



Queensland

Industrial Relations Amendment Regulation (No. 1) 2013

Subordinate Legislation 2013 No. 133

made under the

Industrial Relations Act 1999

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[s 1]

1 Short title

This regulation may be cited as the *Industrial Relations Amendment Regulation (No. 1) 2013*.

2 Commencement

This regulation commences on 1 July 2013.

3 Regulation amended

This regulation amends the *Industrial Relations Regulation 2011*.

4 Amendment of s 12A (Recovering health employment overpayments—Act, s 396A)

Section 12A, ‘a single occasion’—

omit, insert—

the single occasion, disregarding any deductions for any purpose

5 Insertion of new pt 11A

After section 40—

insert—

Part 11A Particulars of interests of officers

40A Financial and non-financial particulars of interests of officers—Act, s 530C

For section 530C(1) of the Act, definition *particulars*, the financial and non-financial particulars stated in schedule 2A are prescribed.

Division 2 Expenditure ballots for spending for political purposes

40D Prescribed rules for conduct of expenditure ballot—Act, s 553G

For section 553G(1) of the Act, the rules stated in schedule 2C are prescribed.

40E Prescribed particulars for expenditure ballot result report—Act, s 553H

For section 553H(1) of the Act, the prescribed particulars for the expenditure ballot are as follows—

- (a) the following information about the spending for each political purpose the subject of the ballot—
 - (i) the nature of the spending;
 - (ii) the amount of the spending;
 - (iii) the political object to which the spending relates;
 - (iv) when the spending is proposed to occur;
- (b) the date the ballot opened and closed, and how many business days the ballot was open;
- (c) how many members of the organisation were included on the roll of voters when the ballot opened;
- (d) how many members of the organisation were given voting material under schedule 2C, section 8;
- (e) how many times copies of voting material were given under schedule 2C, section 9;

- (f) for each time a copy of voting material was given as mentioned in paragraph (e)—
 - (i) the type of voting material; and
 - (ii) the reason the copy was given;
- (g) the way, as decided under schedule 2C, section 6, members of the organisation voted in the ballot;
- (h) the following information about the ballot—
 - (i) how many members voted in the ballot;
 - (ii) the percentage of the members who were included on the roll of voters when the ballot opened who voted in the ballot;
 - (iii) how many members voted in favour of authorising the spending the subject of the ballot;
 - (iv) how many members voted against authorising the spending the subject of the ballot;
 - (v) how many votes were informal;
 - (vi) the percentage of the valid votes that were in favour of authorising the spending;
 - (vii) whether the spending the subject of the ballot was authorised or not authorised;
- (i) the date the signed declaration of the result of the ballot was made by the organisation or, if the ballot was conducted by another entity, received by the organisation.

9 Replacement of pt 12, div 4 hdg (Investigations)

Part 12, division 4, as renumbered, heading—

omit, insert—

Division 4 Other provisions

47A Prescribed value for gifts given and received—Act, s 557A

For section 557A(1)(a)(i) and (1)(c)(i)(A) of the Act, the prescribed value is \$500.

10 Amendment of s 48 (Circumstances in which registrar may conduct other investigations—Act, s 571(2)(b))

Section 48, ‘571(2)(b)’—

omit, insert—

571(2)

11 Insertion of new schs 2A–2C

After schedule 2—

insert—

Schedule 2A Particulars of interests

section 40A

1 Definitions for sch 2A

In this schedule—

controlling interest, in shares in a corporation, for a person, means the person can—

- (a) dispose of, or exercise control over the disposal of, the shares; or
- (b) if the shares are voting shares—exercise, or control the exercise of, a voting power attached to the shares.

debenture see the Corporations Act, section 9.

holding company, for a corporation, see the Corporations Act, section 9.

nominee corporation means a corporation whose principal business is holding marketable securities as a trustee or nominee.

relevant person means any of the following persons—

- (a) an officer of an organisation;
- (b) a person who is related to an officer of an organisation.

securities see the Corporations Act, section 9.

subsidiary, for a corporation, see the Corporations Act, section 9.

2 Shareholding or controlling interest in corporation

The particulars required for each corporation in which a relevant person is a shareholder or has a controlling interest in shares are as follows—

- (a) the corporation's name;
- (b) if the shareholding or interest is a controlling interest in the corporation—details of the shareholdings of the corporation in any other corporation;
- (c) if the shareholding or interest is held in a proprietary company that is the holding company of another corporation—
 - (i) details of the holding company's investments; and
 - (ii) the name of any corporation that is a subsidiary of the holding company; and
 - (iii) the name of any corporation that is a subsidiary of any corporation that is the holding company's subsidiary; and

- (iv) the investments or other interests in property held by the subsidiaries;
- (d) if the shareholding or interest is held in a proprietary company—the investments or other interests in property, other than those mentioned in paragraph (c)(iv), held by the company.

3 Officer of corporation

The particulars required for each corporation of which a relevant person is an officer are as follows—

- (a) the corporation's name;
- (b) the nature of the office held;
- (c) the nature of the corporation's activities.

4 Beneficial interest in trust or nominee corporation

The particulars required for each family or business trust or nominee corporation in which a relevant person holds a beneficial interest are as follows—

- (a) the name of, or a description sufficient to identify, the trust, or the corporation's name;
- (b) the nature of the activities of the trust or corporation;
- (c) the nature of the interest.

5 Self managed superannuation fund

- (1) This section applies to each self managed superannuation fund for which a relevant person is—
 - (a) a trustee; or
 - (b) if the trustee of the fund is a corporation—a director of the trustee.

-
- (2) The particulars required for each self managed superannuation fund are as follows—
- (a) the name or a description of the fund;
 - (b) the nature of the activities of the fund;
 - (c) the investments or other interests in property held, of which the relevant person is aware, by the fund.
- (3) In this section—
- director* see the Corporations Act, section 9.
- self managed superannuation fund* see the *Superannuation Industry (Supervision) Act 1993* (Cwlth), section 10.

6 Trustee for trust

The particulars required for each family or business trust of which a relevant person is a trustee are as follows—

- (a) the name of, or a description sufficient to identify, the trust;
- (b) the nature of the trust's activities;
- (c) the name of each beneficiary of the trust, or, if the trust is a discretionary trust, each class of persons who may benefit under the trust.

7 Partnership and joint venture

The particulars required for each partnership or joint venture in which a relevant person has an interest are as follows—

- (a) the name of, or a description sufficient to identify, the partnership or joint venture;
- (b) the nature of the partnership's or joint venture's activities;
- (c) the nature of the interest.

8 Land

The particulars required for all land in which a relevant person has an interest are as follows—

- (a) the suburb or locality of the land;
- (b) the approximate size of the land;
- (c) the purpose for which the land is, and is intended to be, used;
- (d) the nature of the interest.

9 Liability

(1) The particulars required for each liability, other than department store and credit card accounts, of a relevant person, trust or private company are as follows—

- (a) the nature of the liability;
- (b) the name of the creditor.

(2) However, subsection (1) does not apply if the debt—

- (a) is for an amount of \$10000 or less; or
- (b) arises from the supply of goods or services supplied in the ordinary course of—
 - (i) the relevant person's business; or
 - (ii) the business of the trust or private company.

(3) In this section—

private company means a proprietary company in which a relevant person holds securities.

trust means a trust of which a relevant person is a beneficiary.

10 Debentures and similar investments

The particulars required for each debenture or similar investment held by a relevant person are as follows—

- (a) the nature of the investment;
- (b) the name of the corporation in which the investment is made;
- (c) the nature of the business of the corporation.

11 Savings and investment accounts

The particulars required for each savings or investment account of a relevant person held with a financial institution are as follows—

- (a) the nature of the account;
- (b) the name of the institution.

12 Membership of political party, body or association, or trade or professional organisation

The particulars required for each political party, body or association, or trade or professional organisation, of which a relevant person is a member are its name and address.

13 Other assets with value of more than \$5000

- (1) The particulars required for each other asset of a relevant person with a value of more than \$5000 are sufficient details of the asset to identify it.
- (2) This section does not apply to the following—
 - (a) household and personal effects;
 - (b) a motor vehicle used mainly for personal use;
 - (c) superannuation entitlements.

14 Other sources of income of more than \$500 a year

The particulars required for each other source of income of more than \$500 a year received by the following are sufficient details of the income to identify it—

- (a) a relevant person;
- (b) a proprietary company in which a relevant person holds securities;
- (c) a trust of which a relevant person is a beneficiary.

15 Other financial or non-financial interests

- (1) The particulars required for each other interest of a relevant person are sufficient details of the interest to identify it.
- (2) In this section—

interest, of a relevant person, means a financial or non-financial interest—

- (a) of which the relevant person is aware; and
- (b) that raises, appears to raise, or could raise, a conflict between the relevant person's duty under the Act and the holder of the interest.

Schedule 2B Requirements for financial policies

section 40B

1 Policy for spending authorisations and delegations

- (1) An organisation's policy for authorisations and delegations relating to the organisation's spending must—
 - (a) require an instrument of authorisation or delegation, under which an officer or employee of the organisation is authorised to approve the organisation's spending, to state the following—
 - (i) the name of, or office held by, the officer or employee;
 - (ii) the purposes for which the officer or employee is authorised to approve the organisation's spending;
 - (iii) the amount of spending the officer or employee is authorised to approve for each purpose mentioned in subparagraph (ii); and
 - (b) include procedures for—
 - (i) how the organisation's spending is approved; and
 - (ii) how the approval of the spending is documented; and
 - (c) for spending that is personally incurred by an officer or employee of the organisation, provide that—
 - (i) the officer or employee must not authorise the spending; and

- (ii) the spending must be authorised by—
 - (A) another officer or employee of the organisation who holds a senior role in the organisation; or
 - (B) the organisation’s management committee.
- (2) For subsection (1)(c), an officer or employee of an organisation personally incurs the organisation’s spending if the spending—
 - (a) is incurred using a credit card of the organisation issued to the officer or employee; or
 - (b) relates to travel undertaken, or accommodation or hospitality used, by the officer or employee; or
 - (c) relates to a gift given by the officer or employee.
- (3) In this section—

authorised, to do a thing, includes delegated the authority to do the thing.

2 Policy for credit cards

An organisation’s policy for the organisation’s credit cards must—

- (a) state the following—
 - (i) the circumstances in which an officer or employee of the organisation may be issued a credit card of the organisation;
 - (ii) the purposes for which the organisation’s credit cards may be used;
 - (iii) the purposes, including spending for personal purposes, for which use of the

organisation's credit cards is prohibited; and

- (b) include procedures for reporting the use of a credit card of the organisation for unauthorised or prohibited transactions; and
- (c) require the following—
 - (i) payment of an invoice for a credit card of the organisation to be approved, or jointly approved, by an officer or employee of the organisation other than the officer or employee to whom the credit card is issued;
 - (ii) credit card usage and payments to be regularly reported to the organisation's management committee or another committee responsible for the organisation's financial management;
 - (iii) a sample of the invoices and payments for 1 or more of the organisation's credit cards to be periodically audited.

3 Policy for contracting activities

An organisation's policy for the organisation's contracting activities must—

- (a) require the organisation's major costs incurred through contracting activities to be reviewed annually; and
- (b) state the circumstances in which a contract for the supply of goods or services is considered by the organisation to be a significant contract; and
- (c) require the organisation to regularly invite tenders for its significant contracts for the supply of goods or services; and

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- (d) require the organisation's contracting activities with an entity (a *supplier*) to impose an obligation on the supplier to disclose to the organisation any conflict of interest arising—
 - (i) during a tender process or negotiations for a contract; or
 - (ii) when a contract is entered into; or
 - (iii) while a contract is in force; and
- (e) require the organisation to—
 - (i) keep a register of conflicts of interest disclosed by suppliers under an obligation mentioned in paragraph (d); and
 - (ii) ensure the register is reviewed at each meeting of the management committee of the organisation.

4 Policy about entertainment and hospitality

An organisation's policy for spending on, and receipt of, entertainment and hospitality must—

- (a) state the circumstances in which an officer or employee of the organisation—
 - (i) may accept entertainment or hospitality from an entity other than the organisation; and
 - (ii) must refuse entertainment or hospitality from an entity other than the organisation; and
- (b) include procedures about reporting and documenting the receipt of entertainment and hospitality.

5 Policy for gifts

An organisation's policy for gifts must—

- (a) state the circumstances in which an officer or employee of the organisation—
 - (i) may accept a gift from an entity other than the organisation; and
 - (ii) must refuse a gift from an entity other than the organisation; and
- (b) include procedures about reporting and documenting the receipt of gifts.

Schedule 2C Rules for conduct of expenditure ballot

section 40D

Part 1 General

1 Definitions for sch 2C

In this schedule—

conducting entity, for an expenditure ballot, means the entity conducting the ballot under section 3.

voting member, for an expenditure ballot, means a member of the organisation whose name is on the roll of voters for the ballot.

voting start day, for an expenditure ballot, means the day on which the ballot opens.

2 References to organisation in sch 2C

In this schedule, a reference to an organisation in relation to an expenditure ballot means the organisation by or for whom the ballot is conducted.

3 Organisation or approved entity to conduct ballot

(1) An expenditure ballot for an organisation must be conducted by the organisation or an approved entity engaged by the organisation to conduct the ballot.

(2) In this section—

approved entity means an entity whose functions include conducting ballots for organisations.

4 Ballot may be used for spending for 2 or more political purposes

An expenditure ballot may be conducted for spending for 2 or more political purposes.

Note—

See sections 7(3) and 13(4) for particular requirements applying to expenditure ballots for spending for 2 or more political purposes.

5 Compiling roll of voters

(1) The conducting entity for an expenditure ballot must compile the roll of voters for the ballot no earlier than 28 days before the ballot is conducted.

(2) The roll of voters must include each person who is a member of the organisation on the day the roll is compiled.

(3) The conducting entity may, on its own initiative or on application by a member of the organisation, do either of the following before the

end of the business day before the voting start day—

- (a) include a person's name on the roll of voters for the ballot if the person became a member of the organisation after the roll was compiled;
- (b) remove a person's name from the roll of voters for the ballot if the person is no longer a member of the organisation.

6 Conducting entity to decide way of voting

- (1) The conducting entity for an expenditure ballot must decide the way voting members can vote in the ballot.
- (2) The way may be—
 - (a) by post; or
 - (b) by telephone using an automated interactive voice response system; or
 - (c) by electronic means; or
 - (d) by a combination of 2 or more of the ways mentioned in paragraphs (a) to (c); or
 - (e) by another way decided by the entity.
- (3) However, the way must—
 - (a) be reasonably practicable for all voting members; and
 - (b) include the use of a ballot paper, whether in electronic or paper form and whether or not it is required to be marked for the vote; and

Example of using ballot paper other than for marking a voting member's vote—

A ballot paper is used to convey information to a voting member who then votes by telephone using an automated interactive voice response system.

- (c) allow for the appropriate recording of voting members' votes; and
- (d) be able to prevent or detect—
 - (i) a voting member voting more than once; and
 - (ii) a person other than a voting member voting in the ballot; and
- (e) not allow the voting member to vote only in a particular way or prevent the voting member from voting in a particular way.

Part 2 Voting material

7 Requirements about ballot paper

- (1) A ballot paper for an expenditure ballot must state the following—
 - (a) the expenditure ballot is being conducted under chapter 12, part 12, division 1B of the Act;
 - (b) only voting members are eligible to vote in the expenditure ballot and they may vote only once;
 - (c) the period for which the ballot is open;
 - (d) for the spending for each political purpose the subject of the ballot—
 - (i) the nature of the spending; and
 - (ii) the amount of the spending; and
 - (iii) the political object to which the spending relates; and
 - (iv) when the spending is proposed to occur.

- (2) If voting in an expenditure ballot is by post and there is an approved form for the ballot paper for the ballot, the ballot paper must be in the approved form.
- (3) If an expenditure ballot is conducted for spending for 2 or more political purposes, the ballot paper for the ballot must—
 - (a) clearly distinguish the spending for each political purpose; and
 - (b) allow voting members to vote for the spending for each political purpose separately.

8 Voting material to be given to voting members

- (1) The conducting entity for an expenditure ballot must give the following things (the *voting material*) to each voting member—
 - (a) the ballot paper or information about how to access the ballot paper;
 - (b) information about—
 - (i) how the member may vote in the ballot; and
 - (ii) the closing date for the ballot; and
 - (iii) the time on the closing date by which the conducting entity must receive the member's vote;
 - (c) any other material the entity considers relevant to the ballot, including, for example—
 - (i) directions about how a member may cast a valid vote; and
 - (ii) other directions the entity reasonably believes may help to ensure there is no

- irregularity in the conduct of the ballot;
and
 - (iii) information about matters relating to the conduct of the ballot.
- (2) The voting material must be given to each voting member as soon as practicable, but no later than 2 business days before the voting start day.
- (3) If the vote is to be by post, the voting material must be posted to the member in a sealed envelope that also contains—
- (a) an envelope in which the member must place his or her ballot paper that—
 - (i) sets out a form of declaration that the member has not previously voted in the ballot; and
 - (ii) contains a place where the member can sign the envelope; and
 - (b) a pre-paid envelope addressed to the conducting entity large enough to fit the envelope mentioned in paragraph (a).

9 Replacement voting material

- (1) This section applies if voting material given or purportedly given to a voting member under section 8—
- (a) was not received by the member; or
 - (b) has been lost or destroyed or damaged to an extent that it can no longer be used for the member's vote.
- (2) The voting member may ask the conducting entity for a copy of the voting material.
- (3) The request must—
- (a) be received by the conducting entity on or before the closing date of the ballot; and

- (b) state the reason for the request; and
 - (c) if practicable, be accompanied by evidence relating to the reason; and
 - (d) include a declaration that the voting member has not voted in the ballot.
- (4) The conducting entity must give the voting member the requested copy if satisfied—
- (a) the reason for the request is a reason mentioned in subsection (1); and
 - (b) the request complies with subsection (3); and
 - (c) the member has not voted in the ballot.

- (5) In this section—

lost, for an electronic document, includes deleted.

voting material includes a document to which voting material is attached.

Example of a document to which voting material may be attached—

an email

Part 3 Voting and counting of votes

10 How long ballot is open

An expenditure ballot must remain open for at least 5 business days.

11 Who may vote in ballot

Only a voting member of an organisation may vote in an expenditure ballot.

12 How to vote

A voting member may vote in an expenditure ballot only in the way stated in the voting material given to the member under section 8 or 9.

13 Counting votes

- (1) The conducting entity must decide the result of the expenditure ballot under this section as soon as practicable after the close of the ballot.
- (2) The conducting entity must, after the ballot has closed—
 - (a) admit the valid votes and reject the informal votes; and
 - (b) count the valid votes; and
 - (c) record the number of votes—
 - (i) in favour of authorising the spending the subject of the ballot; and
 - (ii) against authorising the spending the subject of the ballot; and
 - (d) count the informal votes.
- (3) A vote is *informal* only if the vote is made in a way that makes it unclear whether the voting member intended to vote to authorise or not to authorise the spending the subject of the ballot.
- (4) If an expenditure ballot is conducted for spending for 2 or more political purposes, the conducting entity must decide the result of the ballot for the spending for each political purpose separately.
- (5) The conducting entity may adopt the procedures it considers appropriate for counting votes under this section, including, for example, appointing scrutineers to help count votes.

14 Declaration of ballot result

- (1) The conducting entity must make a signed declaration of the result of the expenditure ballot as soon as possible after the votes for the ballot are counted.
- (2) If the conducting entity is not the organisation, the entity must give a copy of the signed declaration to the organisation within 1 day of making the declaration.

ENDNOTES

- 1 Made by the Governor in Council on 27 June 2013.
- 2 Notified in the gazette on 28 June 2013.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Justice and Attorney-General.

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