing an organisation's president, secretary or other management committee members.

**(2)** The model election rules—

- (a) provide for a direct voting system under section 25(1)(a)<sup>147</sup> of the Act; and
- (b) do not provide for—
  - (i) elections using a collegiate electoral system;<sup>148</sup> or
  - (ii) preferential voting; or

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<sup>146</sup> Schedule 4 (Model election rules). Under section 30 (Organisations may adopt model election rules) of the Act, an organisation may adopt all or part of the model election rules, with or without change. However, under section 32(2) (Adoption of model election rules with change) of the Act, if it adopts any of the rules with change or only part of the rules, it must amend its rules to ensure they conform with part 3 of the Act (Organisations' rules) within 1 year after notification of the rules, and file a complete set of the amended rules. If an organisation contravenes section 32(2), the model rules are taken to be its election rules.

<sup>147</sup> Section 25 (Rules for elections and ballots) of the Act.

<sup>148</sup> Under section 25 (Rules for elections and ballots) of the Act, an organisation's rules may provide for a collegiate electoral system, as defined in section 25(4).

- (iii) if the registrar gives an exemption under section 26(3)<sup>149</sup> of the Act—the conduct of an election other than by a postal ballot.

## **PART 11—MISCELLANEOUS**

### **Maximum cost for copy of rules—Act, s 286(2)**

**155.** For section 286(2)<sup>150</sup> of the Act, the amount prescribed is \$5.00.

### **Disclosure of election campaign funds**

**156.(1)** Each candidate who contests an election must file in the registrar's office a statement of the candidate's income and expenditure for the candidate's election campaign within 30 days of the declaration of the election result.

Maximum penalty—20 penalty units.

**(2)** The statement must include—

- (a) the source of the income; and
- (b) if the candidate received a donation or other help for the campaign not in the form of money—the source of the donation or help.

Maximum penalty—20 penalty units.

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<sup>149</sup> Section 26 (Rules for election by secret postal ballot) of the Act. Under section 26(1), if a direct voting system is used and a ballot is necessary, it must be a secret postal ballot unless an exemption is given under section 26(3).

<sup>150</sup> Section 286 (Documents open to inspection) of the Act.

## ***PART 12—REPEAL AND TRANSITIONAL***

### ***Repeal***

*157. The Industrial Relations Regulation 1990 is repealed.*

### ***Transitional provision about accounting records***

*158.(1) This section applies if during the transitional period an organisation must keep its accounting records for income and expenditure on an accrual basis under section 139(1).<sup>151</sup>*

*(2) If the organisation makes an application to the registrar, the registrar may exempt it from keeping its accounting records for income and expenditure on an accrual basis for the whole or part of the transitional period.*

*(3) In this section—*

*“transitional period” means the period from the commencement to—*

- (a) the start of the organisation’s first financial year that begins after the commencement; or*
- (b) if the organisation’s first financial year that begins after the commencement begins before 31 March 1998—the start of the organisation’s second financial year that begins after the commencement.*

### ***Expiry of pt 12***

*159. This part expires on 1 April 1999.<sup>152</sup>*

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<sup>151</sup> Section 139 (Accounting records for income and expenditure—Act, s 198(3))

<sup>152</sup> These provisions have expired and are included in this reprint for informational purposes only. They will be omitted in the next reprint.

**SCHEDULE 1****PRESCRIBED ACCOUNTS**

sections 140 and 141

**PART 1—ACCOUNTS OTHER THAN FOR LOW  
INCOME ORGANISATIONS***Division 1—Income and expenditure**Subdivision 1—Income and expenditure account***Income and expenditure account**

- 1.(1)** An income and expenditure account.
- (2)** The account must consist of—
  - (a) a statement of all the organisation's income and expenditure for the year; and
  - (b) the particulars stated in—
    - (i) for income—sections 2 to 15; or
    - (ii) for expenditure—sections 16 to 38.

*Subdivision 2—Particulars of income***Entrance fees or membership contributions**

- 2.** The amount paid or payable to the organisation as entrance fees or contributions for membership of the organisation.

## SCHEDULE 1 (continued)

**Branch contributions to organisation's administrative expenses**

3. The contributions paid or payable to the organisation if—

- (a) the organisation is divided into branches; and
- (b) the organisation's rules provide that—
  - (i) each of its branches must pay the organisation a proportion of the amount received by the branch for compulsory levies, entrance fees or contributions for membership of the branch; and
  - (ii) the payments are contributions to the organisation's administrative expenses.

**Payments by another organisation for administrative expenses**

4. The amount paid or payable to the organisation (the “**receiving organisation**”) by another organisation (the “**paying organisation**”) if—

- (a) the receiving organisation is a branch of the paying organisation; and
- (b) the paying organisation's rules provide that—
  - (i) it must pay each of its branches a proportion of the amount it received for compulsory levies, entrance fees or membership contributions; and
  - (ii) payments to the branches are contributions to the branches' administrative expenses.

**Compulsory levies or voluntary contributions**

5. If a member of the organisation paid or was liable to pay a compulsory levy the organisation raised or made a voluntary contribution to the organisation for a particular purpose, the—

- (a) the purpose of the levy or contribution; and
- (b) the amount paid or payable by the member for the levy or contribution; and

## SCHEDULE 1 (continued)

- (c) the total paid or payable by the organisation's members for the levy or contribution.

**Donations or grants**

6. The amount donated or granted to the organisation, other than voluntary contributions for a particular purpose.

**Interest**

7. The amount paid or payable to the organisation as interest.

**Dividends**

8. The amount paid or payable to the organisation as dividends.

**Rent**

9. The amount paid or payable to the organisation as rent.

**Bad debts**

10. The organisation's—
- (a) bad debts that were written off; and
  - (b) provision for doubtful debts.

**Other investment income**

11. The amount paid or payable to the organisation as income from investing or using its assets, other than interest, dividends or rent.

**Surplus**

12. If the organisation's income was more than its expenditure—by how much.

## SCHEDULE 1 (continued)

**Profit on sale or revalue**

**13.** If an asset of the organisation was sold or revalued and the outcome of the sale or revaluation was a profit to the organisation of more than \$1 000—the amount of the profit.

**Transfers to specific purpose accounts**

**14.** If an amount not included in an amount mentioned elsewhere in this subdivision has been transferred to an account the organisation kept for a specific purpose—the amount transferred.

**Net surplus transferred to general account**

**15.** If the organisation made a net surplus—the amount of the surplus transferred to its general account.

*Subdivision 3—Particulars of expenditure***Affiliation fees**

**16.** The amount the organisation incurred for fees and periodic contributions for its affiliation to—

- (a) a political party; or
- (b) a federation, congress, council or group of organisations; or
- (c) an international body having an interest in industrial matters.

**Contributions to branches' administrative expenses**

**17.** The amount of the contributions the organisation paid or was liable to pay if—

- (a) the organisation is divided into branches; and
- (b) the organisation's rules provide that—

## SCHEDULE 1 (continued)

- (i) it must pay each of its branches a proportion of the amount the organisation received for compulsory levies, entrance fees or contributions for membership of the organisation; and
- (ii) the payments are contributions to each branch's administrative expenses.

**Payments to another organisation for administrative expenses**

**18.** The amount the organisation (the “**paying organisation**”) paid or was liable to pay another organisation (the “**receiving organisation**”) if—

- (a) the paying organisation is a branch of the receiving organisation; and
- (b) the receiving organisation's rules provide that—
  - (i) each of its branches must pay it a proportion of the amount the branch received for compulsory levies, entrance fees or contributions for membership of the branch; and
  - (ii) the payments to the receiving organisation are contributions to its administrative expenses.

**Compulsory levies or voluntary contributions**

**19.(1)** The amount the organisation incurred for compulsory levies imposed on it.

**(2)** If the organisation spent a voluntary contribution or compulsory levy paid to it by a member—

- (a) the amount spent; and
- (b) the purpose for which it was spent.

**Donations or grants**

**20.** The amount the organisation donated or granted.

## SCHEDULE 1 (continued)

**Officers' remuneration**

**21.(1)** The amount the organisation incurred for its officers' remuneration.

**(2)** The number of the organisation's officers the organisation remunerated, whether as officers or otherwise, in stated ranges of \$10 000.

*Example of subsection (2)—*

An organisation remunerated 5 of its officers in a financial year as follows—

- 1 officer—\$25 550
- 1 officer—\$28 775
- 2 officers—\$35 000
- 1 officer—\$41 200.

The organisation's income and expenditure account must include that it remunerated officers in the following ranges—

- (a) 2 officers—\$20 001 to \$30 000;
- (b) 2 officers—\$30 001 to \$40 000;
- (c) 1 officer—\$40 001 to \$50 000.

**Employees' remuneration**

**22.** The amount the organisation incurred for its employees' remuneration.

**Representatives' fees or allowances**

**23.** The amount the organisation incurred for fees or allowances for its representatives to attend conferences or other meetings, other than fees or allowances included in the representative's remuneration.

**Benefits to management committee members**

**24.** The amount or a description of a direct or indirect benefit a member of the organisation's management committee received or had the right to under an agreement with the organisation.

## SCHEDULE 1 (continued)

**Professional services**

**25.(1)** The amount the organisation incurred for professional services.

**(2)** For each professional service the—

- (a) person who provided the service; and
- (b) nature of the service; and
- (c) liability the organisation incurred; and
- (d) amount paid.

**(3)** In this section—

**“professional service”** includes an audit and a legal service.

**Meeting costs**

**26.(1)** The costs the organisation incurred for—

- (a) its members’ meetings; and
- (b) conferences or meetings of councils, committees, panels or other bodies the organisation was wholly or partly responsible for holding.

**(2)** However, this section does not apply if the cost was of a kind mentioned elsewhere in this subdivision.

**Administrative costs**

**27.** Administrative costs the organisation incurred, other than administrative costs of a kind mentioned elsewhere in this subdivision.

## SCHEDULE 1 (continued)

**Provision for long service leave entitlements**

**28.** The amount the organisation paid for long service leave entitlements for its employees and officers, including an amount paid instead of an entitlement.<sup>153</sup>

**Provision for annual leave entitlements**

**29.** The amount the organisation paid for annual leave entitlements for its employees and officers, including an amount paid instead of an entitlement.

**Superannuation and retirement provisions or contributions**

**30.(1)** The amount the organisation paid for superannuation or retirement benefits for its employees and officers.

**(2)** The amount the organisation contributed to a superannuation or retirement scheme for its employees and officers.

**Interest on loans and asset management costs**

**31.** The interest incurred on loans to the organisation and other costs incurred in controlling or managing its assets.

**Rent**

**32.** Rent incurred by the organisation.

**Provision for depreciation**

**33.** The amount the organisation set aside to provide for depreciation or amortisation on investments and fixed assets.

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<sup>153</sup> Under the *Workplace Relations Act 1997*, section 205(1) (Payment instead of long service leave), an employer must not make, and an employee must not accept, payment instead of long service leave except on termination of an employee's employment.

## SCHEDULE 1 (continued)

**Penalties**

34. The penalties imposed on the organisation under the *Workplace Relations Act 1997*, the Act or this regulation.

**Deficit**

35. If the organisation's expenditure was more than its income—by how much.

**Loss on sale or revalue**

36. If an asset of the organisation was sold or revalued and the outcome of the sale or revaluation was a loss to the organisation of more than \$1 000—the amount of the loss.

**Withdrawals from specific purpose accounts**

37. If an amount not included in an amount mentioned elsewhere in this subdivision was withdrawn from an account the organisation kept for a specific purpose—the total amount withdrawn.

**Net deficit transferred to general account**

38. If the organisation made a net deficit—the amount of the deficit transferred to the general account.

*Division 2—Assets and liabilities**Subdivision 1—Assets and liabilities account***Assets and liabilities account**

39.(1) An assets and liabilities account.

## SCHEDULE 1 (continued)

- (2) The account must consist of—
- (a) a statement prepared under the Australian accounting standards of the organisation's assets and liabilities at the end of the year; and
  - (b) the particulars stated in—
    - (i) for the organisation's assets at the end of the year—sections 41 to 52; or
    - (ii) for the organisation's liabilities at the end of the year—sections 53 to 59; and
  - (c) if the organisation acquired an asset or incurred a liability it did not have at the end of the year—the particulars mentioned in paragraph (b) for when the asset was acquired or the liability incurred; and
  - (d) if section 40 applies—the information or an explanation under section 40(2).

**Value of non-current assets must not be misleading**

**40.(1)** This section applies if—

- (a) in working out the value of an organisation's non-current assets, the value of a non-current asset was calculated at more than its market value; and<sup>154</sup>
- (b) the organisation's assets and liabilities account does not adequately provide for writing down the asset's value.

(2) The account must include information or an explanation that prevents the account from being misleading because of the calculation at more than market value.

(3) An asset is calculated at more than market value if, having regard to the asset's value to the organisation as a going concern, the calculation is

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<sup>154</sup> Under schedule 1, section 41 (Value of current and non-current assets), an organisation's assets and liability account must state the value of its current and non-current assets.

## SCHEDULE 1 (continued)

more than the amount that it would have been reasonable for the organisation to spend to acquire the asset as at the end of a year.

*Subdivision 2—Particulars of assets***Value of current and non-current assets**

**41.(1)** The value of the organisation's current assets.

**(2)** For current assets—the difference between the assets' current value and the amount, if they were currently realised, for which they are expected to be realised.

**Cash in hand**

**42.** The amount of the organisation's cash in hand.

**Cash at financial institutions**

**43.** The amount of the organisation's cash at financial institutions.

**Prepayments**

**44.** The amount of the organisation's prepayments.

**Accounts and loans receivable**

**45.** The organisation's accounts receivable and loans receivable.

**Public investments**

**46.** The book value of the organisation's public investments.

## SCHEDULE 1 (continued)

**Non-public investments**

47. The book value of the organisation's investments, other than public investments.

**Fixed assets**

48. The book value of each of the organisation's—

- (a) fixed assets, including land; and
- (b) fixed assets, other than land; and
- (c) lands.<sup>155</sup>

**Special account balances**

49. The total of the balances of all the organisation's special accounts.

**Book value of investments from special accounts**

50. If the organisation invested the whole or part of a special account in assets—the total book value of the assets.

**Other account balances**

51. The total of the balances of the organisation's accounts required to be operated under its rules, other than the general account or a special account.

**General account balance**

52. The balance of the general account.

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<sup>155</sup> Under the *Acts Interpretation Act 1954*, section 36, definition "land", 'land' includes any interest in land, including, for example, a lease.

## SCHEDULE 1 (continued)

*Subdivision 3—Particulars of liabilities***Current and non-current liabilities**

53. The organisation's current and non-current liabilities.

**Rent payable**

54. Rent payable by the organisation.

**Accounts and loans payable**

55. The organisation's accounts payable and loans payable, other than rent.

**Provision for long service leave entitlements**

56. The amount the organisation held to provide for its employees' and officers' long service leave entitlements, including an amount held instead of an officer's entitlement.<sup>156</sup>

**Provision for annual leave entitlements**

57. The amount the organisation held to provide for its employees' and officers' annual leave entitlements, including an amount held instead of an entitlement.

**Provision for superannuation or retirement benefits**

58. The amount the organisation held to provide for its employees' and officers' superannuation or retirement benefits.

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<sup>156</sup> Under the *Workplace Relations Act 1997*, section 205(1) (Payment instead of long service leave), an employer must not make, and an employee must not accept, payment instead of long service leave except on termination of an employee's employment.

## SCHEDULE 1 (continued)

**Other contingent liabilities**

**59.(1)** The total amount of the organisation's contingent liabilities, other than a contingent liability of a kind mentioned elsewhere in this subdivision.

**(2)** The amount of the contingent liabilities that were—

- (a) secured by the organisation's assets; and
- (b) unsecured.

**PART 2—ACCOUNTS FOR LOW INCOME ORGANISATIONS***Division 1—Income and expenditure**Subdivision 1—Income and expenditure account***Income and expenditure account**

**60.(1)** An income and expenditure account.

**(2)** The account must consist of—

- (a) a statement of the organisation's total income and total expenditure for the year; and
- (b) the particulars stated in—
  - (i) for income—sections 61 to 68; or
  - (ii) for expenditure—sections 69 to 74.

## SCHEDULE 1 (continued)

*Subdivision 2—Particulars of income***Entrance fees or membership contributions**

**61.** The amount paid to the organisation as entrance fees or contributions for membership of the organisation.

**Branch contributions to organisation's administrative expenses**

**62.** The contributions paid to the organisation if—

- (a) the organisation is divided into branches; and
- (b) its rules provide that—
  - (i) each of its branches must pay the organisation a proportion of the amount received by the branch for entrance fees or contributions for membership of the branch; and
  - (ii) the payments are contributions to the organisation's administrative expenses.

**Payments by another organisation for administrative expenses**

**63.** The amount paid to the organisation if—

- (a) the organisation is a branch of another organisation; and
- (b) the other organisation's rules provide that—
  - (i) it must pay each of its branches a proportion of the amount it received for entrance fees or membership contributions; and
  - (ii) payments to the branches are contributions to the branches' administrative expenses.

**Donations or grants**

**64.** The amount donated or granted to the organisation.

## SCHEDULE 1 (continued)

**Rent**

65. The amount paid to the organisation as rent.

**Bad debts**

66. The organisation's—

- (a) bad debts written off; and
- (b) provision for doubtful debts.

**Surplus**

67. If the organisation's income was more than its expenditure—by how much.

**Profit on sale or revalue**

68. If an asset of the organisation was sold or revalued and the sale or revaluation's outcome was a profit to the organisation of more than \$1 000—the amount of the profit.

*Subdivision 3—Particulars of expenditure***Affiliation fees**

69. The amount the organisation paid as fees and periodic contributions for its affiliation to—

- (a) a political party; or
- (b) a federation, congress, council or group of organisations; or
- (c) an international body having an interest in industrial matters.

## SCHEDULE 1 (continued)

**Payments to officers or employees**

**70.(1)** The amount the organisation paid to its officers or employees for administrative costs, professional fees or remuneration.

**(2)** The number of the organisation's officers the organisation remunerated, whether as officers or otherwise, in stated ranges of \$10 000.

*Example of subsection (2)—*

An organisation remunerated 5 of its officers in a financial year as follows—

- 1 officer—\$25 550
- 1 officer—\$28 775
- 2 officers—\$35 000
- 1 officer—\$41 200.

The organisation's income and expenditure account must include that it remunerated officers in the following ranges—

- 2 officers—\$20 001 to \$30 000
- 2 officers—\$30 001 to \$40 000
- 1 officer—\$40 001 to \$50 000.

**Donations or grants**

**71.** The amount the organisation donated or granted.

**Rent**

**72.** Rent paid by the organisation.

**Deficit**

**73.** If the organisation's expenditure was more than its income—the amount of the excess.

## SCHEDULE 1 (continued)

**Loss on sale or revalue**

**74.** If an asset of the organisation was sold or revalued and the sale or revaluation's outcome was a loss to the organisation of more than \$1 000—the amount of the loss.

*Division 2—Assets and liabilities**Subdivision 1—Assets and liabilities account***Assets and liabilities account**

**75.(1)** An assets and liabilities account.

**(2)** The account must consist of—

- (a) a statement of the organisation's total assets and total liabilities at the end of the year; and
- (b) the particulars stated in—
  - (i) for the organisation's assets at the end of the year—sections 76 to 79; and
  - (ii) for the organisation's liabilities at the end of the year—sections 80 and 81; and
- (c) if the organisation acquired an asset or incurred a liability it did not have at the year's end—the particulars mentioned in paragraph (b) for when the asset was acquired or the liability incurred.

*Subdivision 2—Particulars of assets***Loans by organisation**

**76.** The amount the organisation lent.

## SCHEDULE 1 (continued)

**Investments and fixed assets**

77. The book value of each of the organisation's—
- (a) investments; and
  - (b) lands; and
  - (c) other fixed assets valued at more than \$1 000.

**Balances of all accounts under rules**

78. The total of balances of the organisation's accounts required to be operated under its rules.

**General account balance**

79. The balance of the organisation's general account.

*Subdivision 3—Particulars of liabilities***Rent payable**

80. Rent payable by the organisation.

**Loans to organisation**

81. The amount the organisation borrowed.

## **SCHEDULE 2**

### **MATTERS FOR ACCOUNT CERTIFICATES**

section 142(1)

#### **PART 1—ACCOUNTING OFFICER’S CERTIFICATES**

##### **Number of members**

**1.(1)** How many members the organisation had at the end of the year.

**(2)** How many of the members were—

(a) financial; and

(b) not financial.

**(3)** In subsection (2)—

**“financial”**, for a member, means a member who has paid all subscriptions, dues, or other money for membership or membership renewal of the organisation.

##### **Financial affairs**

**2.** Whether, in the officer’s opinion, the accounts show a true and fair view of an organisation’s financial affairs at the end of the year.

##### **Members’ payments**

**3.** Whether, in the officer’s opinion—

(a) a record was kept of all amounts paid by, or collected from, the organisation’s members; and

**SCHEDULE 2 (continued)**

- (b) all amounts so paid or collected have been credited to a financial institution account to which the amounts must be credited under the organisation's rules.

**Approval for expenditures**

**4.** Whether, in the officer's opinion, each expenditure by the organisation, was approved under the organisation's rules before it was incurred.

**Payments from special accounts**

**5.** If the accounts were prepared under section 199(1)<sup>157</sup> of the Act, whether in the officer's opinion—

- (a) any payment was made from a special account of the organisation other than for the purpose for which the account was operated; and
- (b) if a payment was so made—it was approved under the organisation's rules.

**Payments from low income organisation's accounts**

**6.** If the accounts were prepared under section 223(6)<sup>158</sup> of the Act, whether in the officer's opinion—

- (a) any payment was made from an account required to be operated under the organisation's rules other than for the purpose for which the account was operated; and
- (b) if a payment was so made—it was approved under the organisation's rules.

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<sup>157</sup> Section 199 (Preparing accounts) of the Act.

<sup>158</sup> Section 223 (Accounts and audits for low income organisations) of the Act.

## SCHEDULE 2 (continued)

**Loans and financial benefits**

7. Whether, in the officer's opinion, all loans or other financial benefits the organisation gave to its employees or officers were allowed under the organisation's rules.

**Members register**

8. Whether, in the officer's opinion, the organisation's members register was kept under the Act.

**PART 2—MANAGEMENT COMMITTEE  
CERTIFICATES****Financial affairs**

9. Whether, in the management committee's opinion, the accounts show a true and fair view of the organisation's financial affairs at the end of the year.

**Compliance with Act**

10. Whether the accounts were prepared under the Act.

**Organisation's solvency**

11.(1) Whether, in the committee's opinion, the organisation was solvent during—

- (a) the whole of the year; or
- (b) only part of the year.

(2) If subsection (1)(b) applies—what part of the year the organisation was not solvent.

## SCHEDULE 2 (continued)

(3) In this section—

“**solvent**”, for an organisation, means the organisation is able to pay its debts as and when they become due and payable.

**Management committee meetings**

12. Whether, in the committee’s opinion, the management committee’s meetings were held under the organisation’s rules.

**Whether records have not been given under Act or rules**

13.(1) Whether a committee member knows if any of the organisation’s records or rules, or copies of them, have not been given to the organisation’s members under the Act, this regulation or the rules.

(2) In this section—

“**record**” does not include a document containing information given to a member of the organisation under section 201(2)<sup>159</sup> of the Act.

**Audit report and accounts for the last financial year**

14. Whether the audit report and accounts for the organisation’s financial year immediately before the year the accounts are about have been—

- (a) presented to an annual general meeting of the organisation under section 209(1) or 223(8)<sup>160</sup> of the Act; and
- (b) if section 211(1) of the Act<sup>161</sup> applied to the report and accounts—presented to a management committee meeting under section 211(2) of the Act; and

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<sup>159</sup> Section 201 (Members may apply for information) of the Act.

<sup>160</sup> Section 209 (Presentation to annual general meeting), section 223 (Accounts and audits for low income organisations) of the Act.

<sup>161</sup> Section 211 (Presentation to committee meeting if a deficiency) of the Act.

## SCHEDULE 2 (continued)

- (c) given to—
  - (i) its members under section 212(1)<sup>162</sup> of the Act; or
  - (ii) if the report and accounts were prepared under section 223(6)<sup>163</sup> of the Act—to each member who requested a copy of them under 223(9) of the Act.

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<sup>162</sup> Section 212 (Copies of report must be given to members) of the Act.

<sup>163</sup> Section 223 (Accounts and audits for low income organisations) of the Act.

### **SCHEDULE 3**

## **PRESCRIBED INFORMATION FOR PREVIOUS FINANCIAL YEAR—ACT, SECTION 201(1)**

section 145

#### **Compulsory levies raised**

**1.** If the organisation raised a compulsory levy, other than a levy for which the organisation operated a special account during the year—

- (a) the purpose of the levy; and
- (b) the total amount the organisation received from the levy.

#### **Compulsory levies imposed**

**2.** If a compulsory levy was imposed on the organisation—

- (a) the purpose of the levy; and
- (b) the total amount paid by the organisation.

#### **Voluntary contributions collected from members**

**3.** If the organisation collected voluntary contributions from its members for a particular purpose, other than a contribution for which the organisation operated a special account during the year—

- (a) the purpose of the contribution; and
- (b) the total amount the organisation collected.

#### **Special accounts**

**4.** If the organisation operated a special account for a compulsory levy it raised or for voluntary contributions it collected from its members—

- (a) the purpose of the levy or contribution; and

## SCHEDULE 3 (continued)

- (b) the total amount paid from the account for purpose of the levy or contribution; and
- (c) if a payment was from the account for another purpose the—
  - (i) amount paid; and
  - (ii) purpose of the payment; and
  - (iii) title or office within the organisation of the person who approved the payment; and
  - (iv) day the approval was given; and
- (d) if the account existed at the beginning of the year—its balance then; and
- (e) the total amount paid by the organisation's members for the levy or contribution; and
- (f) if an amount was transferred to the account from another account operated by the organisation, the—
  - (i) description of the other account; and
  - (ii) amount transferred; and
- (g) if an amount was transferred from the account to another account operated by the organisation, the—
  - (i) description of the other account; and
  - (ii) amount transferred; and
  - (iii) title or office within the organisation of the person who approved the transfer; and
  - (iv) day the approval was given; and
- (h) the balance of the account at the end of the year or its closing balance if it finished operating before then; and
- (i) if a part of the balance or closing balance mentioned in paragraph (h) has been invested in assets—the amount invested and the description of the assets.

## SCHEDULE 3 (continued)

**Other accounts**

5. If the organisation operated an account required by its rules, other than the general account or a special account—

- (a) the purpose of the account; and
- (b) the total amount paid from the account for the purpose; and
- (c) if a payment was made from the account for another purpose the—
  - (i) amount paid; and
  - (ii) purpose of the payment; and
  - (iii) title or office within the organisation of the person who approved the payment; and
  - (iv) day the approval was given; and
- (d) if the account existed at the beginning of the year—its balance then; and
- (e) if an amount was transferred to the account from another account or account operated by the organisation, the—
  - (i) description of the other account; and
  - (ii) amount transferred; and
- (f) the total amount paid into the account, other than an amount mentioned in paragraph (e); and
- (g) if an amount was transferred from the account to another account operated by the organisation, the—
  - (i) other account's description; and
  - (ii) amount transferred; and
  - (iii) title or office within the organisation of the person who approved the transfer; and
  - (iv) day the approval was given; and
- (h) the balance of the account at the end of the year or its closing balance if it finished operating before then; and

## SCHEDULE 3 (continued)

- (i) if a part of the balance or closing balance mentioned in paragraph (g) has been invested in assets—the amount invested and the description of the assets.

**Donations or grants to organisation**

**6.** If a donation or grant of more than \$1 000 was given to the organisation—

- (a) the amount of the donation or grant; and
- (b) if it was made for a stated purpose—the purpose.

**Donations or grants by organisation**

**7.** If a donation or grant totalling more than \$1 000 was made by the organisation—

- (a) its amount; and
- (b) its purpose; and
- (c) if it was not a donation or grant under section 24<sup>164</sup> of the Act—the name and address of the person the donation or grant was made to.

**Amounts received or paid of more than \$1 000**

**8.** If the organisation received or paid an amount of more than \$1 000 not included in the organisation's accounts<sup>165</sup>—

- (a) the amount; and
- (b) whether it was received or paid; and

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<sup>164</sup> Section 24 (Rules to give conditions for loans, grants and donations) of the Act.

<sup>165</sup> For what consists of an organisation's accounts, see section 199 (Preparing accounts) of the Act, section 140 (Prescribed accounts—Act, s 199(1)) and section 141 (Prescribed accounts for low income organisations—Act, s 223(6)(a)).

## SCHEDULE 3 (continued)

- (c) the purpose of the receipt or payment; and
- (d) the name and address of the person who paid or received it.

**Officer's remuneration**

9. The remuneration paid to an officer of the organisation.

**Profit or loss on sale or revalue**

10. If an asset of the organisation was sold or revalued and the outcome of the sale or revaluation was a profit or loss to the organisation of more than \$1 000—

- (a) the description of the asset; and
- (b) if the asset was revalued—the reason for the revaluation; and
- (c) the amount of the profit or loss.

**Loans by organisation**

11. If the organisation made a loan totalling more than \$1 000—

- (a) the amount of the loan; and
- (b) the purpose of the loan; and
- (c) the security given for the loan; and
- (d) if the loan was not a loan under section 24<sup>166</sup> of the Act—
  - (i) the borrower's name and address; and
  - (ii) the repayment arrangements for the loan.

**Loans to organisation**

12. If the organisation received a loan of more than \$10 000 the—

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<sup>166</sup> Section 24 (Rules to give conditions for loans, grants and donations) of the Act.

## SCHEDULE 3 (continued)

- (a) amount of the loan; and
- (b) purpose of the loan; and
- (c) security given for the loan; and
- (d) lender's name and address; and
- (e) repayment arrangements for the loan.

**Non-public investments**

**13.(1)** The amount the organisation invested during the year, other than in public investments.

**(2)** If the organisation held an investment, other than a public investment, at the end of the year whose book value was then more than the larger of \$1 000 or 20% of the total book value of its investments other than public investments—

- (a) the description of the investment; and
- (b) the book value of the investment at the end of the year; and
- (c) if the organisation stated a market value for the investment at the end of the year in its accounts or accounting records for the year—the stated value.

**Assets not in accounts**

**14.** If the organisation held assets not included in its accounts at the end of the year whose book value was then more than the larger of \$1 000 or 5% of the total book value of its assets—

- (a) the description of the asset; and
- (b) the book value of the asset at the end of the year.

## SCHEDULE 3 (continued)

**Liabilities not included in accounts**

**15.** If the organisation had a liability not included in its accounts at the end of the year that was then more than 5% of its other liabilities—the description and amount of the liability.

**Contingent liabilities**

**16.** If the organisation had a contingent liability at the end of the year that had then been calculated and was more than 5% of the net value of the organisation's assets—the description and amount of the liability.

**Number of employees and officers provided for**

**17.(1)** How many of the organisation's employees and officers the organisation paid or held an amount for—

- (a) annual leave entitlements; and
- (b) long service leave entitlements; and
- (c) superannuation or retirement benefits.

**(2)** In subsection (1)—

**“paid or held”** includes paying, or holding an amount to provide to pay, instead of an—

- (a) annual leave entitlement; or
- (b) officer's long service leave entitlement.<sup>167</sup>

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<sup>167</sup> Under the *Workplace Relations Act 1997*, section 205(1) (Payment instead of long service leave), an employer must not make, and an employee must not accept, payment instead of long service leave except on termination of an employee's employment.

## SCHEDULE 4

### MODEL ELECTION RULES

section 152

#### PART 1—DEFINITIONS

##### Definitions

1. In these rules—

**“ballot box”** means a ballot box kept under section 17.

**“ballot envelope”** see section 16(1)(c).

**“candidate”**, for an election, means a person who has nominated as a candidate for the office the election is about whose nomination—

- (a) has been accepted under section 7; and
- (b) has not been withdrawn.

**“higher office”** means—

- (a) for the office of management committee member—any office other than the office of trustee; or
- (b) for the office of assistant secretary—the office of secretary, vice-president or president; or
- (c) for the office of secretary—the office of vice-president or president; or
- (d) for the office of vice-president—the office of president.

**“initialled”**, by the manager of an election, includes being marked with a facsimile of the manager’s initials.

## SCHEDULE 4 (continued)

**“manager”**, of the election, means—

- (a) the electoral officer conducting the election;<sup>168</sup> or
- (b) if an exemption has been given under section 50(2) of the Act—the returning officer appointed under section 51(2)(a)<sup>169</sup> of the Act to conduct the election.

**“member”** means a member of the organisation.

**“president”** means—

- (a) the person holding office as the organisation’s president; or
- (b) another officer of the organisation (however described) who has the functions of the organisation’s president.

**“return envelope”** see section 16(1)(b).

**“roll”**, for the election, means the roll of voters prepared for the election under sections 11 and 13.

**“scrutineer”** means a candidate who acts personally as a scrutineer or a person appointed by a candidate under section 23.

**“secretary”** means—

- (a) the person holding office as the organisation’s secretary; or
- (b) another officer of the organisation (however described) who has the functions of the organisation’s secretary.

**“trustee”** means the office of a person holding (whether as trustee or otherwise) property—

- (a) of the organisation; or
- (b) that the organisation has a beneficial interest in.

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<sup>168</sup> Under section 54 (Electoral commission’s conduct of elections) of the Act, the electoral officer conducting an organisation’s elections must comply with its election rules.

<sup>169</sup> Section 50 (Commission may give exemption from s 47), section 51 (Duties of organisation or branch if exemption given) of the Act.

## SCHEDULE 4 (continued)

**“voter”** means a person—

- (a) was a financial member from 60 days before nominations for the election opened to when nominations close; and
- (b) whose name is stated on the roll under section 11 or 13.<sup>170</sup>

**“voting declaration”** see section 16(1)(c).

**“voting material”** see section 16(1).

## **PART 2—RETURNING OFFICERS**

### **Application of pt 2**

**2.** This part only applies to an election if the electoral commission is not the manager of the election.<sup>171</sup>

### **Returning officers—functions and powers**

**3.(1)** The manager of the election<sup>172</sup>—

- (a) must not influence, or attempt to influence, the outcome of the election; and

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<sup>170</sup> Schedule 4, section 11 (Roll—preparation) or section 13 (When someone can claim a right to vote)

<sup>171</sup> Generally, the electoral commission must conduct elections. See section 47 (Electoral commission to conduct elections) of the Act. However, under section 50 (Commission may give exemption from s 47) of the Act, the commission may grant an exemption from this requirement.

Section 51 (Duties of organisation or branch if exemption given) of the Act imposes certain duties if an exemption is given. They include appointing a returning officer who is not an employee, member, or officer of the organisation to conduct the election.

<sup>172</sup> Under section 54 (Electoral commission’s conduct of elections) of the Act, if an electoral officer conducts an election, the officer’s functions and powers include those in subsection (1).

## SCHEDULE 4 (continued)

- (b) must conduct the election under these rules; and
- (c) may take the action and give the directions the manager considers reasonably necessary to—
  - (i) ensure no irregularities happen in the election; or
  - (ii) remedy a procedural defect that appears to the manager to exist about the election.

(2) Also, the manager must ensure suitable arrangements are made with Australia Post for the return of ballot papers to a box at a post office.

(3) To ensure the integrity of a ballot, the address for return of ballot papers must not be the organisation's usual postal address.

## **PART 3—PRE-ELECTION PROCEDURES**

### **Opening and closing days for nominations**

4.(1) The manager of the election must fix the opening day and closing day for nominations for office.

(2) The closing day must be at least 28 days after notice is given under section 6.

(3) Nominations open at midday on the opening day and close at midday on the closing day.

### **Starting and finishing days of ballot**

5.(1) The manager of the election must fix the starting and finishing days for a ballot to decide the result of the election if a ballot becomes necessary under section 9.<sup>173</sup>

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<sup>173</sup> Schedule 4, section 9 (When a ballot must be held)

## SCHEDULE 4 (continued)

(2) The starting day must not be before the closing day for nominations for the offices to be filled at the election.

**Calling for nominations**

6.(1) The manager of the election must call for nominations for the offices to be filled by notice given to members in 1 of the following ways—

- (a) by post to each member;
- (b) by advertisement—
  - (i) if the organisation publishes a journal or newsletter that it gives to members free of charge—in the journal or newsletter; or
  - (ii) in a daily newspaper circulating in the area where the organisation's members live or work.

(2) The notice must state—

- (a) the opening day for nominations; and
- (b) the closing day for nominations; and
- (c) that nominations for office—
  - (i) open at midday on the opening day; and
  - (ii) close at midday on the closing day; and
- (d) that nominations for office must be written, signed by the nominee and given to the manager before nominations close; and
- (e) the starting and finishing days for a ballot to decide the result of the election if a ballot becomes necessary under section 9;<sup>174</sup> and
- (f) that only a person who was a financial member for at least 60 days before the time for nominations to open may vote in the election.

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<sup>174</sup> Schedule 4, section 9 (When a ballot must be held)

## SCHEDULE 4 (continued)

**Nomination procedure**

**7.(1)** A nomination for office must be written, signed by the nominee and given to the manager of the election before nominations close.

**(2)** A person may nominate for more than 1 office.<sup>175</sup>

**(3)** If a nomination complies with subsection (1), the manager must accept it.

**(4)** A candidate may withdraw the candidate's nomination by written notice given to the manager no later than 7 days after nominations close.

**What happens if a nomination is defective**

**8.(1)** If a nomination is given to the manager of the election after nominations have closed, the manager must reject it.

**(2)** If a nomination is not written or is not signed by the nominee, the manager must—

(a) reject it; and

(b) give the nominee written notice stating that—

(i) the nomination was rejected because it was not written or was not signed by the nominee; and

(ii) another nomination that is written and is signed by the nominee may be given to the manager before nominations close.

**(3)** If practicable, the notice must be given before nominations close.

**(4)** Failure to give the notice does not invalidate the election.

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<sup>175</sup> For what happens when a person nominates for more than 1 office see schedule 4, sections 10 (Election without ballot) and section 33 (What happens if multiple nominee elected).

An office holder, other than a trustee, may nominate, but may not be declared elected. See schedule 4, section 32 (Office holder must not be elected).

## SCHEDULE 4 (continued)

**When a ballot must be held**

**9.** If there are more candidates for election to an office than the number to be elected, the manager must conduct a ballot under part 4.

**Election without ballot**

**10.(1)** The manager of the election must declare a candidate elected to an office (“**the office**”) if—

- (a) nominations have closed; and
- (b) the candidate does not hold another office; and
- (c) the candidate has—
  - (i) not nominated for a higher office; or
  - (ii) nominated for a higher office and is not elected to the higher office; and
- (d) if the election is for—
  - (i) president or secretary—the candidate is the only candidate; or
  - (ii) another type of office—the number of candidates for the office is not more than the number of offices of the same type to be elected at the same time.

**PART 4—CONDUCTING BALLOTS***Division 1—General***Roll—preparation**

**11.(1)** A roll for a ballot must be prepared at the direction of the manager of the election.

## SCHEDULE 4 (continued)

- (2) The manager must ensure the roll—
- (a) states—
    - (i) the name of each person who is a financial member of the organisation when nominations for the election close, in alphabetical order; and
    - (ii) each person's address, opposite their name; and
  - (b) is completed when nominations for the election close.
- (3) The organisation must give the manager—
- (a) a copy of its members register; and
  - (b) access to the organisation's records reasonably necessary for the manager to ensure the roll is accurate.

**Roll—inspection**

**12.(1)** The manager of the election must make the roll for the election available for inspection—

- (a) in the term that—
  - (i) starts on the day after the roll must be completed under section 11; and
  - (ii) ends 30 days after the result of the election is declared; and
- (b) at the organisation's registered office when it is open for business.

(2) A candidate, member or other person authorised by the manager may at the times and place stated in subsection (1) inspect the roll, free of charge.

(3) If, during the term stated in subsection (1), a candidate or member asks for a copy of the roll or a stated part of the roll, the manager must give the person the copy, free of charge.

## SCHEDULE 4 (continued)

**When someone can claim a right to vote**

**13.(1)** Despite section 11(2)(b), if a financial member's name does not appear on the roll, the member may apply to the manager of the election to have the member's name included on the roll.<sup>176</sup>

**(2)** If the manager is satisfied the applicant was a financial member when nominations for the election closed, the manager must include the applicant's name on the roll.

*Division 2—Voting material***Ballot papers**

**15.(1)** A ballot paper for the election must<sup>177</sup>—

- (a) be a different colour from the colour used for ballot papers at the 2 previous elections held for the organisation; and
- (b) list the names of each candidate once only, with the surname first, followed by the candidate's other names; and
- (c) state how the voter may vote; and
- (d) state that the voter must fill in and sign the voting declaration or the vote will not be counted; and
- (e) state that the voter must return the ballot paper to the manager of the election by—
  - (i) posting the ballot paper to the manager so it is received before or on the finishing day of the ballot; or
  - (ii) putting it in the ballot box before or on the finishing day of the ballot.

**(2)** The order of names on the ballot paper must be decided by lot.

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<sup>176</sup> The application must be written. See section 288 (Notices and applications to be written) of the Act.

<sup>177</sup> See the *Industrial Organisations Regulation 1997*, section 56 (Ballot security) for other requirements for ballot papers.

## SCHEDULE 4 (continued)

(3) If 2 or more candidates have the same surname and first names, the candidates must be distinguished in an appropriate way.

*Example—*

The occupation of each candidate may be added to the ballot paper.

**Distributing voting material**

**16.(1)** The manager of the election must post the following things (the “**voting material**”) to each voter—

- (a) a ballot paper initialled by the manager;
- (b) an unsealed reply paid envelope (a “**return envelope**”) addressed to the manager;
- (c) a ballot envelope (a “**ballot envelope**”) and a voting declaration (a “**voting declaration**”);
- (d) other material the manager considers appropriate for the ballot including, for example, directions or notes to help the voter to comply with this regulation and cast a valid vote.

**(2)** Voting material must be posted to each voter—

- (a) in a sealed envelope to the voter’s address on the roll; and
- (b) as soon as practicable, but not earlier than 2 days before the starting day of the ballot.

**(3)** The voting declaration must state ‘I certify that I am the person whose name appears on this envelope and I have voted on the ballot paper enclosed.’.

**(4)** If a voter gives the manager a notice that the voter will be absent from the address stated on the roll when voting material is to be given, the manager must post the material to the address stated in the notice.

**(5)** Before posting voting material to a voter, the manager must mark a different ballot number for each voter on—

- (a) the roll against the voter’s name; and
- (b) the declaration form; and

## SCHEDULE 4 (continued)

(c) the return envelope.

(6) The ballot numbers must start with a number chosen by the manager.

(7) A ballot paper or a ballot envelope must not be marked in a way that could identify the voter.

**Manager must keep a ballot box**

**17.(1)** After posting the voting material, the manager of the election must obtain a ballot box.

(2) The manager must—

(a) keep the box in a safe place; and

(b) seal the box in a way that—

(i) allows voting material to be placed in it until the ballot finishes; and

(ii) prevents voting material from being taken from it until votes for the ballot are to be counted.

**Duplicate voting material**

**18.(1)** This section applies if voting material posted to a voter—

(a) has not been received by the voter; or

(b) has been lost or destroyed; or

(c) if the document is a ballot paper—has been spoilt.

(2) The voter may apply to the manager of the election for a duplicate of the document.

(3) The application must—

(a) be received by the manager on or before the finishing day of the ballot; and

(b) state the grounds on which it is made; and

## SCHEDULE 4 (continued)

- (c) if practicable—be substantiated by evidence verifying, or tending to verify, the grounds; and
  - (d) state that the voter has not voted at the ballot; and
  - (e) if the document is a spoiled ballot paper—be accompanied by the ballot paper.
- (4) If the application complies with subsection (3), the manager must—
- (a) if the document is a spoiled ballot paper—
    - (i) mark ‘spoilt’ on the paper; and
    - (ii) initial the paper where marked and keep the paper; and
    - (iii) give a fresh ballot paper to the voter; or
  - (b) if the document is not a spoiled ballot paper—give a duplicate of the document to the voter.

*Division 3—Voting***How long ballot is open**

19. A ballot must remain open for—
- (a) at least 21 days; and
  - (b) no longer than 49 days.

**How to vote**

- 20.(1) A voter may vote only by completing the following steps—
- (a) completing a ballot paper by—
    - (i) writing a tick or a cross in the square opposite the name or names of the number of candidates the voter may vote for under section 21; and
    - (ii) complying with the instructions on the paper;
  - (b) putting the ballot paper in a ballot envelope;

## SCHEDULE 4 (continued)

- (c) sealing the ballot envelope;
- (d) filling in and signing the voting declaration for the ballot paper;
- (e) putting the voting declaration and the ballot envelope in the return envelope;
- (f) sealing the return envelope;
- (g) complying with any direction under section 16(1)(d);<sup>178</sup>
- (h) returning the return envelope to the manager of the election before voting closes by—
  - (i) posting it to the manager so that the envelope is received before or on the finishing day for the ballot; or
  - (ii) putting it in the ballot box before or on the finishing day for the ballot.

(2) A voter may only put 1 ballot envelope in a return envelope.

**How many votes may be cast**

**21.** A voter may only vote for the following number of candidates on a ballot paper—

- (a) for an election for president or secretary—1 candidate;
- (b) for an election for another type of office—not more than the number of offices to be filled for the type.

***Division 4—Counting and scrutiny of votes*****How manager must deal with voting material**

**22.(1)** The manager of the election must keep voting material for a ballot that has been returned to the manager in a safe place until the vote has been counted.

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<sup>178</sup> Schedule 4, section 16 (Distributing voting material)

## SCHEDULE 4 (continued)

(2) If, after the finishing day for the ballot, the manager receives a return envelope purporting to contain a ballot paper for the ballot, the manager must—

- (a) keep the envelope sealed; and
- (b) mark the envelope ‘Received by the manager after the finishing day for the ballot’; and
- (c) keep the envelope in safe custody, separately from return envelopes received before or on the finishing day; and
- (d) identify the voter on the roll from the ballot number on the envelope; and
- (e) record on the roll that the voter’s return envelope was returned after the finishing day.

**Scrutineers—appointment**

**23.(1)** A candidate may—

- (a) act personally as a scrutineer; or
- (b) appoint another person (an “**appointee**”) as a scrutineer for the candidate.

(2) An appointment must be in writing and signed by the candidate.

(3) A candidate must notify the manager of the election of the name of each of the candidate’s appointees as soon as possible after they are appointed.

(4) The manager may refuse to allow an appointee to attend the counting of the votes in the election or act as a scrutineer if—

- (a) the manager asks to inspect the appointment; and
- (b) the appointee does not produce it.

**Scrutineers’ rights**

**24.(1)** Subject to section 25, a scrutineer may be present at the—

## SCHEDULE 4 (continued)

- (a) preparation and giving of voting material for a ballot; or
- (b) receipt of voting material and placing the material in safe custody under section 22;<sup>179</sup> or
- (c) counting of votes.

(2) A scrutineer may make an objection or advise the manager of the election if the scrutineer considers an error has been made under section 28(1)(b).<sup>180</sup>

**Scrutineers—numbers attending**

**25.(1)** Each candidate may only have 1 scrutineer exercising a right under section 24 for each official present.

(2) In subsection (1)—

**“official”** means—

- (a) if the ballot is being conducted by the electoral commission—an electoral official; or
- (b) if the ballot is not being conducted by the electoral commission—
  - (i) the manager of the election; and
  - (ii) any other person appointed by the manager to exercise the manager’s powers for the election.

**Initial scrutiny of voting material**

**26.(1)** As soon as possible after the finishing day for the ballot, the manager of the election must—

- (a) seal the ballot box in a way that prevents anything from being placed in it; and
- (b) take the ballot box to the place where votes are to be counted; and

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<sup>179</sup> Schedule 4, section 22 (How manager must deal with voting material)

<sup>180</sup> Schedule 4, section 28 (Scrutineers’ objections)

## SCHEDULE 4 (continued)

(c) deal with the voting material under this section.

**(2)** After the ballot box has been taken to the place where votes are to be counted, the manager must—

- (a) unseal the ballot box and take out the return envelopes; and
- (b) open each return envelope and take out each ballot envelope and voting declaration; and
- (c) if a return envelope contained more than 1 ballot envelope—mark each of the ballot envelopes from the return envelope ‘informal under section 27(2)(e)’; and
- (d) examine each declaration and mark off the voter’s name on the roll for the election each declaration relates to; and
- (e) check the ballot number on each declaration against the ballot number marked against the voter’s name on the roll for the election each declaration relates to; and
- (f) ensure each declaration is signed.

**(3)** After complying with subsection (2), the manager must put the ballot envelopes and the declarations into separate containers for each election if satisfied—

- (a) each declaration is signed; and
- (b) the ballot number on each declaration corresponds with the ballot number marked beside the voter’s name on the roll for the election each declaration relates to.

**(4)** However, the manager must not put a ballot envelope or a declaration in the containers mentioned in subsection (3) if—

- (a) the manager reasonably believes the voter to whom it was sent did not sign the declaration; or
- (b) the person named on the declaration is not the person to whom it was sent.

**(5)** The manager must keep ballot envelopes and declarations excluded under subsection (4) separate from other ballot envelopes and declarations.

## SCHEDULE 4 (continued)

(6) Subsection (4) does not apply if the manager is satisfied the person who filled in and signed the declaration—

- (a) is a voter and has not previously voted in the ballot; and
- (b) has a reasonable explanation for using the ballot material.

(7) If subsections (3) or (6) apply, the manager must—

- (a) accept the declaration as valid; and
- (b) note the acceptance on the declaration; and
- (c) record the correct ballot number on the roll against the name of the voter who signed the declaration.

(8) After separating the ballot envelopes and the declarations, the manager of the election must do the following in order—

- (a) seal the container holding declarations;
- (b) open the ballot envelopes not excluded under subsection (4) and take out the ballot papers;
- (c) if a ballot envelope is marked ‘informal under section 27(2)(e)’—mark each of the ballot papers from the envelope ‘informal under section 27(2)(e)’;
- (d) if a ballot envelope contained more than 1 ballot paper for each election for the same type of office—mark each of the ballot papers from the envelope ‘informal under section 27(2)(f)’;
- (e) put all of the ballot papers in the ballot box.

**Counting votes**

**27.(1)** To count votes the manager of the election must—

- (a) admit the valid votes and reject the informal votes; and
- (b) count the valid votes, and record the number for each candidate; and
- (c) count the informal votes.

## SCHEDULE 4 (continued)

- (2)** A vote is only informal if—
- (a) the ballot paper is not initialled by the manager and the manager is not satisfied the paper is authentic; or
  - (b) the ballot paper is marked in a way that allows 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 section 16(1)(d);<sup>181</sup> or
  - (e) the ballot envelope from which the ballot paper was taken was returned in a return envelope that contained another ballot envelope; or
  - (f) the ballot paper was taken from a ballot envelope that contained another ballot paper for election to the same type of office.

**Scrutineers' objections**

- 28.(1)** At the counting of votes a scrutineer may—
- (a) object to a ballot paper being admitted as valid or rejected as informal by the manager of the election; or
  - (b) advise the manager of the election if the scrutineer considers an error has been made in conducting the ballot or counting votes.
- (2)** If an objection is made, the manager must—
- (a) decide whether the ballot paper is to be admitted or rejected; and
  - (b) note the decision on the ballot paper and initial the note.
- (3)** If the manager is advised under subsection (1), the manager must—
- (a) decide whether the error has been made; and
  - (b) if appropriate—direct action to correct or mitigate the error.

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<sup>181</sup> Schedule 4, section 16 (Distributing voting material)

## SCHEDULE 4 (continued)

**Direction by manager to leave count**

**29.** The manager of the election may direct a person to leave the place where votes are being counted if the person—

- (a) does not have the right to be present, or remain present, at the count; or
- (b) interrupts the count, other than to exercise a scrutineer's right.

***Division 5—Election result***<sup>182</sup>**How result is decided**

**30.(1)** If only 1 office of the same type is to be filled in an election, the candidate with the most formal votes is elected.

**(2)** If more than 1 office of the same type is to be filled, that number of candidates corresponding with the member of offices to be filled who have the most formal votes are elected.

**(3)** This section is subject to sections 32 and 33.

**What happens if votes for 2 or more candidates are equal**

**31.(1)** If the votes cast for 2 or more candidates for a particular office are equal, the manager of the election must decide which candidate is elected by drawing lots.

**(2)** A decision under subsection (1) must be made in the presence of any scrutineer who wishes to attend.

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<sup>182</sup> See the following sections of the *Industrial Organisations Regulation 1997* for what must happen after an election result has been decided—

- 48 (Declaration of election or ballot result)
- 49 (Prescribed particulars for election and ballot result reports—Act, ss 52(1), 113(1) and 170(1))
- 50 (Copies of result reports to be given).

## SCHEDULE 4 (continued)

**Office holder must not be elected**

**32.** A candidate must not be elected to an office, other than as a trustee, if the candidate holds another office.

**What happens if multiple nominee elected**

**33.** If a candidate is elected to an office, other than as a trustee, and the candidate is also elected to a higher office, the manager of the election may only declare the candidate elected to the higher office.

**SCHEDULE 5****DICTIONARY**

section 3

**“account”** includes fund.

**“applicant”**, for—

- (a) part 6, see section 57; and
- (b) part 7, see section 101.

**“attendance ballot”**, for part 7, see section 101.

**“ballot”** for—

- (a) part 4, see section 28; and
- (b) part 6, see section 57; and
- (c) part 7, see section 101.

**“ballot application”**, for part 7, see section 101.

**“ballot box”**, for—

- (a) part 6, see section 57; and
- (b) part 7, see section 101.

**“ballot envelope”**, for—

- (a) part 6, see section 57; and
- (b) part 7, see section 101.

## SCHEDULE 5 (continued)

“**current asset**” see Australian accounting standards.<sup>183</sup>

“**finishing day**”, for part 7, see section 101.

“**general account**”, of an organisation, means an account operated by the organisation for its general business.

“**initialled**”, by the manager of a ballot, includes being marked with a facsimile of the manager’s initials.

“**inquiry**”, for—

- (a) part 6, division 5, see section 96; and
- (b) part 7, division 4, see section 128.

“**instrument**”, for part 7, see section 101.

“**latest version**”, of a document, for part 6, see section 57.

“**low income organisation**”, for a financial year, see section 138.

“**management committee**”, of a constituent part, for part 7, see section 101.

“**manager**”, of an election or ballot, means—

- (a) the electoral officer conducting the election or ballot; or
- (b) if an exemption has been given under—

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<sup>183</sup> Under the current Australian accounting standard AASB 1019/AAS 2 (Measurement and presentation of inventories in the context of the historical cost system), paragraph 7 (Definitions) at the commencement, issued November 1989—

“**current assets**” in relation to—

- (a) a corporation—cash or other assets of the corporation that would, in the ordinary course of business of that corporation, be consumed or converted into cash within 12 months after the end of the last financial period of that corporation; or
- (b) an economic entity—cash or other assets of each entity that would in the entity’s ordinary course of business be consumed or converted into cash within 12 months after the end of the entity’s last financial period.’

## SCHEDULE 5 (continued)

- (i) section 50(2) of the Act for a ballot for an election—the returning officer for the ballot appointed under section 51(2)<sup>184</sup> of the Act; or
- (ii) section 111(2) of the Act for a ballot for a proposed amalgamation—the returning officer for the ballot appointed under section 112(2)<sup>185</sup> of the Act; or
- (iii) section 168(2) of the Act for a ballot for a proposed withdrawal from amalgamation—the returning officer for the ballot appointed under section 169(2)<sup>186</sup> of the Act.

**“non-current asset”** see Australian accounting standards.<sup>187</sup>

**“official”**, for an election or ballot, means—

- (a) if the election or ballot is being conducted by the electoral commission—an electoral official; or
- (b) if the election or ballot is not being conducted by the electoral commission—
  - (i) the manager of the election or ballot; and
  - (ii) any other person who has been delegated the manager’s powers for the election or ballot.

**“proposed withdrawal”**, for part 7, see section 101.

**“public investment”** means an investment in government or other public debentures, stock or bonds.

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<sup>184</sup> Section 50 (Commission may give exemption from s 47), section 51 (Duties of organisation or branch if exemption given) of the Act.

<sup>185</sup> Section 111 (Commission may give exemption from s 108), section 112 (Duties of organisation if exemption given) of the Act.

<sup>186</sup> Section 168 (Commission may give exemption from s 165), section 169 (Duties of constituent part if exemption given) of the Act.

<sup>187</sup> Under Australian accounting standard AAS 2 (Measurement and presentation of inventories in the context of the historical cost system), paragraph 7 (Definitions) at the commencement, issued November 1989—

**“non-current assets”** means all assets other than current assets.

## SCHEDULE 5 (continued)

**“remuneration”** includes bonus, commission, fee and salary.

**“representative constituent member”**, for part 7, see section 101.

**“return envelope”**, for—

- (a) part 6, see section 57; and
- (b) part 7, see section 101.

**“roll”**, for an election or ballot, means the roll of voters for the election or ballot.

**“scrutineer”**, for—

- (a) part 6, see section 57; and
- (b) part 7, see section 101.

**“special account”**, of an organisation, means an account the organisation operated for—

- (a) a compulsory levy raised by the organisation; or
- (b) voluntary contributions collected from its members.

**“starting day”**, for part 7, see section 101.

**“voter”**, for an election or ballot, means—

- (a) for a ballot under part 9 of the Act—a person who has the right to vote at the ballot under section 124(2)<sup>188</sup> of the Act; or
- (b) for an election or another ballot—a person who has the right to vote at the ballot or election.

**“voting declaration”**, for—

- (a) part 6, see section 83(1)(d); and
- (b) part 7, see section 115(2)(d).

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<sup>188</sup> Part 9 (Amalgamating industrial organisations), section 124 (Roll of voters for ballot) of the Act.

## SCHEDULE 5 (continued)

**“voting material”**, for—

- (a) part 6, see section 57; and
- (b) part 7, see section 101.

**“withdrawal day”**, for part 7, see section 101.

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## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 November 1999. Future amendments of the Industrial Organisations Regulation 1997 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	30 September 1998

## 5 List of legislation

### **Industrial Organisations Regulation 1997 SL No. 282**

made by the Governor in Council on 28 August 1997  
notfd gaz 29 August 1997 pp 1987–9  
commenced on date of notification  
exp 1 September 2007 (see SIA s 54)

**Note—(1)** Despite the repeal of the Industrial Organisations Act 1997 (1999 SL No. 159) the Industrial Organisations Regulation 1997 will continue in force and may be amended under the Industrial Relations Act 1999 (see 1999 No. 33 s 711(3)).

**(2)** The regulation is to be read with the changes necessary to make it consistent with and adapt its operation to the Industrial Relations Act 1999 (see 1999 No. 33 s 711(4)).

as amended by—

### **Industrial Relations Act 1999 No. 33 ss 1, 2(2), 711(4)(a) sch 4**

date of assent 18 June 1999  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 1999 (1999 SL No. 159)

## 6 List of annotations

### **PART 12—REPEAL AND TRANSITIONAL**

**pt 12 (ss 157–159) exp 1 April 1999** (see s 159)

### **SCHEDULE 4—MODEL ELECTION RULES**

#### **PART 1—DEFINITIONS**

##### **Definitions**

**s 1** def “**candidates statement**” om 1999 No. 33 s 711(4)(a) sch 4  
def “**voter**” sub 1999 No. 33 s 711(4)(a) sch 4

#### **PART 3—PRE-ELECTION PROCEDURES**

##### **Opening and closing days for nominations**

**s 4** sub 1999 No. 33 s 711(4)(a) sch 4

**Calling for nominations**

**s 6** amd 1999 No. 33 s 711(4)(a) sch 4

**PART 4—CONDUCTING BALLOTS****Roll—inspection**

**s 12** amd 1999 No. 33 s 711(4)(a) sch 4

**Candidates' statements**

**s 14** om 1999 No. 33 s 711(4)(a) sch 4

**Distributing voting material**

**s 16** amd 1999 No. 33 s 711(4)(a) sch 4