

Queensland



*Industrial Relations Act 1990*

# **INDUSTRIAL RELATIONS REGULATION 1990**

**Reprinted as in force on 11 April 1997  
(includes amendments up to SL No. 78 of 1997)**

**Reprint No. 2A**

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# Information about this reprint

This regulation is reprinted as at 11 April 1997. 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 reprints 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.**

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**INDUSTRIAL RELATIONS  
REGULATION 1990**

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# **INDUSTRIAL RELATIONS REGULATION 1990**

[as amended by all amendments that commenced on or before 11 April 1997]

## **PART 1—PRELIMINARY**

### **Short title**

1. These regulations may be cited as the *Industrial Relations Regulation 1990*.

## **PART 3—INDUSTRIAL ORGANISATIONS**

### *Division 1—Registration*

#### **Application for registration**

3.(1) An application by an association for registration as an industrial organisation must be lodged in the Industrial Registrar's Office.

(2) Each document required under section 328(3) or (4) of the Act to accompany an application must be signed and dated by the president and the secretary of the association at the time they sign the application form.

(3) The association may lodge a statement in support of the application when the documents required by the Act are lodged.

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

4. Applications for registration as an industrial organisation must be dealt with, as far as is practicable, in the order in which they are lodged in the Industrial Registrar's Office.

**Notification of applications for registration**

**5.(1)** For the purposes of section 328(1) of the Act, the notice of an application for registration as an industrial organisation is to be published in the form determined from time to time by the Industrial Registrar and at the applicant's cost—

- (a) in a newspaper circulating generally throughout the State; and
- (b) if the Industrial Registrar so directs, in the Industrial Gazette.

**(2)** The applicant must lodge in the Industrial Registrar's Office within 7 days of the date of publication a copy of the newspaper in which the notice is published, and must serve a copy of the notice on each industrial organisation whose callings include the callings of the members or to which the eligibility rules of the proposed industrial organisation relate as soon as is practicable after its publication.

**Withdrawal of application for registration**

**6.** An application for registration as an industrial organisation may be withdrawn at any time before the application is determined by the Industrial Commission.

**Review of registration of small industrial organisations**

**7.** If the Industrial Commission is considering under section 330 of the Act the justification for the continued registration of a small industrial organisation, the Commission is to give the industrial organisation an opportunity—

- (a) to make written submissions on any of the matters to be considered by the Commission;
- (b) to present oral arguments in support of any written submission.

**Registration of several industrial organisations for the same calling**

**8.** An industrial organisation given notice under section 331(4) of the Act is entitled to be heard in opposition to an application for registration for a calling for which the industrial organisation is already registered, if within 7 days of receipt of the notice—

- (a) it lodges in the Industrial Registrar's Office a notice of opposition in the form provided for by the rules of court; and
- (b) it serves a copy of the notice of opposition on the association which has applied for registration.

### **Opposition to registration as an industrial organisation**

**9.(1)** For the purposes of section 333(1) of the Act, a notice of opposition to an application for registration as an industrial organisation is to be in the form provided for by the rules of court and must be lodged in the Industrial Registrar's Office not later than 35 days after publication in accordance with section 5 of the notice of the application.

**(2)** An objector is to be restricted to the grounds specified in the notice unless the Industrial Commission, on application made and for reasons shown by the objector, otherwise permits.

**(3)** The objector must serve a copy of the notice on the association applying for registration not later than 7 days after the notice is lodged in the Industrial Registrar's Office.

**(4)** An association—

- (a) may, unless the Industrial Commission otherwise directs, not later than 14 days after service on it of a copy of a notice of opposition, lodge in the Industrial Registrar's Office, in answer to the opposition, a written statement setting out the facts and issues relied on and signed by an officer of the association authorised to sign the statement; and
- (b) must, if it lodges a written statement, serve a copy of that statement on the objector not later than 7 days after lodging it in the Industrial Registrar's Office.

**(5)** For the purposes of section 333(2)(b) of the Act, notice of the hearing of objections is to be given to each objector not less than 7 days before the date fixed for the hearing.

### **Application for registration by associations—hearing of applications**

**10.** The Industrial Commission in dealing with an application for registration made by an association under section 328 of the Act is not to—

- (a) refuse to grant it without giving the applicant an opportunity to be heard; or
- (b) grant it without giving any objector who has complied with section 9 an opportunity to be heard.

### ***Division 2—Rules of industrial organisations***

#### **Exemption from requirement for secret postal ballot for election to office**

**11.** In addition to the requirements of section 340(2) of the Act an application for an exemption from section 340(1) of the Act must state the grounds upon which the exemption is sought.

#### **Revocation of exemption from requirement for secret postal ballot for election to office**

**12.(1)** An application by an industrial organisation under section 340(6)(a) of the Act for revocation of an exemption must state the grounds on which the revocation is sought.

**(2)** For the purpose of giving an industrial organisation the opportunity to show cause why an exemption granted to the industrial organisation should not be revoked in accordance with section 340(6)(b) of the Act, the Industrial Registrar must cause the industrial organisation to be given, not less than 7 days before the time fixed, a notice in writing—

- (a) containing particulars of the time and place at which the industrial organisation may show cause; and
- (b) stating the Industrial Registrar's reasons for the proposed revocation; and
- (c) notifying the industrial organisation of its right to be heard and to make submissions to show cause why the exemption granted to the industrial organisation should not be revoked.

**(3)** For the purposes of subsection (2)(c), the industrial organisation may make submissions to the Industrial Registrar by—

- (a) lodging in the Industrial Registrar's Office, not less than 2 days

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before the day fixed for the hearing, written submissions in relation to the proposed revocation; or

- (b) appearing at the hearing and making oral submissions to the Industrial Registrar;

or both.

(4) For the purposes of giving an industrial organisation an opportunity to be heard in relation to a proposal by the Industrial Registrar to determine alterations of the rules of the industrial organisation in accordance with section 340(7) of the Act, the Industrial Registrar is to cause the industrial organisation to be given, not less than 7 days before the time fixed, a notice in writing—

- (a) containing particulars, of the time and place at which the Industrial Registrar is to determine the proposed alterations; and
- (b) stating that in relation to the revocation of an exemption granted to an industrial organisation, on a ground specified in section 340(6)(b) of the Act, the Industrial Registrar proposes to determine certain specified alterations of the rules of the industrial organisation as being necessary to bring them into conformity with section 340(1) of the Act; and
- (c) notifying the industrial organisation of its right to be heard and to make submissions in relation to the proposed determination.

(5) For the purposes of subsection (4)(c), the industrial organisation may make submissions to the Industrial Registrar by—

- (a) lodging in the Industrial Registrar's Office, not less than 2 days before the day fixed for the hearing, written submissions in relation to the proposed determination; or
- (b) appearing at the hearing and making oral submissions to the Industrial Registrar;

or both.

**Application for change of callings, consent to change of name or alteration of eligibility rules of an industrial organisation**

**13.(1)** An application by an industrial organisation—

- (a) for an alteration in the calling or callings in respect of which the industrial organisation is registered; or
- (b) for consent to a change of name or an alteration of the eligibility rules of the industrial organisation;

is to be made in the form provided for by the rules of court and is to be lodged in the Industrial Registrar's Office.

(2) Applications under subsection (1) are to be dealt with, as far as is practicable, in the order in which they are lodged in the Industrial Registrar's Office.

### **Notification of application for change of callings, consent to change name or alteration of eligibility rules of an industrial organisation**

**14.(1)** If an industrial organisation makes application under section 332 of the Act for a change of callings or under section 345 of the Act for consent to a change of name or alteration of its eligibility rules, the industrial organisation is to cause to be published a notice of the making of the application in the form determined from time to time by the Industrial Registrar and at the applicant's cost—

- (a) in a newspaper circulating generally throughout the State; and
- (b) if the Industrial Registrar so directs, in the Industrial Gazette.

(2) The applicant must lodge in the Industrial Registrar's Office within 7 days of the date of publication, a copy of the newspaper in which the notice is published, and must forward a copy of the notice to each industrial organisation whose callings include the callings of the members or to which the eligibility rules of the industrial organisation apply as soon as is practicable after its publication.

### **Objection to change of callings, change of name or alteration of eligibility rules of industrial organisation**

**15.(1)** Any person having a proper interest in an application by an industrial organisation for a change of callings, change of name or alteration of eligibility rules may, not later than 35 days after a notice of the making of an application under section 332 or 345 of the Act has been published, lodge in the Industrial Registrar's Office a notice of objection in the form

provided for by the rules of court to the change of calling, change of name or the alteration of the eligibility rules, to which the original application relates.

(2) An objector is restricted to the grounds specified in the notice unless the Industrial Commission, on application made and for reasons shown by the objector, otherwise permits.

(3) The objector is to serve a copy of the notice on the industrial organisation that lodged the application to which the objection relates within 7 days after the notice is lodged in the Industrial Registrar's Office.

(4) An industrial organisation—

- (a) may, unless the Industrial Commission otherwise directs, not later than 14 days after service on it a copy of a notice of objection, lodge in the Industrial Registrar's Office, in answer to the objection, a written statement setting out the facts and issues relied on and signed by an officer of the industrial organisation authorised to sign the statement; and
- (b) must, if it lodges a written statement, serve a copy of that statement on the objector not later than 7 days after lodging it in the Industrial Registrar's Office.

### **Hearing of application for change of callings, consent to change of name or alteration to eligibility rules of industrial organisation**

16. The Industrial Commission in dealing with an application made under section 332 or 345 of the Act is not to—

- (a) refuse to grant it without giving the applicant an opportunity to be heard; or
- (b) grant it without giving any objector who has complied with section 15 an opportunity to be heard.

***Division 3—Request to Industrial Registrar for conduct of elections*****When request to Industrial Registrar for conduct of elections may be made**

**17.** A request to the Industrial Registrar for the conduct, under section 376 of the Act, of an election for an office in an industrial organisation or branch is to be made not earlier than 1 month or later than 3 months after the last day on which a person may become a candidate at the election.

**Unauthorised action in conduct of ballot**

**18.** A person, other than the person conducting an election ballot or amalgamation ballot, must not do, or purport to do, any act in the conduct of the ballot unless authorised by the person conducting the ballot.

Maximum penalty—20 penalty units.

***Division 4—Elections for office*****Application for industrial organisation or branch to conduct its elections**

**19.(1)** An application under section 352(1) of the Act for an exemption from section 351(1) of the Act must—

- (a) be in writing signed by a member of the committee of management; and
- (b) state the grounds on which the exemption is sought.

**(2)** For the purposes of section 352(2)(b) of the Act, a member of an industrial organisation or branch is notified of the making of a resolution—

- (a) if the member is furnished with a copy of the resolution; or
- (b) if the industrial organisation or branch publishes a journal that is circulated among its members—if a notice of the making of the resolution is published in the journal.

**Publication of notice for purposes of s 352(4) of the Act**

**20.(1)** A notice under section 352(4) of the Act, in relation to an application for an industrial organisation to be exempted from section 351(1) of the Act, must be published—

- (a) in a newspaper or newspapers circulating generally throughout the State; and
- (b) in any other newspaper or publication that, in the Industrial Registrar's opinion, appears to be appropriate in the circumstances.

**(2)** The notice must be published not later than 21 days after the application is filed in the Industrial Registrar's Office.

**Objections to application to conduct elections**

**21.(1)** An objection under section 353(1) of the Act to an application under section 352(1) of the Act may be made by filing in the Industrial Registrar's Office, not later than 28 days after the publication of the notice under section 352(4) of the Act—

- (a) a written notice of objection stating the grounds for objecting to the application; and
- (b) a written statement signed by the objector setting out the facts on which the objector relies to support the objection.

**(2)** Not later than 7 days after a notice of objection to an application is filed in the Industrial Registrar's Office, the objector must serve on the applicant a copy of—

- (a) the notice; and
- (b) the written statement accompanying it.

**Answer to objections**

**22.** An applicant—

- (a) may, within 14 days after service on the applicant of a notice of objection under section 21(2), file in the Industrial Registrar's Office in answer to the objection a written statement signed by a

member of the committee of management making the application; and

- (b) must serve a copy of the statement on the objector within 7 days after the written statement has been filed.

### **Hearing of application to conduct elections**

**23.(1)** The Industrial Registrar must—

- (a) fix a time and place for hearing the application and any objection; and
- (b) cause the applicant and any objector to be notified of the time and place fixed.

**(2)** At the hearing, the Industrial Registrar must hear the applicant and any objector if they are present and desire to be heard and must decide the matter.

**(3)** The Industrial Registrar may permit the applicant and any objector to call oral evidence.

### **Revocation of exemption allowing an industrial organisation or branch to conduct its elections**

**24.(1)** An application by the committee of management of an industrial organisation or branch under section 354(2)(a) of the Act for revocation of an exemption must—

- (a) be in writing; and
- (b) be accompanied by a written statement signed by a member of the committee of management stating that the committee of management has resolved to make the application.

**(2)** For the purposes of section 354(2)(b)(ii) of the Act, the Industrial Registrar must give the committee of management of the industrial organisation or branch an opportunity to show cause why an exemption granted to the organisation or branch should not be revoked by—

- (a) fixing a time and place at which the committee may show cause; and

- (b) giving the committee written notice of the time and place fixed and a statement of the registrar's reasons for the proposed revocation.

**Prescribed information in relation to election—s 355 of the Act**

**25.(1)** For the purposes of section 355(1) of the Act, the following information is prescribed information—

- (a) the name of each office for which an election is required;
- (b) the reason for the election, being—
  - (i) that the term of the office has expired; or
  - (ii) that there is a casual vacancy in the office;
- (c) the number of offices and, if applicable, the membership figures used in calculating the number of 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 rules of the relevant industrial organisation or branch, be ascertained before the prescribed day;
- (d) if the electorate comprises only members of a branch, section or other division of an industrial organisation—the name of the branch, section or division;
- (e) the day and time of the start and end of the period during which nominations of candidates for the election will be called for, or may be made, under the rules of the industrial organisation or branch;
- (f) the voting system to be employed in the conduct of the election, being—
  - (i) a direct voting system; or
  - (ii) a collegiate electoral system.

**(2)** The prescribed information must be accompanied by a statement signed by an officer of the industrial organisation or branch filing the information who is authorised by the organisation or branch to sign the

statement stating that the information is being filed under section 355(1) of the Act.

(3) For the purposes of section 355(1) of the Act, the prescribed day is the day occurring 2 months before the first day on which a person may, under the rules of the industrial organisation or branch, become a candidate in an election.

### *Division 5—Amalgamation of industrial organisations*

#### **Interpretation**

**26.(1)** In this Division—

“**applicant**”, in relation to a proposed amalgamation, means an industrial organisation or association that is a party to an application under section 398 of the Act.

“**ballot**” means a ballot mentioned in Division 9 of Part 14 of the Act.

“**inquiry**” means an inquiry under section 422 of the Act into alleged irregularities in relation to a ballot.

“**multiple ballot paper**” means a ballot paper that, under section 419(3) of the Act, is to be used for 2 or more ballots.

“**scrutineer**” means a person appointed as scrutineer under section 58(2) or allowed to be a scrutineer under section 58(4).

(2) A reference in this Division to a document (however described) being signed by an authorised officer of a body is a reference to the document being signed by an officer of the body who is authorised by the body to sign the document.

(3) A reference in this Division to a ballot paper includes a reference to a multiple ballot paper.

#### **Federations**

**27.(1)** An application under section 392(1) of the Act must—

- (a) be made in form 2 of the rules of court; and
- (b) be accompanied by a copy of the proposed rules, or the proposed

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agreement relating to the powers and functions, of the proposed federation for which the application is filed.

(2) For the purposes of section 392(2)(b) of the Act, the following particulars are prescribed in relation to an application for recognition as a federation—

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

(3) For the purposes of section 392(3) of the Act, the period of 3 years is prescribed.

(4) For the purposes of section 392(4) of the Act, the following details are prescribed—

- (a) the federation's name;
- (b) the names of its constituent industrial organisations.

(5) If, in accordance with section 392(7) of the Act, a federation varies its composition, the Industrial Registrar must enter particulars of the variation in the register maintained under section 80(1)(b) of the Act.

(6) For the purposes of section 392(8)(b) of the Act, the period of 3 years is prescribed.

(7) For the purposes of section 392(8)(c) of the Act, the following persons are prescribed—

- (a) the Minister;
- (b) a person or industrial organisation interested in making the relevant application under that paragraph.

(8) If, after a federation has become registered under section 392 of the Act, there is a change in—

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

the federation must give a statement to the Industrial Registrar setting out full particulars of the change within 28 days of the change.

(9) A federation that fails, without reasonable excuse, to file a statement in compliance with subsection (8) commits an offence.

Maximum penalty—20 penalty units.

### **Application for a community of interest declaration**

28. An application under section 397(1) of the Act must—

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

### **Application for approval for submission of amalgamation to ballot**

29.(1) An application under section 398(1) of the Act must—

- (a) specify 1 of the applicants as the applicant authorised to receive, on behalf of the applicants, service of—
  - (i) documents in relation to the application or proposed amalgamation; and
  - (ii) documents in relation to each proposed alternative amalgamation; and
- (b) be signed by an authorised officer of each applicant filing it; and
- (c) be accompanied by a copy, signed by an authorised officer of the applicant whose committee of management passed it, of each resolution under section 396(1) of the Act relating to the proposed amalgamation.

(2) Service of a document mentioned in subsection (1)(a)(i) or (ii) on the applicant specified for the purposes of subsection (1)(a) is taken to be service on each of the applicants.

(3) If the proposed amalgamation to which the application relates, or any alternative provision of the proposed amalgamation, involves the registration of an association as an industrial organisation, there must be filed with the application copies of the documents mentioned in

subsection (4).

(4) For the purposes of subsection (3), the documents are documents relating to the association that are documents of a kind mentioned in rules 42.1 and 42.2 and forms 23 and 24 of the rules of court.

(5) A copy of a document mentioned in subsection (3) must be signed by an authorised officer of the industrial organisation or association filing it.

### **Application for exemption from ballot**

**30.** An application under section 400(1) of the Act must—

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

### **Application for ballot not conducted under s 419 of the Act**

**31.** An application under section 401(1) of the Act must—

- (a) set out, or be accompanied by, a proposal that—
  - (i) is of the kind mentioned in that subsection; and
  - (ii) complies with section 418(b) of the Act; and
- (b) be signed by an authorised officer of the industrial organisation filing it.

### **Withdrawal of applications filed under s 397, 398, 400 or 401 of the Act**

**32.(1)** A party to an application under section 397(1) or 398(1) of the Act may file in the Industrial Registrar's Office a notice of withdrawal from the application.

(2) The parties to an application under section 397(1) or 398(1) of the Act may jointly file in the Industrial Registrar's Office a notice of withdrawal of the application.

(3) The applicant under section 400(1) or 401(1) of the Act may file in the Industrial Registrar's Office a notice of withdrawal of the application.

(4) A party or applicant that files a notice of withdrawal must file with the notice a statement, signed by an authorised officer of the party or applicant, stating that the committee of management of the party or applicant has passed a resolution approving the proposed withdrawal.

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

### **Prescribed matters—s 407(3) of the Act**

33. For the purposes of section 407(3) of the Act, the following matters are prescribed—

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

### **Public notification of a refusal under s 408 of the Act to approve the submission of an amalgamation to ballot**

34.(1) If, under section 408(2) of the Act, the Commission has refused to approve the submission of an amalgamation to ballot, the Industrial Registrar must publish a notice of the refusal in 1 or more newspapers so that, in the registrar's opinion, the notice is likely to come to the attention of persons likely to be affected by the proposed amalgamation.

(2) The notice must—

- (a) specify the prescribed grounds on which an objection to a matter involved in a proposed amalgamation may be made under section 409 of the Act; and
- (b) state that an objection must be filed by a specified day, being the day by which, under section 35, the objection must be filed.

**Time for filing an objection under s 409 of the Act**

**35.** An objection under section 409 of the Act must be filed—

- (a) by the day the Commission fixes; or
- (b) by any later day the Commission substitutes for the day fixed; or
- (c) if no day is fixed by the Commission, within 28 days of the date of publication (or, if there is more than 1 such date, the first date of publication) of a notice under section 34 in relation to the relevant proposed amalgamation.

**Manner of making objections—s 409 of the Act**

**36.(1)** An objection under section 409 of the Act must be made by filing in the Industrial Registrar's Office, within the time prescribed by section 35, a notice of objection that—

- (a) shows the name and address of the person making the objection; and
- (b) specifies the grounds of the objection; and
- (c) sets out particulars of those grounds.

**(2)** A notice of objection filed by an industrial organisation must be under the seal of the organisation or be signed by an authorised officer of the organisation.

**Prescribed persons—s 409(3) of the Act**

**37.** For the purposes of section 409(3) of the Act, any person, or industrial organisation, interested in a proposed amalgamation is a prescribed person in relation to an objection to the amalgamation.

**Prescribed grounds—s 409(3) of the Act**

**38.** For the purposes of section 409(3) of the Act, each of the following grounds is a prescribed ground in relation to an objection to a proposed amalgamation—

- (a) if the amalgamation involves the registration of an association as an industrial organisation—

- (i) that the registration of the association would not further the objects of the Act; or
  - (ii) that there is an industrial organisation to which the members of the association may conveniently belong; or
  - (iii) that the name of the association is the same as that of an industrial organisation or is so similar to the name of an industrial organisation that it is likely to cause confusion; or
  - (iv) that the association is not a genuine association of a kind mentioned in section 327 of the Act; or
  - (v) that the association does not meet (or, if the amalgamation takes effect, will not meet) the requirements for registration under the Act;
- (b) if the proposed amalgamation involves a change in the name of an industrial organisation—that the proposed new name of the industrial organisation is the same as that of another industrial organisation or is so similar to the name of another industrial organisation that it is likely to cause confusion;
- (c) if the proposed amalgamation involves a widening of the eligibility rules of an existing industrial organisation—that there is another industrial organisation to which persons might conveniently belong if the persons—
- (i) are potential members of the amalgamating industrial organisations; and
  - (ii) would be ineligible to join any of the amalgamating industrial organisations if the rules of those organisations were not widened.

### **Service of notice of objection**

**39.** A person or industrial organisation filing a notice of objection mentioned in section 36 must serve a copy of it, within 7 days of the filing, on the relevant applicant that is specified for the purposes of section 29(1)(a).

**Statement in reply**

**40.(1)** If a copy of a notice of objection has been served under section 39, the relevant applicants may jointly file in the Industrial Registrar's Office a statement, signed by authorised officers of each applicant industrial organisation or association, that sets out the facts relied on in answer to the objection.

**(2)** A statement under subsection (1) must be filed not later than 14 days after service under section 39 of the copy of the notice of objection to which the statement in reply relates.

**(3)** The applicants that have filed a statement under subsection (1) must serve a copy of it, within 7 days of the filing, on each party to the notice of objection.

**Hearing of objections**

**41.(1)** The Commission when dealing with the application for a proposed amalgamation must—

- (a) fix a time and place for the hearing of the objections (if any) filed under section 409 of the Act in relation to the application; and
- (b) cause notice of the time and place to be served on the applicants and on each objector whose objection is to be heard at the hearing.

**(2)** The Commission may fix under subsection (1) separate hearings in relation to different objections.

**(3)** The Commission, in fixing a time under subsection (1)(a), must have regard to sections 39 and 40.

**(4)** At the hearing of an objection, the Commission may allow oral evidence to be given.

**Applicants to be heard before an application may be refused under s 410 of the Act**

**42.** Before deciding to refuse to approve, under section 410 of the Act, the submission of an amalgamation to ballot, the Commission must give the applicants for the approval the opportunity to be heard.

**Roll of voters—preparation**

**43.** The roll of voters for a ballot of the members of an industrial organisation must—

- (a) be prepared at the direction of the electoral official conducting the ballot; and
- (b) set out opposite to the name of each person on the roll the postal address of the person; and
- (c) be finished not later than 14 days before the commencing day of the ballot.

**Roll of voters—inspection etc.**

**44.(1)** An electoral official conducting a ballot of the members of an industrial organisation must make the roll of voters for the ballot available during the specified period for inspection and copying.

**(2)** Members of the organisation, and persons authorised by the electoral official conducting the ballot, are entitled, during ordinary business hours at the place at which the official carries out the official's duties in relation to the ballot—

- (a) to inspect the roll of voters for the ballot; and
- (b) to take copies of the roll or of parts of the roll.

**(3)** In subsection (1)—

**“specified period”** means the period that—

- (a) starts on the day following the day on which the preparation, under section 43, of the roll of voters for the ballot is finished; and
- (b) ends 30 days after the declaration of the result of the ballot.

**Form and publication of notice of ballot**

**45.(1)** If the Commission has fixed, under section 411 of the Act, the commencing day and the closing day of the ballot on a proposed amalgamation, the electoral official conducting the ballot must give notice of the fixing of the days to the members entitled to vote at the ballot.

(2) The electoral official may give the notice by post, newspaper advertisement or other reasonable means that the electoral official thinks necessary to ensure that the notice is brought to the attention of the members.

### **Conduct of ballot**

**46.(1)** The electoral official conducting a ballot of members of an industrial organisation may take action and give any directions that the official reasonably considers to be necessary for ensuring that no unlawful disclosure or other irregularity happens in relation to the ballot.

(2) A person must not, without reasonable excuse, fail to comply with a direction given to the person under subsection (1).

Maximum penalty—

- (a) in the case of an individual—10 penalty units; or
- (b) in the case of a body corporate—20 penalty units.

### **Scheme for amalgamation—Industrial Registrar to supply copies of documents**

**47.** If an industrial organisation has applied for approval for the submission of an amalgamation to ballot, the Industrial Registrar must supply promptly to the Electoral Commission—

- (a) a copy of the scheme for amalgamation that was filed with the application; and
- (b) a copy of the outline of the scheme of amalgamation filed under section 398(2) of the Act; and
- (c) a copy of each statement filed under section 402 or 413 of the Act in relation to the proposed amalgamation; and
- (d) a copy of each amendment of, or document filed in substitution for, a document mentioned in paragraph (a), (b) or (c).

**Scheme for amalgamation—electoral official to supply copies of documents on request**

**48.** If—

- (a) the Electoral Commission has received 1 or more documents under section 47(a) or (b); and
- (b) a person entitled to vote at the ballot makes a written or oral request to the official for a copy of the document or of any of the documents;

the electoral official conducting the ballot must supply promptly to the person that copy or those copies without charge.

**Duties of electoral official if ballot not conducted under s 419 of the Act**

**49.(1)** If the Commission approves, under section 418 of the Act, a proposal for submission of a proposed amalgamation to a ballot that is not conducted under section 419 of the Act, an electoral official must—

- (a) fix the places, and the starting and finishing times, of the meetings of members at which the ballot on the proposal will be conducted; and
- (b) include in the notice given under section 45 in relation to the ballot details of—
  - (i) the places and times fixed; and
  - (ii) the procedure for obtaining and exercising an absentee vote in relation to the ballot; and
- (c) post to each person entitled to vote at the ballot, at the postal address of the person shown on the roll of voters—
  - (i) a copy of the latest version (incorporating all subsequent amendments) of the outline of the relevant scheme for amalgamation filed under section 398(2)(b) of the Act; and
  - (ii) a copy of the latest version (incorporating all subsequent amendments) of each statement filed under section 402(1) or 413(2) of the Act; and
  - (iii) notification of the entitlement of the person to obtain a copy

of the relevant scheme for amalgamation filed under section 398(2)(a) of the Act or, if appropriate, of that scheme as amended or substituted, together with particulars of the place where, and the way in which, the copy may be obtained.

(2) Documents required to be posted under subsection (1) must be posted in sufficient time for them to be delivered, in the ordinary course of post, at least 7 days before the relevant commencing day.

### **Ballot papers—forms**

**50.** The ballot paper for use in a ballot of the members of an industrial organisation in relation to the proposed amalgamation must—

- (a) if the ballot does not contain an alternative provision—be in form 27 of the rules of court; or
- (b) if the ballot does contain an alternative provision—be in form 28 of the rules of court.

### **Issuing of ballot papers—attendance voting**

**51.** In relation to a ballot of the kind mentioned in section 418 of the Act, an electoral official must issue to each person entitled to vote at the ballot a ballot paper that bears—

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

### **Dispatch of ballot papers—secret postal ballots**

**52.** As soon as practicable, but not earlier than 2 days before the commencing day of a ballot mentioned in section 419 of the Act, an electoral official must send to each person entitled to vote at the ballot a sealed envelope, addressed to the postal address of the person shown on the roll of voters, containing—

- (a) 1 ballot paper for the ballot that bears—
  - (i) the initials of the electoral official; or

- (ii) a facsimile of those initials; and
- (b) any document the Act requires to be sent with the ballot paper; and
- (c) any other material the electoral official considers to be relevant to the ballot including, for example, directions or notes that will assist the person in complying with this regulation and in casting a valid vote; and
- (d) an envelope, addressed to the electoral official, that may be posted without cost to the voter; and
- (e) details of the place where the person may obtain a copy of the relevant scheme for amalgamation filed under section 398(2)(a) of the Act or, if appropriate, of the scheme as amended or of a subsequent scheme.

### **Duplicate ballot papers—attendance voting**

**53.** If a voter at a ballot of the kind mentioned in section 418 of the Act satisfies the presiding electoral official, before depositing the ballot paper in the ballot box, that the voter has accidentally spoilt the paper, the official must—

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

### **Duplicate ballot paper etc.—postal voting**

**54.(1)** This section applies to a ballot paper or another document (“**ballot document**”) that was posted to a person under section 52 or for the purposes of section 418(b)(vi) of the Act.

**(2)** An electoral official must issue promptly a duplicate of a ballot document to a person making written application under subsection (3) if the official is satisfied that the ballot document—

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

(c) in the case of a ballot paper—has been spoilt.

**(3)** An application must—

- (a) be received by the official on or before the closing day of the ballot; and
- (b) set out the grounds on which the application is made; and
- (c) if practicable, be substantiated by evidence that verifies, or tends to verify, those grounds; and
- (d) contain a declaration to the effect that the person has not voted at the ballot; and
- (e) in a case mentioned in subsection (2)(c), be accompanied by the ballot paper.

**(4)** An electoral official to whom a spoilt ballot paper is returned under subsection (3)(e) must deal with the paper in the way specified in section 53(a) and (b).

### **Manner of voting**

**55.** A person voting at a ballot of the members of an industrial organisation in relation to a proposed amalgamation or proposed alternative amalgamation must record his or her vote on the ballot paper in accordance with the instructions on the ballot paper.

### **Custody of ballot papers**

**56.(1)** The electoral official conducting a ballot of the members of an industrial organisation must keep the ballot papers and other material relating to the ballot in safe custody until a scrutiny has been conducted under section 57.

**(2)** If, after the closing day of a ballot mentioned in section 419 of the Act, the electoral official receives envelopes that purport to contain ballot papers relating to the ballot, the official must keep them in safe custody.

### **Scrutiny**

**57.(1)** The electoral official conducting a ballot of the members of an

industrial organisation must ascertain the result of the ballot by conducting a scrutiny under this section.

**(2)** As soon as practicable after the close of the ballot, the electoral official must—

- (a) admit the valid votes and reject the informal votes; and
- (b) count the valid votes, and record the number—
  - (i) in favour of the proposal; and
  - (ii) against the proposal; and
- (c) count the informal votes.

**(3)** In the case of a scheme for amalgamation that contains a proposed alternative provision, if the electoral official is satisfied that the result of the ballot on the provision may be required to be known for the purposes of the Act, the official must—

- (a) admit the valid votes, and reject the informal votes, on the provision; and
- (b) count the valid votes, and record the number—
  - (i) in favour of the provision; and
  - (ii) against the provision; and
- (c) count the informal votes on the provision.

**(4)** Subject to subsection (5), a vote is informal only if—

- (a) the ballot paper does not bear—
  - (i) the initials of an electoral official; or
  - (ii) a facsimile of those initials; or
- (b) the ballot paper is marked in a way that permits the voter to be identified; or
- (c) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or
- (d) material mentioned in section 52(c) that is returned with the ballot paper does not comply with a direction given under that paragraph; or

(e) the envelope addressed to the electoral official contains the ballot paper of another voter.

(5) A vote is not informal because of subsection (4)(a) if the electoral official is satisfied that the ballot paper in question is authentic.

(6) If the electoral official conducting the ballot is informed by a scrutineer that the scrutineer objects to a ballot paper being admitted as valid or rejected as informal, as the case may be, the official must—

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

(b) endorse that decision on the ballot paper and initial the endorsement.

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

## **Scrutineers**

**58.(1)** This section applies in relation to a ballot of the members of an industrial organisation on a proposed amalgamation and any proposed alternative amalgamation (“**amalgamation proposal**”).

(2) The committee of management of the industrial organisation may appoint members of the industrial organisation as scrutineers to safeguard the interests of the members who approve of the amalgamation.

(3) An appointment under subsection (2) must be made by instrument signed on behalf of the committee of management by an authorised officer of the organisation.

(4) If members of an industrial organisation have filed, under section 413(2) of the Act, a written statement opposing an amalgamation proposal, the electoral official conducting the ballot must allow members of the industrial organisation to be scrutineers to safeguard the interests of members who disapprove of the proposal.

(5) A member may be a scrutineer under subsection (4) only if the electoral official is satisfied that the member represents those members who

filed the statement opposing an amalgamation proposal.

(6) Subject to subsections (7), (8) and (9)—

(a) a scrutineer may be present—

(i) at the issue of ballot papers under section 51; and

(ii) at the preparation and dispatch of ballot material under sections 49 and 52; and

(iii) at the receipt of ballot material and placement of the material in safe custody under section 56; and

(iv) at the scrutiny of ballot material under section 57; and

(b) at a scrutiny under section 57—

(i) if the scrutineer objects to a decision that a ballot paper is valid or informal; or

(ii) if the scrutineer considers that an error has been made in the conduct of the scrutiny;

the scrutineer may inform the electoral official accordingly.

(7) At any time during the period of scrutiny—

(a) the number of scrutineers appointed under subsection (2) and in attendance at the scrutiny; and

(b) the number of scrutineers mentioned in subsection (4) and in attendance at the scrutiny;

must not, in either case, be more than the number of electoral officials engaged on the scrutiny at that time.

(8) If a person appointed under subsection (2) fails to produce the person's instrument of appointment for inspection by the electoral official conducting the ballot when requested by the official to do so, the official may refuse to allow the person to attend or act as a scrutineer.

(9) If a person—

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

(b) interrupts the scrutiny, otherwise than for the purpose of performing a function mentioned in subsection (6)(a) or (b);

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

**(10)** A person who, without reasonable excuse, fails to comply with a direction given to the person under subsection (9) commits an offence.

Maximum penalty—10 penalty units.

### **Certificate showing particulars of the ballot**

**59.(1)** Not later than 14 days after the closing day of a ballot, the electoral official conducting the ballot must prepare, date and sign a certificate showing in relation to the ballot—

- (a) the total number of persons on the roll of voters; and
- (b) the total number of ballot papers issued; and
- (c) if applicable, the total number of envelopes posted under section 52 or for the purposes of section 418(b)(vi) of the Act that were returned undelivered by the closing date of the ballot to the Electoral Commission; and
- (d) the total number of ballot papers received by the official; and
- (e) the total number of votes in favour of the question set out on the ballot paper; and
- (f) the total number of votes not in favour of the question set out on the ballot paper; and
- (g) the total number of informal ballot papers.

**(2)** Subsection (1) does not apply in relation to a ballot that was conducted under section 419(2) of the Act if, because of section 419(4) of the Act, the electoral official conducting the ballot did not count the votes in the ballot.

**(3)** Immediately after signing a certificate mentioned in subsection (1), the electoral official must—

- (a) give the certificate to the Industrial Registrar; and
- (b) give a copy of the certificate to each of the industrial organisations concerned in the proposed amalgamation.

**Preservation of ballot papers etc.**

**60.** The Electoral Commission must retain all ballot papers and documents relating to the ballot—

- (a) if an application has been made under section 422 of the Act for an inquiry in relation to the ballot—until the application has been disposed of; or
- (b) if paragraph (a) does not apply—until the end of the period within which applications may be made under section 422 of the Act for an inquiry in relation to the ballot.

**Inquiry into ballot irregularity—application**

**61.(1)** An application to the Commission under section 422(1) of the Act for an inquiry must be made in form 29 of the rules of court.

**(2)** For the purposes of this Division, an inquiry is taken to have been instituted when an application is filed under subsection (1).

**Inquiry into ballot irregularity—directions as to hearing**

**62.** If an inquiry has been instituted, the Commission must fix a time and place for conducting the inquiry and may give any directions that the Commission determines to ensure that all persons who are, or may be, entitled to appear, or to be represented, at the inquiry are notified of the time and place fixed.

**Inquiry into ballot irregularity—inspection of documents**

**63.(1)** If an inquiry has been instituted, the Commission may authorise, for the purposes of the inquiry, a person to inspect rolls of voters, ballot papers or other documents that have been used in connection with, or are relevant to, the ballot.

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

Maximum penalty—

- (a) in the case of an individual—10 penalty units; or
- (b) in the case of a body corporate—20 penalty units.

### **Inquiry into ballot irregularity—procedure at hearing**

**64.** Subject to section 105 of the Act, the Commission may allow any person to appear or be represented at an inquiry, and that person is taken to be a party to the proceedings.

### **Inquiry into ballot irregularity—interim orders in case of uncompleted ballot**

**65.(1)** At any time after an inquiry has been instituted and before the Commission finds whether there has been an irregularity that may affect, or may have affected, the result of an uncompleted ballot, the Commission may—

- (a) order that no further steps are to be taken in the conduct of the ballot; and
- (b) make any order incidental or supplementary to an order under paragraph (a); and
- (c) vary or discharge an order under paragraph (a) or (b).

**(2)** An order under subsection (1) continues in force until the conclusion of the inquiry, unless the order—

- (a) is expressed to expire at some other time; or
- (b) is discharged before the conclusion of the inquiry.

**(3)** A person must not intentionally fail to comply with an order of the Commission under subsection (1).

Maximum penalty—

- (a) in the case of an individual—10 penalty units; or
- (b) in the case of a body corporate—20 penalty units.

**Public notification of amalgamation day**

**66.(1)** If the Commission has fixed, under section 425(2) of the Act, a day as the day on which an amalgamation is to take effect, the Industrial Registrar must publish a notice of the fixing of the day in 1 or more newspapers so that, in the registrar's opinion, the notice is likely to come to the attention of interested persons, including the members of the industrial organisations, and any associations, to be amalgamated.

**(2)** A notice published under subsection (1) is taken to be a notice published by the Commission for the purposes of section 425(2) of the Act.

**Registration of amalgamated organisations—prescribed particulars**

**67.** For the purposes of section 425(3)(a) of the Act, the following particulars in relation to a proposed amalgamated organisation are prescribed—

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

**Notification of decisions, ballots etc.—additional means may be used**

**68.** A requirement in this Division for a person to give notice, or to publish a notice, of a matter in a specified way does not preclude the person from giving or publishing additional notice of the matter by other reasonable means.

*Division 6—Cancellation of registration***Application for cancellation of registration of an industrial organisation**

**69.(1)** An application under section 445(b) of the Act for the cancellation of the registration of an industrial organisation—

- (a) is to be in writing setting out the ground for the application;
- (b) is to set out the facts and issues on which the applicant relies to support the application;
- (c) is—
  - (i) if the application is made by an industrial organisation—to be under the seal of the applicant industrial organisation or be signed by 2 officers of that industrial organisation authorised to sign the application;
  - (ii) if the application is made by a body corporate other than an industrial organisation—to be signed by a person authorised by the body corporate to sign the application;
  - (iii) in any other case—to be signed by the applicant;
- (d) is to be lodged in the Industrial Registrar's Office.

(2) Not later than 7 days after lodging the application in the Industrial Registrar's Office the applicant is to serve a copy of the application on the industrial organisation.

(3) Where an application has been made for the cancellation of the registration of an industrial organisation on 1 of the grounds specified in section 445(b) of the Act, the Full Industrial Court is, with a view to satisfying itself whether the registration of the industrial organisation is liable to cancellation on that ground, to give the industrial organisation an opportunity to make written submissions to the Full Industrial Court and, if the industrial organisation so desires, to be heard in support of any of those submissions.

### **Cancellation of registration of defunct industrial organisation on motion of the Industrial Registrar**

**70.(1)** Before the Industrial Registrar moves, pursuant to section 445(c) of the Act, a motion for the cancellation of the registration of an industrial organisation on the ground that the industrial organisation is defunct, the Industrial Registrar is to make appropriate inquiries by letters sent by post—

- (a) to the industrial organisation at its last known office; and

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- (b) to the members of the committee of management of the industrial organisation as last known to the registrar at the postal addresses last known to the registrar.

(2) If, after inquiries made in accordance with subsection (1), the Industrial Registrar is satisfied that the industrial organisation is defunct, the Industrial Registrar must cause to be published in the Industrial Gazette a notice stating that—

- (a) subject to the consideration of any objections lodged in accordance with the notice, application will, at the expiry of 1 month from the date of publication of the notice, be made to the Full Industrial Court for the registration of the industrial organisation to be cancelled on the ground that the industrial organisation is defunct; and
- (b) a person who desires to show cause why the registration of the industrial organisation should not be cancelled on that ground may lodge in the Industrial Registrar's Office within 1 month after the date of publication of the notice, a notice of objection.

(3) If any person lodges a notice of objection, the Industrial Registrar is to give to that person an opportunity to appear before the Industrial Registrar and be heard in support of the objection.

### *Division 7—Accounts and audit*

#### **Prescribed accounts—s 453(1) of the Act**

**71.** For the purposes of section 453(1) of the Act, each of the following accounts is prescribed in respect of each financial year of an industrial organisation—

- (a) an account of all income and expenditure of the industrial organisation during the financial year, being an account that includes, so far as is applicable, the following particulars of income or expenditure during the financial year—
  - (i) the total amount paid to the industrial organisation as entrance fees or membership contributions in respect of membership of the industrial organisation;

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- (ii) if the industrial organisation is divided into branches and the rules of the industrial organisation provide that each branch of the industrial organisation must pay to the industrial organisation, as a contribution towards the administrative expenses of the industrial organisation, a proportion of the total amount received by the branch as entrance fees or membership contributions—the total amount so paid to the industrial organisation by its branches;
- (iii) if the industrial organisation is a branch of another industrial organisation and the rules of the other industrial organisation provide that the other industrial organisation must pay to each of its branches, as a contribution towards the administrative expenses of that branch, a proportion of the total amount received by the other industrial organisation as entrance fees or membership contributions—the total amount so paid to the first mentioned industrial organisation by the other industrial organisation;
- (iv) the total amount paid to the industrial organisation by its members in respect of compulsory levies raised by the industrial organisation or as voluntary contributions for the furtherance of particular purposes;
- (v) the total amount of donations or grants (other than voluntary contributions referred to in subsection (iv)) made to the industrial organisation;
- (vi) the total amount received by the industrial organisation as interest;
- (vii) the total amount received by the industrial organisation as dividends;
- (viii) the total amount received by the industrial organisation as income from the investment or use of any moneys or other assets of the industrial organisation, not included in an amount referred to in subsection (vi) or (vii);
- (ix) the total amount paid by the industrial organisation as fees and periodic contributions in respect of its affiliation to any political party, any federation, congress, council or group of industrial organisations, or any international body having an

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interest in industrial matters;

- (x) if the industrial organisation is divided into branches and the rules of the industrial organisation provide that the industrial organisation must pay to each of its branches, as a contribution towards the administrative expenses of that branch, a proportion of the total amount received by the industrial organisation as entrance fees or membership contributions—the total amount so paid by the industrial organisation to its branches;
- (xi) if the industrial organisation is a branch of another industrial organisation and the rules of the other industrial organisation provide that each of its branches must pay to such other industrial organisation, as a contribution towards the administrative expenses of the other industrial organisation, a proportion of the total amount received by the branch as entrance fees or membership contributions—the total amount so paid by the first mentioned industrial organisation to the other industrial organisation;
- (xii) the total amount paid by the industrial organisation in respect of compulsory levies imposed on the industrial organisation;
- (xiii) the total amount of donations or grants made by the industrial organisation;
- (xiv) the total amount paid as remuneration to holders of offices in the industrial organisation;
- (xv) the total amount paid as remuneration to employees of the industrial organisation;
- (xvi) the total amount paid as fees or allowances not included in an amount referred to in subsection (xiv) or (xv) to persons in respect of their attendances as representatives of the industrial organisation at conferences or other meetings;
- (xvii) the total amount paid by the industrial organisation in respect of audit fees, legal expenses and any other expenses incurred in respect of professional services;
- (xviii) the total amount of expenses not included in an amount referred to elsewhere in this paragraph incurred in

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connection with meetings of members of the industrial organisation and any conferences or meetings of councils, committees, panels or other bodies for the holding of which the industrial organisation was wholly or partly responsible;

- (xix) the total amount paid by the industrial organisation in respect of administrative expenses not included in an amount referred to elsewhere in this paragraph;
- (xx) the total amount set aside by the industrial organisation as provision for payments in respect of long service leave entitlements to officers and employees of the industrial organisation;
- (xxi) the total amount set aside by the industrial organisation as provision for payments in respect of annual leave entitlements to officers and employees of the industrial organisation;
- (xxii) the total amount set aside by the industrial organisation as provision for the payment of superannuation or retirement benefits to, or paid by the industrial organisation as contribution to a superannuation or retirement scheme applicable in relation to, officers or employees of the industrial organisation;
- (xxiii) the total amount paid by the industrial organisation in respect of interest on loans to the industrial organisation and any other expenses incurred in connection with the control or management of the assets of the industrial organisation;
- (xxiv) the total amount set aside by the industrial organisation as provision for depreciation or amortisation on investments and fixed assets;
- (xxv) the total amount paid by the industrial organisation in respect of penalties imposed on the industrial organisation under the Act or this regulation;
- (xxvi) if there is an excess of income over expenditure or an excess of expenditure over income, the amount of that excess;
- (xxvii) if any assets of the industrial organisation have been sold

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for, or revalued at, an amount exceeding \$1 000—the amount of profit or loss arising from the sale or revaluation of those assets;

(xxviii) if any amount not included in an amount referred to elsewhere in this paragraph has been transferred to a fund or account kept for a specific purpose by the industrial organisation or any such amount has been withdrawn from such a fund or account—the total amount transferred to, or withdrawn from, that fund or account, as the case may be;

(xxix) the net surplus or net deficit of the industrial organisation that has been transferred to the general fund;

(b) an account of assets and liabilities of the industrial organisation as at the end of the financial year, being an account that includes, so far as applicable, the following particulars of assets or liabilities during the financial year—

(i) the total amount of cash in hand;

(ii) the total amount of cash at bank;

(iii) the total amount of prepayments;

(iv) if the accounting records of the industrial organisation are kept on an accrual basis—the total amount of accounts receivable and the total amount of loans receivable;

(v) the total book value of investments in Government, municipal and other public debentures, stock or bonds;

(vi) the total book value of investments other than those specified in subsection (v);

(vii) the total book value of the fixed assets of the industrial organisation, specifying separately the book value of any real property included in those assets and the book value of other assets;

(viii) if the accounting records of the industrial organisation are kept on an accrual basis—the total amount of accounts payable and the total amount of loans payable;

(ix) the total amount held as provision for payments in respect of

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annual leave entitlements to officers and employees of the industrial organisation;

- (x) the total amount held as provision for payments in respect of long service leave entitlements to officers and employees of the industrial organisation;
- (xi) the total amount held as provision for payment of superannuation or retirement benefits to officers and employees of the industrial organisation;
- (xii) the total amount of contingent liabilities (other than contingent liabilities included in an amount referred to elsewhere in this paragraph), specifying separately the total amount of unsecured contingent liabilities and the total amount of contingent liabilities secured upon the assets of the industrial organisation;
- (xiii) the total amount of the balances of all funds or accounts operated by the industrial organisation in respect of compulsory levies raised by the industrial organisation or voluntary contributions collected from members of the industrial organisation;
- (xiv) if moneys, or the balance of moneys, standing to the credit of a fund or account referred to in subsection (xiii) have been invested in any assets—the total book value of those assets;
- (xv) the total amount of the balances of all funds (other than the general fund or a fund referred to in subsection (xiii)) the operation of which is required by the rules of the industrial organisation;
- (xvi) the balance of the general fund.

**Prescribed accounts—s 467(5) of the Act**

**72.** For the purposes of section 467(5) of the Act, each of the following accounts is a prescribed account in respect of a financial year of an industrial organisation—

- (a) an account of all income and expenditure of the industrial organisation during that financial year, being an account that

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includes, so far as applicable, the following particulars of income and expenditure during that financial year—

- (i) the total amount paid to the industrial organisation as entrance fees, or membership contributions in respect of membership of the industrial organisation;
- (ii) the total amount of grants or donations made to the industrial organisation;
- (iii) if the industrial organisation is divided into branches and the rules of the industrial organisation provide that each branch of the industrial organisation must pay to the industrial organisation, as a contribution towards the administrative expenses of the industrial organisation, a proportion of the total amount received by the branch as entrance fees or membership contributions—the total amount so paid to the industrial organisation by its branches;
- (iv) if the industrial organisation is a branch of another industrial organisation and the rules of the other industrial organisation provide that the other industrial organisation must pay to each of its branches, as a contribution towards the administrative expenses of that branch, a proportion of the total amount received by the other industrial organisation as entrance fees or membership contributions—the total amount so paid to the first mentioned industrial organisation by the other industrial organisation;
- (v) the total amount paid by the industrial organisation as fees or periodic contributions in respect of its affiliation to any political party, any federation, congress, council or group of industrial organisations, or any international body having an interest in industrial matters;
- (vi) the total amount paid as administrative expenses, professional fees or remuneration to holders of offices in, or to employees of, the industrial organisation;
- (vii) the total amount of any grants or donations made by the industrial organisation;
- (viii) if any assets of the industrial organisation have been sold

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- for, or revalued at, more than \$1 000—the amount of profit or loss arising out of that sale or revaluation;
- (ix) if there is an excess of income over expenditure or an excess of expenditure over income the amount of that excess;
- (b) an account of assets and liabilities of the industrial organisation as at the end of that financial year, being an account that includes, so far as applicable, the following particulars of assets or liabilities during the financial year—
- (i) the total amount of cash in hand;
- (ii) the total amount of cash at bank;
- (iii) the total amount of loans made by the industrial organisation;
- (iv) the total book value of investments and fixed assets including, and also specifying separately, the total book value of real property and the total book value of other assets each of which is valued in excess of \$1 000;
- (v) the total amount of loans made to the industrial organisation;
- (vi) the total amount of the balances of all funds the operation of which is required by the rules of the industrial organisation;
- (vii) the balance of the general fund.

**Certificates to be given in accounts**

**73.(1)** The accounts prepared in accordance with section 453(1) or 467(5) of the Act in relation to an industrial organisation must each contain—

- (a) a certificate, given by the accounting officer of the industrial organisation, stating the number of persons who were, at the end of the financial year to which the accounts relate, members of the industrial organisation and stating in relation to that financial year whether, in the opinion of the officer—
- (i) the accounts show a true and fair view of the financial affairs of the industrial organisation as at the end of the financial year; and

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- (ii) a record has been kept of all moneys paid by, or collected from, members of the industrial organisation, and all moneys so paid or collected have been credited to the bank account or accounts to which those moneys are to be credited, in accordance with the rules of the industrial organisation; and
  - (iii) before any expenditure was incurred by the industrial organisation, approval of the incurring of the expenditure was obtained in accordance with the rules of the industrial organisation; and
  - (iv) if the accounts were prepared pursuant to section 453(1) of the Act—any payment was made out of a fund referred to in section 71(b)(xiii) or (xiv) for a purpose other than the purpose for which the fund was operated and, if any such payment was so made, it was approved in accordance with the rules of the industrial organisation; and
  - (v) if the accounts were prepared pursuant to section 467(5) of the Act, any payment was made out of a fund referred to in section 72(b)(vi) for a purpose other than the purpose for which the fund was operated and, if any such payment was so made, it was approved in accordance with the rules of the industrial organisation; and
  - (vi) all loans or other financial benefits granted to persons holding office in the industrial organisation were authorised in accordance with the rules of the industrial organisation; and
  - (vii) the register of members of the industrial organisation was maintained in accordance with the Act; and
- (b) a certificate given by the committee of management of the industrial organisation stating—
- (i) whether, in the opinion of the committee of management, the accounts show a true and fair view of the financial affairs of the industrial organisation as at the end of the financial year to which the accounts relate; and
  - (ii) whether, during the financial year to which the accounts

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relate, meetings of the committee of management were, in the opinion of the committee, held in accordance with the rules of the industrial organisation; and

- (iii) whether, to the knowledge of any member of the committee, there have been, during the financial year to which the accounts relate, instances where records of the industrial organisation or other documents (not being documents containing information made available to a member of the industrial organisation under section 454(2) of the Act), or copies of those records or other documents, or copies of the rules of the industrial organisation, have not been furnished, or made available, to members of the industrial organisation in accordance with the Act, this regulation or the rules of the industrial organisation, as the case may be; and
- (iv) whether, if those accounts and statements were prepared in accordance with section 453(1) of the Act, in relation to the report prepared in accordance with section 457 of the Act by the auditor of the industrial organisation in respect of the financial year immediately preceding the financial year to which the accounts relate, and in relation to any accounts and statements prepared in accordance with section 453(1) or 467(5) of the Act (as the case may be) to which that report relates, the industrial organisation has complied with section 460(1) of the Act and whichever of sections 460(6) and 460(7) of the Act is applicable; and
- (v) whether, if those accounts and statements were prepared in accordance with section 467(5) of the Act, in relation to the report prepared in accordance with section 467 of the Act by the auditor of the industrial organisation in respect of the financial year immediately preceding the financial year to which the accounts relate, and in relation to any accounts and statements prepared in accordance with section 453(1) or 467(5) of the Act (as the case may be) to which that report relates, the industrial organisation has complied with sections 467(7) and 467(8) of the Act.

(2) The certificate referred to in subsection (1)(b)—

- (a) must be in accordance with such resolution as is passed by the

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committee of management of the industrial organisation in relation to the matters to be stated in the certificate; and

- (b) must be signed on behalf of the committee of management by 2 members of the committee.

(3) A statement included in a certificate pursuant to subsection (1)(b)(iv) is not admissible as evidence in proceedings against the industrial organisation under section 580(1), (3) or (4) or section 585 of the Act.

(4) In subsection (1)—

“**accounting officer**”, in relation to an industrial organisation, means the officer of the industrial organisation responsible for the keeping of the accounting records of the industrial organisation.

### **Information to be provided to members and Industrial Registrar**

**74.(1)** For the purposes of section 454(1) of the Act, an application to an industrial organisation must be—

- (a) in writing addressed to the secretary of the industrial organisation; and
- (b) delivered by hand at, or sent by prepaid post to, the office of the industrial organisation.

(2) For the purposes of section 454(1) of the Act, any of the following information concerning an industrial organisation, being information relating to the financial year of the industrial organisation in respect of which accounts and statements were last prepared in accordance with section 453(1) or 467(5) of the Act, is prescribed information—

- (a) in relation to any compulsory levy raised by the industrial organisation other than a levy in respect of which the industrial organisation has, during the financial year, operated a special fund or account—
  - (i) the purpose for which the levy was raised; and
  - (ii) the total amount received by the industrial organisation;
- (b) in relation to any collection by the industrial organisation of voluntary contributions made by the members for the furtherance of a particular purpose, other than voluntary contributions in

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respect of which the industrial organisation has, during the financial year, operated a special fund or account—

- (i) the purpose for which the contributions were collected; and
  - (ii) the total amount received by the industrial organisation as voluntary contributions for the furtherance of that purpose;
- (c) in relation to any donation or grant exceeding \$1 000 made to the industrial organisation—
- (i) the amount of the donation or grant; and
  - (ii) where the donation or grant was made for a specified purpose—the purpose so specified;
- (d) in relation to any compulsory levy imposed on the industrial organisation—
- (i) the purpose for which the levy was imposed; and
  - (ii) the total amount paid by the industrial organisation;
- (e) in relation to any donation or grant exceeding, or in the aggregate exceeding, \$1 000 made by the industrial organisation—
- (i) the purpose for which the donation or grant was made; and
  - (ii) the amount of the donation or grant; and
  - (iii) where the donation or grant is not a prescribed donation or grant—the name and address of the person to whom the donation or grant was made;
- (f) in relation to any amount exceeding \$1 000 received or paid by the industrial organisation, not being an amount included in an amount referred to in a subsection of section 71(a) in relation to the industrial organisation—
- (i) the amount received or paid by the industrial organisation; and
  - (ii) the name and address of the person from whom the amount was received or to whom the amount was paid; and
  - (iii) the purpose for which the amount was received or paid by the industrial organisation;
- (g) the amount paid as remuneration to the holder of any office in the

industrial organisation;

- (h) in relation to the sale or revaluation of any asset of the industrial organisation, being a sale or revaluation that has resulted in a profit or loss exceeding \$1 000—
  - (i) a description of the asset sold or revalued; and
  - (ii) in the case of the revaluation of an asset—the reason for which the asset was revalued; and
  - (iii) the amount of the profit made or the loss incurred;
- (i) in relation to any loan exceeding, or in the aggregate exceeding, \$1 000 made by the industrial organisation—
  - (i) the amount of the loan; and
  - (ii) the purpose for which the loan was required; and
  - (iii) the security given in respect of the loan; and
  - (iv) where the loan is not a prescribed loan—the name and address of the person to whom the loan was made and the arrangements made for the repayment of the loan;
- (j) the total amount paid by the industrial organisation in respect of investments (other than investments in Government, municipal or other public debentures, stock or bonds) made by the industrial organisation during the financial year;
- (k) in relation to any investment (other than an investment in Government, municipal or other public debentures, stock or bonds) held by the industrial organisation at the end of the financial year, being an investment the book value of which, as at the end of that financial year, exceeds whichever is the greater of \$1 000 or 20% of the total book value of all such investments held by the industrial organisation at the end of that financial year—
  - (i) a description of the investment; and
  - (ii) the book value of the investment as at the end of the financial year; and
  - (iii) where applicable, the quoted market value of the investment as at the end of the financial year;

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- (l) in relation to any asset (other than an asset included in a class of assets referred to in a subsection of section 71(b)) held by the industrial organisation at the end of the financial year, the book value of which, as at the end of that financial year, exceeds whichever is the greater of \$1 000 or 5% of the total book value of all the assets held by the industrial organisation at the end of the financial year—
  - (i) a description of the asset; and
  - (ii) the book value of the asset as at the end of the financial year;
- (m) in relation to any loan exceeding \$10 000 received by the industrial organisation—
  - (i) the name and address of the person from whom the loan was received; and
  - (ii) the amount of the loan; and
  - (iii) the purpose for which the loan was required; and
  - (iv) the security given in respect of the loan; and
  - (v) the arrangements made for the repayment of the loan;
- (n) in relation to any amount held by the industrial organisation as provision for 1 of the following purposes —
  - (i) the payment of annual leave entitlements to its officers and employees;
  - (ii) the payment of long service leave entitlements to its officers and employees;
  - (iii) the payment of superannuation or retirement benefits to its officers and employees,  
the number of officers and employees in respect of whom the amount so held constitutes provision;
- (o) in relation to any contingent liability of the industrial organisation as at the end of the financial year, being a contingent liability the amount of which has been ascertained and exceeds 5% of the net value of the assets of the industrial organisation as at the end of the financial year—

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- (i) a description of the liability; and
  - (ii) the amount for which the industrial organisation is liable;
- (p) in relation to any liability of the industrial organisation (other than a liability included in a class of liabilities referred to in a subsection of section 71(b)) outstanding at the end of the financial year, being a liability involving an amount exceeding 5% of the total amount of the other liabilities of the industrial organisation as at the end of the financial year—
- (i) a description of the liability; and
  - (ii) the amount for which the industrial organisation is liable;
- (q) in relation to any fund or account operated by the industrial organisation in respect of a compulsory levy raised by the industrial organisation or in respect of voluntary contributions collected from the members of the industrial organisation —
- (i) the purpose for which the levy was raised or the voluntary contributions collected; and
  - (ii) where applicable, the amount of the balance of the fund or account at the commencement of the financial year; and
  - (iii) whether any moneys were transferred to the fund or account from any other fund or account operated by the industrial organisation and, if any moneys were so transferred, a description of each fund or account from which moneys were so transferred and the amount transferred from each fund or account; and
  - (iv) the total amount paid by the members of the industrial organisation in respect of the levy or as voluntary contributions; and
  - (v) the total amount of payments made out of the fund or account in furtherance of the purpose for which the levy was imposed or the voluntary contributions collected; and
  - (vi) whether any payment was made out of the fund or account in furtherance of a purpose other than the purpose for which the levy was imposed or the voluntary contributions collected and, if any payment was so made, the amount of

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- each payment and the purpose for which it was made; and
- (vii) whether any moneys were transferred from the fund or account to any other fund or account operated by the industrial organisation and, if any moneys were so transferred, a description of each fund or account to which the moneys were transferred and the amount transferred to each fund or account; and
  - (viii) in respect of each payment particulars of which are given in accordance with subsection (vi) and each transfer particulars of which are given in accordance with subsection (vii) the designation within the industrial organisation of the person who approved the payment or transfer and the date on which the approval was given; and
  - (ix) the amount of the balance of the fund or account at the end of the financial year or, in the case of a fund or account that the industrial organisation ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets;
- (r) in relation to any fund (other than the general fund or a fund referred to in paragraph (q)) the operation of which is required by the rules of the industrial organisation—
- (i) the purpose for which the fund was operated; and
  - (ii) where applicable, the amount of the balance of the fund at the beginning of the financial year; and
  - (iii) whether any moneys were transferred to the fund from any other fund or any account operated by the industrial organisation and, if any moneys were so transferred, a description of each fund or account from which moneys were so transferred and the amount transferred from each fund or account; and
  - (iv) the total amount of moneys, other than moneys referred to in subsection (iii), paid into the fund; and
  - (v) the total amount of payments made out of the fund in

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furtherance of the purpose for which the fund was operated;  
and

- (vi) whether any payment was made out of the fund in furtherance of a purpose other than the purpose for which the fund was operated and, if any payment was so made, the amount of each payment and the purpose for which it was made; and
- (vii) whether any moneys were transferred from the fund to any other fund or any account operated by the industrial organisation and, if any moneys were so transferred, a description of each fund or account to which the moneys were transferred and the amount transferred to each fund or account; and
- (viii) in respect of each payment particulars of which are given in accordance with subsection (vi) and each transfer particulars of which are given in accordance with subsection (vii) the designation within the industrial organisation of the person who approved the payment or transfer and the date on which the approval was given; and
- (ix) the amount of the balance of the fund at the end of the financial year or, in the case of a fund that the industrial organisation ceased to operate before the end of the financial year, the amount of the closing balance and, if any part of that balance or closing balance has been invested in any assets, the amount so invested and a description of those assets.

**(3)** In subsection (2)—

- (a) a reference to a person includes a reference to any body whether corporate or unincorporated; and
- (b) a reference to a prescribed donation or grant or to a prescribed loan is a reference to a donation or grant made, or a loan granted, as the case may be, by an industrial organisation to a member of the industrial organisation on the certification of the officer of the industrial organisation authorising the donation or grant or the loan, as the case may be, that the officer was satisfied, from investigations made by the officer, that the donation or grant, or

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the loan, was necessary to relieve the member or a dependant of the member from severe financial hardship.

(4) For the purposes of section 454(2) of the Act, the prescribed information—

- (a) is to be made available in writing signed by the secretary of the industrial organisation; and
- (b) must—
  - (i) if the application was made by the Industrial Registrar—be delivered by hand at, or sent by prepaid post to, the Industrial Registrar's Office;
  - (ii) if the application was made by a member of the industrial organisation and specifies an address in relation to the member—be sent by prepaid post to that address;
  - (iii) in any other case—be left for collection at the office of the industrial organisation.

(5) For the purposes of section 454(2) of the Act, the prescribed time is—

- (a) in relation to an application made under section 454(1) of the Act by a member of an industrial organisation—
  - (i) except where subsection (ii) applies—28 days after the day of receipt of the application for the information; or
  - (ii) if, on an application by the secretary of the industrial organisation (whether before or after the end of the period referred to in subsection (i)), the Industrial Registrar certifies that the Industrial Registrar is satisfied that, for reasons outside the control of the industrial organisation, it was, or is, not practicable for the industrial organisation to make the information available to the member within that period—6 weeks after the day of receipt of the application for the information; or
- (b) in relation to an application made under section 454(1) of the Act by the Industrial Registrar—28 days after the day of receipt of the application for the information.

**Evidence of membership of industrial organisation to be supplied**

**75.** If the Industrial Registrar receives, in accordance with section 454(1) of the Act, a request purporting to be made by a member of an industrial organisation, the Industrial Registrar may require the person making the request to furnish evidence that the person is a member of the industrial organisation.

**Prescribed period in which audit is to be conducted**

**76.** For the purposes of section 457(1) of the Act, the prescribed period is—

- (a) except where paragraph (b) applies—6 months; or
- (b) if, on an application made by an auditor (whether before or after the expiration of the period referred to in paragraph (a)), the Industrial Registrar certifies that the Industrial Registrar is satisfied that, for reasons outside the control of the auditor, it was, or is, not practicable for the auditor to complete within that period the report referred to in section 457(1) of the Act—8 months.

**PART 5—MISCELLANEOUS****Way proposed amalgamated organisation's members may object to ballot exemption**

**100.** Under section 417(3) of the Act, an objection must be made to the Commission in the form prescribed under the *Industrial Court Rules 1990*.

**Offences and penalties**

**104.** Except where an offence is expressly prescribed by any other provision of this regulation—

- (a) a person who contravenes or fails to comply with any provision of this regulation; or
- (b) a person who—

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(i) fails to do that which the person is directed or required to do;  
or

(ii) does that which the person is forbidden to do,

by a person acting under the authority of this regulation,

commits an offence against this regulation.

Maximum Penalty—20 penalty units.

**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 11 April 1997. Future amendments of the Industrial Relations Regulation 1990 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)	=	previously
amd	=	amended	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
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to SL No. 223 of 1993	27 July 1993
2	to SL No. 389 of 1994	25 November 1994

### 5 Tables in earlier reprints

#### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Corrected minor errors	1

## 6 List of legislation

### **Industrial Relations Regulation 1990**

pubd ind gaz 13 October 1990 pp 203–42  
commenced on date of publication

**Note**— (1) The Industrial Relations Regulation 1990 in force under the repealed Industrial Relations Act 1990 remains in force for the Workplace Relations Act 1997 (see 1997 No. 1 s 493(1))

(2) The regulation is to be read with the changes necessary to make it consistent with and adapt its operation to the Workplace Relations Act 1997 (see 1997 No. 1 s 493(2))

as amended by—

### **Industrial Relations Amendment Regulation (No. 1) 1993 SL No. 223**

notfd gaz 18 June 1993 pp 985–9  
commenced on date of notification

### **Industrial Relations Amendment Regulation (No. 1) 1994 SL No. 389**

notfd gaz 4 November 1994 pp 1027–8  
commenced on date of notification

**Note**—This regulation expires on the day after the publication of the reprint mentioned in s 6 (see s 7)

### **Workplace Relations Regulation 1997 SL No. 78 s 44**

notfd gaz 27 March 1997 pp 1333–6  
ss 1–2 commenced on date of notification  
remaining provisions commenced 27 March 1997 (see s 2)

## 7 List of annotations

**Short title** amd R1 (see RA s 20)

### **Repeal of regulations**

s 1.2 om 1993 SL No. 223 s 3

### **Interpretation**

s 1.3 om 1993 SL No. 223 s 3

### **PART 2—DISPUTE PREVENTION AND SETTLEMENT**

pt hdg rep 1997 SL No. 78 s 44

### **Dealing with demarcation disputes**

s 2 amd 1993 SL No. 223 s 4  
rep 1997 SL No. 78 s 44

### **PART 3—INDUSTRIAL ORGANISATIONS**

#### **Division 3—Request to Industrial Registrar for conduct of elections**

div hdg sub 1993 SL No. 223 s 5

**When request to Industrial Registrar for conduct of elections may be made**  
s 17           sub 1993 SL No. 223 s 5

**Unauthorised action in conduct of ballot**  
s 18           sub 1993 SL No. 223 s 5

**Division 4—Elections for office**  
div hdg      sub 1993 SL No. 223 s 5

**Application for industrial organisation or branch to conduct its elections**  
s 19           sub 1993 SL No. 223 s 5

**Publication of notice for purposes of s 352 of the Act**  
s 20           sub 1993 SL No. 223 s 5

**Objections to application to conduct elections**  
s 21           sub 1993 SL No. 223 s 5

**Answer to objections**  
s 22           sub 1993 SL No. 223 s 5

**Hearing of application to conduct elections**  
s 23           sub 1993 SL No. 223 s 5

**Revocation of exemption allowing an industrial organisation or branch to  
conduct its elections**  
s 24           sub 1993 SL No. 223 s 5

**Prescribed information in relation to election—s 355 of the Act**  
s 25           sub 1993 SL No. 223 s 5

**Division 5—Amalgamation of industrial organisations**  
div hdg      sub 1993 SL No. 223 s 5

**Interpretation**  
s 26           sub 1993 SL No. 223 s 5

**Federations**  
s 27           sub 1993 SL No. 223 s 5

**Application for a community of interest declaration**  
s 28           sub 1993 SL No. 223 s 5

**Application for approval for submission of amalgamation to ballot**  
s 29           sub 1993 SL No. 223 s 5

**Application for exemption from ballot**  
s 30           sub 1993 SL No. 223 s 5

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