



Queensland

*Industrial Relations Act 2016*

# **Industrial Relations Regulation 2018**

**Current as at 2 June 2021**

© State of Queensland 2021



This work is licensed under a Creative Commons Attribution 4.0 International License.



Queensland

# Industrial Relations Regulation 2018

## Contents

---

		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	9
2	Commencement . . . . .	9
3	Definitions . . . . .	9
<b>Part 2</b>	<b>Queensland Employment Standards</b>	
4	Working out continuous service—Act, s 123 . . . . .	9
5	Compensation for commission or piece rate employees—Act, s 124 . . . . .	11
<b>Part 3</b>	<b>Collective bargaining</b>	
6	Information to accompany proposed bargaining instrument—Act, s 198 . . . . .	11
7	Protected industrial action—Act, s 237 . . . . .	12
<b>Part 4</b>	<b>General protections</b>	
8	Temporary absence—illness or injury—Act, s 297 . . . . .	13
<b>Part 5</b>	<b>Authorised industrial officers</b>	
9	Application for issue of an authority—Act, s 337 . . . . .	14
<b>Part 6</b>	<b>Overpaid wages</b>	
10	Recovering overpaid wages—Act, s 376 . . . . .	15
11	Recovering health employment overpayments—Act, s 948 . . . . .	15
<b>Part 7</b>	<b>Fees charged by private employment agents</b>	
12	Particulars for written notice—Act, s 400 . . . . .	15
13	Percentage of gross amount payable to model or performer—Act, s 400 . . . . .	16
14	Allowances or payments excluded from gross amount payable to model or performer—Act, s 400 . . . . .	16
<b>Part 8</b>	<b>Application to industrial tribunal under chapter 12 of the Act</b>	
<b>Division 1</b>	<b>Definition</b>	
15	Definition for part . . . . .	17
<b>Division 2</b>	<b>Applications, and service and publication of process</b>	

Contents

---

16	Applications to industrial tribunal . . . . .	17
17	Applications for registration, change of list of callings or amendment of name or eligibility rules . . . . .	18
18	Certain applications must state grounds on which made . . . . .	19
19	Application for exemption—Act, s 802 . . . . .	19
20	How making of resolution is to be notified—Act, s 813 . . . . .	19
21	Publishing notice—Act, s 814 . . . . .	20
22	Signing or sealing application for deregistration order—Act, s 879 . . . . .	20
23	Application by registrar for deregistration order for defunct organisation—Act, s 879 . . . . .	20
<b>Division 3</b>	<b>Objections</b>	
24	Who may object—Act, s 894 . . . . .	21
25	Notice of objection . . . . .	22
26	Answering objections . . . . .	23
<b>Division 4</b>	<b>Notice of hearing and hearing</b>	
27	Hearing application and objections—Act, s 894 . . . . .	23
28	Notice of hearing . . . . .	24
29	Opportunity to make written submissions . . . . .	25
30	Grounds objector may rely on . . . . .	25
<b>Part 9</b>	<b>Rules generally</b>	
31	Cost of copy of rules—Act, s 616 . . . . .	25
<b>Part 10</b>	<b>Model election rules</b>	
32	Model election rules—Act, s 642 . . . . .	25
<b>Part 11</b>	<b>Conduct of elections by organisation or branch</b>	
33	Prescribed information for elections—Act, s 669 . . . . .	25
34	Prescribed particulars for election or ballot result reports—s 118 and Act, ss 676 and 818 . . . . .	27
35	Declaration of election or ballot result . . . . .	28
36	Copies of result reports to be given . . . . .	29
37	Voters may ask for information about election or ballot . . . . .	29
38	Unauthorised action in conducting election or ballot . . . . .	29
39	Ballot security . . . . .	30
<b>Part 12</b>	<b>Records and accounts</b>	
40	Requirements for financial policies—Act, s 740 . . . . .	30
41	Procedure for issuing certificate about reporting units on registrar's initiative—Act, s 757 . . . . .	30
42	Procedure for revoking certificate—Act, s 759 . . . . .	31

43	Opportunity to be heard about rule changes—Act, ss 757 and 759	31
44	Information for concise financial report—Act, s 778 . . . . .	32
45	Period to prepare general purpose financial report—Act, s 785 . . . . .	33
46	Certificate for general purpose financial report—Act, s 785 . . . . .	33
47	Information about reporting unit—Act, s 787 . . . . .	33
<b>Part 13</b>	<b>Amalgamations and withdrawals</b>	
<b>Division 1</b>	<b>Federations</b>	
48	Application for recognition as federation . . . . .	34
49	Representation by federation . . . . .	35
50	Amendment of federation’s composition . . . . .	35
51	When federation ends . . . . .	35
52	Change in particulars, rules or agreement for federation . . . . .	36
<b>Division 2</b>	<b>Community of interest declaration</b>	
53	Community of interest declaration for amalgamation . . . . .	36
54	End of declaration . . . . .	38
<b>Division 3</b>	<b>Acting for constituent part</b>	
55	Who may act for constituent part . . . . .	38
<b>Division 4</b>	<b>Amalgamation and withdrawal schemes</b>	
56	Management committee approval . . . . .	38
57	Amalgamation or withdrawal scheme . . . . .	39
58	Alternative schemes for amalgamation . . . . .	40
59	Amending schemes . . . . .	41
60	Scheme outlines . . . . .	42
<b>Division 5</b>	<b>Applications about ballots</b>	
61	Application to submit proposed amalgamation to a ballot . . . . .	43
62	Application to submit proposed withdrawal to a ballot . . . . .	44
63	Amalgamation ballot exemption—number of members . . . . .	45
64	Amalgamation ballot exemption—recognising federal ballot . . . . .	46
65	Withdrawal ballot exemption—recognising federal ballot . . . . .	47
66	Application for alternative ballot . . . . .	48
67	Withdrawing from application . . . . .	50
<b>Division 6</b>	<b>‘Yes’ or ‘no’ case</b>	
68	Filing ‘yes’ case . . . . .	51
69	Filing ‘no’ case . . . . .	51
70	Commission statements . . . . .	52
71	‘Yes’ or ‘no’ cases may include things other than words . . . . .	52

Contents

---

72	Amending ‘yes’ or ‘no’ cases . . . . .	53
<b>Division 7</b>	<b>Objections</b>	
73	Objections about amalgamations . . . . .	53
74	Objection to amalgamation ballot exemption—recognising federal ballot 53	
75	Objection to withdrawal ballot exemption—recognising federal ballot	54
76	Notice of objection . . . . .	54
77	Answering objection . . . . .	55
<b>Division 8</b>	<b>Hearing</b>	
78	Notice of application . . . . .	55
79	Amalgamation or withdrawal hearing . . . . .	56
80	Amalgamation ballot approval if no objections or objections withdrawn 57	
81	Notifying refusal of ballot application . . . . .	58
82	Hearing objection . . . . .	59
83	Amalgamation ballot approval after hearing objections . . . . .	59
84	Withdrawal ballot approval . . . . .	61
85	Ballot exemption—number of members . . . . .	62
86	Amalgamation ballot exemption—recognising federal ballot . . . . .	62
87	Withdrawal ballot exemption—recognising federal ballot . . . . .	63
88	Alternative ballot approval . . . . .	64
89	Notice to manager of ballot . . . . .	65
90	Fixing ballot period . . . . .	65
<b>Division 9</b>	<b>Ballots</b>	
91	Electoral commission to conduct ballot . . . . .	66
92	Providing information and documents to electoral officers . . . . .	66
93	Action and directions by manager of ballot . . . . .	67
94	Manager of ballot must give copy of scheme or outline if asked . . . . .	68
95	Members’ secret postal ballot . . . . .	68
96	Form of ballot paper . . . . .	69
97	Notice of ballot . . . . .	69
98	Postal ballots—distributing voting material . . . . .	70
99	Material for alternative ballots . . . . .	71
100	Alternative ballots—distributing ballot papers . . . . .	71
101	Duplicate ballot documents—postal voting . . . . .	72
102	Duplicate ballot papers—alternative ballot . . . . .	73

103	Manager must keep a ballot box . . . . .	73
104	How to vote by post . . . . .	73
105	How to vote in an alternative ballot . . . . .	74
106	How ballot manager must deal with voting material . . . . .	74
<b>Division 10</b>	<b>Roll</b>	
107	Roll—who may vote . . . . .	75
108	Roll—inspection . . . . .	76
<b>Division 11</b>	<b>Scrutineers</b>	
109	Scrutineers . . . . .	77
110	Scrutineers' rights . . . . .	78
111	Scrutineers' objections . . . . .	78
112	Direction to leave count . . . . .	79
<b>Division 12</b>	<b>Counting votes</b>	
113	Initial scrutiny of postal votes . . . . .	79
114	Counting votes . . . . .	81
115	Ballot records to be kept . . . . .	82
<b>Division 13</b>	<b>Approval of proposal</b>	
116	Members' decision on amalgamation or withdrawal . . . . .	83
117	Amalgamation approval . . . . .	83
118	Ballot result report . . . . .	84
119	Further ballot if amalgamation not approved . . . . .	84
<b>Division 14</b>	<b>Ballot inquiries</b>	
<b>Subdivision 1</b>	<b>Applications and referrals to commission</b>	
120	Commission may conduct ballot inquiry . . . . .	85
121	Who may apply . . . . .	85
122	Requirements for application . . . . .	85
123	Referral to commission . . . . .	86
<b>Subdivision 2</b>	<b>Investigations and interim orders</b>	
124	Commission may authorise registrar to investigate . . . . .	86
125	Interim orders . . . . .	87
126	When interim order ends . . . . .	87
<b>Subdivision 3</b>	<b>Conduct of ballot inquiries</b>	
127	Commission's functions and powers for inquiry . . . . .	87
128	Orders if irregularity found . . . . .	88
129	Enforcing orders under this division . . . . .	88
<b>Subdivision 4</b>	<b>Offences about ballot inquiries</b>	

Contents

---

130	Disadvantaging applicant for inquiry . . . . .	89
131	Obstructing orders being carried out . . . . .	89
<b>Subdivision 5</b>	<b>Miscellaneous</b>	
132	Financial help for application . . . . .	89
133	Costs of fresh ballot ordered by inquiry . . . . .	90
<b>Division 15</b>	<b>Amalgamation or withdrawal taking effect</b>	
134	Who may apply to fix day for amalgamation or withdrawal . . . . .	90
135	Fixing day for amalgamation or withdrawal . . . . .	90
136	Order to apportion assets and liabilities on withdrawal . . . . .	91
137	Holding office after withdrawal . . . . .	92
138	Effect of amalgamation on commission decisions . . . . .	92
139	Effect of withdrawal on order of commission or industrial instrument	93
140	Effect of amalgamation on instruments . . . . .	93
141	Effect of withdrawal on agreements, arrangements or other instruments 94	
142	Effect of amalgamation on pending proceedings . . . . .	94
143	Effect of withdrawal on pending proceedings . . . . .	95
144	Amalgamated organisation to carry out amalgamation . . . . .	95
<b>Part 14</b>	<b>Employers declared not to be national system employers</b>	
145	Declaration for Act, s 955—Hospital and Health Services . . . . .	96
146	Declaration for Act, s 955—local governments . . . . .	96
147	Declaration for Act, s 955—other employers . . . . .	96
147A	Revocation of declaration—Act, s 955 . . . . .	96
<b>Part 15</b>	<b>General</b>	
148	Certificate of employment on termination—Act, s 935 . . . . .	97
<b>Part 16</b>	<b>Repeal, saving and transitional provisions</b>	
<b>Division 1</b>	<b>Repeal</b>	
149	Repeal . . . . .	97
<b>Division 2</b>	<b>Saving and transitional provisions</b>	
150	Definition for division . . . . .	97
151	Model rules . . . . .	98
152	Declarations for Commonwealth Act, s 14(2) under repealed regulation 98	
153	Proposed amalgamations and withdrawals . . . . .	98
154	References to repealed regulation . . . . .	99
<b>Schedule 1</b>	<b>Percentage of gross amount payable to model or performer</b>	100



<b>Schedule 2</b>	<b>Model election rules</b> .....	101
<b>Part 1</b>	<b>Definitions</b>	
1	Definitions .....	101
<b>Part 2</b>	<b>Manager of election</b>	
2	Manager of election—functions and powers .....	102
<b>Part 3</b>	<b>Pre-election procedures</b>	
3	Closing day and time for nominations .....	103
4	Start and finish days of ballot .....	103
5	Calling for nominations .....	104
6	Nomination procedure .....	105
7	What happens if a nomination is defective .....	105
8	When a ballot must be held .....	106
9	Election without ballot .....	106
<b>Part 4</b>	<b>Conducting ballots</b>	
<b>Division 1</b>	<b>General</b>	
10	Roll—preparation .....	106
11	Roll—inspection .....	107
12	When someone can claim a right to vote .....	107
<b>Division 2</b>	<b>Voting material</b>	
13	Ballot papers .....	108
14	Distributing voting material .....	109
15	Manager must keep a ballot box .....	110
16	Duplicate voting material .....	110
<b>Division 3</b>	<b>Voting</b>	
17	How long ballot is open .....	111
18	How to vote .....	111
19	How many votes may be cast .....	112
<b>Division 4</b>	<b>Counting and scrutiny of votes</b>	
20	How manager must deal with voting material .....	112
21	Scrutineers—appointment .....	113
22	Scrutineers' rights .....	113
23	Scrutineers—numbers attending .....	113
24	Initial scrutiny of voting material .....	114
25	Counting votes .....	116
26	Scrutineers' objections .....	116
27	Direction by manager to leave count .....	117

Contents

---

<b>Division 5</b>	<b>Election result</b>	
28	How result is decided . . . . .	117
29	What happens if votes for 2 or more candidates are equal . . . . .	118
30	What happens if multiple nominee elected . . . . .	118
<b>Schedule 3</b>	<b>Requirements for financial policies</b> . . . . .	119
1	Policy for spending authorisations and delegations . . . . .	119
2	Policy for credit cards . . . . .	120
3	Policy for contracting activities . . . . .	121
4	Policy about entertainment and hospitality . . . . .	121
5	Policy for gifts . . . . .	122
<b>Schedule 4</b>	<b>Information to be given to members or registrar</b> . . . . .	123
<b>Part 1</b>	<b>Preliminary</b>	
1	Information limited to last financial year for which general purpose financial report prepared . . . . .	123
2	References to prescribed donations, grants and loans . . . . .	123
3	Form of information . . . . .	124
<b>Part 2</b>	<b>Information to be given</b>	
4	Donations and grants . . . . .	124
5	Amounts more than \$1,000 . . . . .	125
6	Loans . . . . .	125
7	Funds other than general funds . . . . .	126
<b>Schedule 5</b>	<b>Employers declared not to be national system employers</b> . .	128
<b>Schedule 6</b>	<b>Dictionary</b> . . . . .	133

---

# Industrial Relations Regulation 2018

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Industrial Relations Regulation 2018*.

### 2 Commencement

This regulation commences on 1 March 2018.

### 3 Definitions

The dictionary in schedule 6 defines particular words used in this regulation.

## Part 2 Queensland Employment Standards

### 4 Working out continuous service—Act, s 123

- (1) For working out continuous service under section 123(1) of the Act, the following matters do not break continuous service—
  - (a) the employee's absence from work if there was a reasonable cause for the absence;
  - (b) the employee's absence from work because of protected industrial action;
  - (c) another absence from work by the employee, unless the employer notifies the employee that the absence from work breaks the employee's continuous service.

[s 4]

---

- (2) An employee's absence from work under subsection (1)(a) does break continuous service if—
  - (a) a decision requires the employee to—
    - (i) notify the employer of an absence from work; and
    - (ii) substantiate the reason for the absence; and
  - (b) the employee does not comply with the decision.
- (3) Also, an employee's absence from work under subsection (1)(a) does break continuous service if—
  - (a) there is no decision mentioned in subsection (2); and
  - (b) the employee does not promptly notify the employer of—
    - (i) the employee's absence from work; and
    - (ii) the reason for the absence; and
    - (iii) the likely duration of the absence.
- (4) An employee's absence from work under subsection (1)(b) does break continuous service if the commission or a magistrate has decided, in making an order under section 122(1) of the Act, that the absence must be taken to be a break in the employee's continuous service.
- (5) A notification under subsection (1)(c)—
  - (a) must be given during, or within 14 days after the end of, the absence; and
  - (b) may be withdrawn by the employer.
- (6) If the employer withdraws the notification, it is taken not to have been given.
- (7) If an employee's absence from work does not break the employee's continuous service, the period of absence must be included as a period of service in working out the employee's continuous service for section 123(1) of the Act.
- (8) In this section—

***protected industrial action*** see section 233(1) of the Act.

---

**5 Compensation for commission or piece rate employees—Act, s 124**

For section 124(3) of the Act, the amount taken to be payable is the average weekly remuneration payable to the employee—

- (a) for an employee who was continuously employed by the employer for 3 months or more immediately before dismissal—in the 3 months before dismissal; or
- (b) for an employee who was continuously employed by the employer for a period of less than 3 months immediately before dismissal—in that period.

**Part 3 Collective bargaining**

**6 Information to accompany proposed bargaining instrument—Act, s 198**

- (1) For section 198(1)(c)(ii) of the Act, a proposed bargaining instrument must be accompanied by an affidavit containing the following information—
  - (a) whether the instrument is for a new business or is a project agreement or a multi-employer agreement;
  - (b) whether or not the instrument is made with an employee organisation;
  - (c) the industry in which the employer is engaged;
  - (d) the name of the relevant award or designated award;
  - (e) for non-State government employees—each address at which the employees to be covered by the instrument are, or are to be, employed;
  - (f) the number of male and female employees to be covered by the instrument;
  - (g) the number of apprentices or trainees to be covered by the instrument;

[s 7]

---

- (h) the name and address of each employer to whom the instrument is to apply;
  - (i) if the instrument is a project agreement and the project or proposed project has a principal contractor—the principal contractor’s name and address;
  - (j) if the instrument was negotiated for someone else—the person who negotiated the instrument and the person for whom it was negotiated;
  - (k) the average percentage that wages of the employees to be covered by the instrument will increase or decrease under the instrument compared with wages before the instrument;
  - (l) the steps taken to ensure the things required to be done by sections 169, 171 and 172 of the Act were done, and in particular, that the terms of the instrument were explained in an appropriate way given the particular circumstances and needs of the employees to be covered by the instrument;
  - (m) a statement that the employer did not do something mentioned in section 195(b) of the Act;
  - (n) a statement that the instrument passes the no-disadvantage test under chapter 4, part 5, division 3 of the Act.
- (2) The affidavit must be in the form provided for in the rules made under section 551 of the Act.
- (3) For section 198(1)(c)(ii) of the Act, if there is or was a bargaining instrument covering part or all of the employees to be covered by the instrument, the instrument must also be accompanied by the name and instrument number of the bargaining instrument.

## **7 Protected industrial action—Act, s 237**

- (1) For section 237(3)(b) of the Act, the purpose is the assessment of eligibility for, or the calculation of, an entitlement arising from the employee’s employment, including, for example—

- 
- (a) a superannuation entitlement; and
  - (b) an authorised leave entitlement; and
  - (c) an entitlement to remuneration and promotion as affected by seniority; and
  - (d) an entitlement to notice of, or compensation for, dismissal.
- (2) In this section—
- authorised leave* means leave authorised by—
- (a) the employer; or
  - (b) an industrial instrument; or
  - (c) an order of a court or tribunal having power to fix wages and other employment conditions; or
  - (d) the employee's employment contract; or
  - (e) a Commonwealth or State law.

## Part 4 General protections

### 8 Temporary absence—illness or injury—Act, s 297

- (1) For section 297(1)(a) of the Act, an illness or injury for which the employee is absent for 2 days or less is a prescribed illness or prescribed injury if the employee promptly notifies the employer—
  - (a) that the illness or injury will cause the employee to be absent from work; and
  - (b) of the approximate period for which the employee will be absent.
- (2) An illness or injury for which the employee is absent for more than 2 days is a prescribed illness or prescribed injury if the employee—
  - (a) promptly notifies the employer of the matters mentioned in subsection (1)(a) and (b); and

[s 9]

---

- (b) either—
  - (i) gives the employer a doctor's certificate about the nature of the illness or injury and the approximate period for which the employee will be absent; or
  - (ii) gives the employer other evidence of the illness or injury to the employer's satisfaction.
- (3) Without limiting subsection (2), if the employee is required under an industrial instrument to notify the employer of an absence from work and substantiate the reason for the absence is due to illness or injury, the illness or injury is a prescribed illness or prescribed injury if the employee complies with the industrial instrument.
- (4) Despite subsections (1) to (3), an illness or injury is not a prescribed illness or injury if—
  - (a) the total of the employee's absences in a 12-month period, arising from 1 or more illnesses or injuries, is more than 3 months; and
  - (b) the employee is not on paid sick leave or carer's leave under chapter 2, part 3, division 6, subdivision 1 or 2 of the Act.

## Part 5 Authorised industrial officers

### 9 Application for issue of an authority—Act, s 337

For section 337(4)(a) of the Act, an application for an authority must—

- (a) be made in the form provided for in the rules made under section 551 of the Act; and
- (b) state whether the person to be authorised is an officer, or employee, of the organisation; and
- (c) be signed by the applicant's president or secretary; and
- (d) be accompanied by—



- (i) 2 passport size photographs, each signed on the reverse side by the person; and
- (ii) 2 specimen signatures of the person verified by the applicant's president or secretary as being genuine signatures of the person.

## **Part 6 Overpaid wages**

### **10 Recovering overpaid wages—Act, s 376**

For section 376(4) of the Act, the amount is  $\frac{3}{4}$  of the wages payable for the pay period.

### **11 Recovering health employment overpayments—Act, s 948**

For section 948(6) of the Act, the amount is  $\frac{3}{4}$  of the amount that would otherwise be paid to the health employee on the single occasion, disregarding any deductions for any purpose.

## **Part 7 Fees charged by private employment agents**

### **12 Particulars for written notice—Act, s 400**

- (1) For section 400(2)(a) of the Act, the particulars are as follows—
  - (a) the name of the person for whom the work is to be carried out;
  - (b) the address of the place of work;
  - (c) the particulars of the work;

*Examples—*

- for modelling work—modelling clothing
- for a performer—live theatre

[s 13]

---

- (d) the period of the work;
  - (e) the gross amount payable to the model or performer by the person for whom the work is to be carried out;
  - (f) an itemised list of the fees payable to the agent by the model or performer;
  - (g) the net amount the model or performer is to receive after payment of the agent's fees;
  - (h) if a rate of payment is provided for under an industrial instrument, the details of the instrument and the rate of payment.
- (2) In this section—
- industrial instrument* includes a federal industrial instrument.

**13 Percentage of gross amount payable to model or performer—Act, s 400**

For section 400(2)(b) of the Act, the percentage is the percentage provided for under schedule 1.

**14 Allowances or payments excluded from gross amount payable to model or performer—Act, s 400**

For section 400(2)(b) of the Act, the allowances or payments are as follows—

- (a) travelling and meal allowance;
- (b) holiday pay;
- (c) long service leave payments;
- (d) superannuation payments;
- (e) overtime or penalty payments paid on an irregular basis;  
*Example of an irregular basis—*  
A model or performer may occasionally work overtime during the period of the work.
- (f) payments for rehearsals.

---

## **Part 8                      Application to industrial tribunal under chapter 12 of the Act**

### **Division 1                  Definition**

#### **15            Definition for part**

In this part—

*industrial tribunal* means the court, commission or registrar.

### **Division 2                  Applications, and service and publication of process**

#### **16            Applications to industrial tribunal**

- (1) An application to an industrial tribunal under chapter 12 of the Act must—
  - (a) be filed in the registry; and
  - (b) be in the form provided for in the rules made under section 551 of the Act; and
  - (c) state the facts and issues the applicant relies on to support the application.
- (2) However, subsection (1)(c) does not apply to an application to which section 689 of the Act applies.
- (3) If an applicant to an industrial tribunal under chapter 12 of the Act is not the organisation the application is about, the applicant must serve a copy of the application on the organisation within 7 days after filing the application.

**17 Applications for registration, change of list of callings or amendment of name or eligibility rules**

- (1) This section applies to an application for—
  - (a) registration as an organisation; or
  - (b) a change of list of callings; or
  - (c) amendment of the name of an organisation, other than an application made under section 660 of the Act; or
  - (d) amendment of eligibility rules of an organisation.
- (2) The applicant may file a statement supporting the application when the application is filed.
- (3) The applicant must publish notice of the application in the form decided by the registrar within 21 days after the application is filed—
  - (a) in a newspaper circulating throughout the State; and
  - (b) if the registrar considers it appropriate, in another newspaper or publication.
- (4) Also, if the registrar considers it appropriate, the registrar may publish the notice on the QIRC website.
- (5) The applicant must, within 7 days of publication of the notice under subsection (3)—
  - (a) serve a copy of the notice on each organisation whose callings—
    - (i) include the callings of the applicant’s members; or
    - (ii) relate to the applicant’s eligibility rules; and
  - (b) file in the registry a copy of the section of a newspaper or publication in which the notice was published, showing the date and name of the newspaper or publication.
- (6) The application must be dealt with, as far as is practicable, in the order that it was filed.

- (7) Each document accompanying an application for registration as an organisation must be signed and dated by the applicant's president and secretary.

## **18 Certain applications must state grounds on which made**

An application for any of the following must state the grounds on which it is made—

- (a) an approval under section 635 of the Act;
- (b) an exemption under chapter 12, part 12 of the Act;
- (c) cancellation of an exemption under section 824 of the Act;
- (d) a deregistration order.

## **19 Application for exemption—Act, s 802**

- (1) This section applies to an application for an exemption under section 802 of the Act from holding an election for a stated office.
- (2) The application may be made only if each applicant has given each of its members, free of charge, written notice of the details of the application.
- (3) An applicant may give the notice by including it in a publication it gives its members free of charge.
- (4) The application must be accompanied by an affidavit by a member of each applicant's management committee stating that subsection (2) has been complied with.

## **20 How making of resolution is to be notified—Act, s 813**

For section 813(1)(b) of the Act, the way a member of the organisation or branch is to be given notice of the making of the resolution is by—

- (a) giving the member a copy of the resolution; or

[s 21]

---

- (b) for an organisation or branch that gives its members a publication free of charge—including a notice of the making of the resolution in the publication.

## **21 Publishing notice—Act, s 814**

- (1) For section 814 of the Act, the way the notice is to be published is in—
  - (a) a newspaper circulating generally throughout the State; and
  - (b) another newspaper or publication the registrar considers appropriate.
- (2) The notice must be published within 21 days after the application is filed in the registry.

## **22 Signing or sealing application for deregistration order—Act, s 879**

If an application under section 879 of the Act for a deregistration order is made by an organisation, the application must be—

- (a) under the organisation's seal; or
- (b) signed by 2 of the organisation's officers authorised to sign the application.

## **23 Application by registrar for deregistration order for defunct organisation—Act, s 879**

- (1) This section applies if the registrar proposes to apply for a deregistration order for an organisation under section 879(4) of the Act.
- (2) The registrar must make appropriate inquiries by letters sent to the—
  - (a) organisation's registered office; and

- (b) members of the organisation's management committee last known to the registrar at each member's last known address.
- (3) If, after the inquiries, the registrar is satisfied the organisation is defunct, the registrar must publish a notice on the QIRC website stating—
  - (a) the registrar will apply after 35 days from the notice's publication for a deregistration order on the ground that the organisation is defunct; and
  - (b) a person who wants to show cause why the deregistration should not be made may file a notice of objection, in the form provided for in the rules made under section 551 of the Act, in the registry within 35 days of the publication.
- (4) If the registrar makes the application, the registrar must ensure the application is accompanied by a copy of a notice of objection filed.

## **Division 3                      Objections**

### **24            Who may object—Act, s 894**

- (1) For section 894(3) of the Act, an interested person for a decision sought to be made by any of the following applications may object to the making of a decision on the application—
  - (a) an application for amendment of name other than an application made under section 660 of the Act;
  - (b) an application for amendment of eligibility rules;
  - (c) an application for a change of list of callings.
- (2) A person who has been given written notice under section 19(2) of an application for an exemption under section 802 of the Act may object to the making of a decision on the application.

- (3) A member of an organisation that has applied for an exemption from the requirement that the electoral commission conduct an election under section 812 of the Act may object to the making of a decision on the application.
- (4) An interested person for a decision sought to be made by an application by the registrar for a deregistration order under section 879(4) of the Act may object to the making of a decision on the application.
- (5) A person who may object to the making of a decision on an application must give notice of an objection to the industrial tribunal.

## **25 Notice of objection**

- (1) This section applies to a notice of objection under—
  - (a) section 606(1)(b) of the Act; and
  - (b) section 24.
- (2) The notice must—
  - (a) be in the form provided for in the rules made under section 551 of the Act; and
  - (b) state the grounds on which the objection is made; and
  - (c) be filed in the registry within 35 days after—
    - (i) for an objection to an application under section 802 of the Act—the giving of written notice of the application under section 19(2); or
    - (ii) for another objection—the publication of the notice of the application to which the objection relates; and
  - (d) be accompanied by a statement of the facts and issues the objector relies on in support of the objection.
- (3) For subsection (2)(c)(i), if written notice of the application was given on more than 1 day under section 19(2), the notice of objection must be filed in the registry within 35 days of the latest day on which notice was given.



- (4) A person who gives a notice of objection must serve a copy of the notice on the applicant and any other party to the proceedings within 7 days after filing the notice.
- (5) On application, the relevant industrial tribunal may grant leave to extend the period for filing a notice of objection.

## **26 Answering objections**

- (1) The applicant may file a written response to an objection in the registry within 14 days after the notice of objection is served on the applicant.
- (2) The response must be accompanied by a statement of the facts and issues relied on in support of the response.
- (3) The applicant must serve a copy of the response on the person who objected within 7 days after filing the response.

## **Division 4 Notice of hearing and hearing**

### **27 Hearing application and objections—Act, s 894**

- (1) This section applies to an application under chapter 12 of the Act other than—
  - (a) an application made for the purpose of section 660 of the Act; or
  - (b) an application for an election inquiry under section 688 of the Act.
- (2) The industrial tribunal that is to hear the application must—
  - (a) fix a time and place to hear the application and objections; and
  - (b) give at least 7 days notice of the time and place of the hearing to each person who must be given an opportunity to be heard under section 894 of the Act.

## **28 Notice of hearing**

- (1) This section applies to a hearing for—
  - (a) cancellation of an approval under section 638 of the Act; and
  - (b) amendment of rules under chapter 12, part 6, division 1 of the Act; and
  - (c) cancellation of an exemption under section 824 of the Act; and
  - (d) a deregistration order under section 879(3) of the Act.
- (2) A notice under section 27(2)(b) of the time and place of the hearing must also state the following information—
  - (a) if section 654 or 879(3)(b) of the Act applies—the demarcation dispute undertaking to which the hearing relates;
  - (b) the reasons for the proposed cancellation, amendment or deregistration order;  
*Example of reasons for paragraph (b)—*

If the registrar considers an organisation’s rules contravene the Act, how the rules contravene the Act.
  - (c) any proposed amendments to the organisation’s rules;
  - (d) that the organisation may make oral or written submissions to show why—
    - (i) the exemption or approval should not be cancelled; or
    - (ii) the rules should not be amended; or
    - (iii) the deregistration order should not be made;
  - (e) the person to whom the notice is given may file a written submission within a stated time.

## **29 Opportunity to make written submissions**

Giving a person an opportunity to be heard under section 894 of the Act includes giving the person an opportunity to make written submissions within a period decided by the tribunal.

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

- (1) An objector may rely only on the grounds stated in the notice of objection given under section 25.
- (2) However, the tribunal may allow the objector to rely on another ground if—
  - (a) the objector gives adequate reasons for doing so; and
  - (b) the applicant is given an opportunity to be heard.

# **Part 9 Rules generally**

## **31 Cost of copy of rules—Act, s 616**

For section 616(2) of the Act, the amount is \$5.00.

# **Part 10 Model election rules**

## **32 Model election rules—Act, s 642**

The model election rules are in schedule 2.

# **Part 11 Conduct of elections by organisation or branch**

## **33 Prescribed information for elections—Act, s 669**

- (1) For section 669(1) of the Act, the information is as follows—
  - (a) the name of each office for which an election is needed;

- (b) whether the election is because—
    - (i) the term of the office will be ending; or
    - (ii) there is a casual vacancy in the office; or
    - (iii) of a new office created under the organisation's or branch's rules;
  - (c) the number of offices for election;
  - (d) if membership figures are used to calculate the number of offices, the figures when—
    - (i) more than 1 office for which an election is needed has the same name; and
    - (ii) the number of the offices can, under the organisation's or branch's rules, be calculated before the prescribed day under subsection (4);
  - (e) if the electorate consists only of members of a branch, section or other division of an organisation—the name of the branch, section or division;
  - (f) the day and time of the start and end of the term for each office for which an election is required;
  - (g) whether the organisation or branch has adopted the model election rules without change;
  - (h) if the organisation or branch has not adopted the model election rules or has adopted the model election rules with changes—
    - (i) whether the voting system for the election is a direct voting system or a collegiate electoral system; and
    - (ii) how the organisation's or branch's rules require the result of the election to be decided.
- (2) The information mentioned in subsection (1)(h) may be given by giving the registrar a copy of the provisions of the organisation's or branch's rules that contain the information.
- (3) Information mentioned in subsection (1) must be accompanied by a statement signed by an authorised officer of

the organisation or branch stating the information is being filed under section 669(1) of the Act.

- (4) For section 669(2) of the Act, the day is the day that is 2 months before the first day on which a person may become a candidate in the election under the organisation's or branch's rules.

**34 Prescribed particulars for election or ballot result reports—s 118 and Act, ss 676 and 818**

- (1) This section—
- (a) sets out the particulars for section 118; and
  - (b) prescribes the particulars for an election result report under section 676 or 818 of the Act.
- (2) The particulars are as follows—
- (a) how many ballot papers were printed;
  - (b) how many eligible members were on the roll for the election or ballot, including a supplementary roll;
  - (c) how many ballot papers were given;
  - (d) how many duplicate ballot papers were given;
  - (e) how many ballot papers were not given;
  - (f) how many ballot papers were returned other than as unclaimed mail;
  - (g) how many ballot papers were returned as unclaimed mail;
  - (h) how many ballot papers were not returned;
  - (i) how many votes were informal;
  - (j) how many votes were rejected for a reason other than being informal and the reason for each rejection;

*Examples of reasons for rejection—*

For a postal vote, the voter's voting declaration was—

- (a) not filled in or signed; or

- (b) not put in the return envelope; or
  - (c) taken from the return envelope before the manager of the ballot received the return envelope.
- (k) how many ballot papers were counted;
- (l) the percentage of voters who voted;
- (m) how many formal votes were—
  - (i) for an election—for each candidate; or
  - (ii) for a proposed amalgamation or withdrawal—for and against the proposal;
- (n) if a preferential system of voting is used for an election—how many formal votes were for each candidate after distribution of preferences;
- (o) if the report is a ballot result report under section 118 and votes about an alternative amalgamation were counted under section 114(2)—
  - (i) the number of votes for and against the alternative amalgamation; and
  - (ii) the number of votes that were informal.

### **35 Declaration of election or ballot result**

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

---

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

The manager of an election or ballot must, within 1 day of the giving of the report for the election under section 676 or 818 of the Act or the ballot under section 118, give a copy of the report to—

- (a) the organisation, branch or constituent part that the election or ballot was about; and
- (b) for an election—each candidate who asks the manager for a copy of the report.

**37 Voters may ask for information about election or ballot**

(1) A voter may ask a manager of an election or ballot to give stated information that—

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

*Examples of information a voter may ask for—*

- whether ballot papers were posted on the same day
- if all material required to be given to voters for a ballot was given

(2) The manager must give the information to the voter.

Maximum penalty—20 penalty units.

(3) However, subsection (2) does not make an electoral officer liable for an offence.

**38 Unauthorised action in conducting election or ballot**

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

Maximum penalty—20 penalty units.

### **39 Ballot security**

- (1) The manager of an election or ballot must ensure each ballot paper for the election—
  - (a) has a watermark or other distinctive pattern that prevents it from being reproduced other than by the manager or someone authorised by the manager; and
  - (b) is of a type of paper that hides a vote marked on it from view when it is folded once.

Maximum penalty—20 penalty units.

- (2) However, subsection (1) does not make an electoral officer liable for an offence.

## **Part 12 Records and accounts**

### **40 Requirements for financial policies—Act, s 740**

For section 740(1) of the Act, the requirements for an organisation's policy are the requirements mentioned in schedule 3.

### **41 Procedure for issuing certificate about reporting units on registrar's initiative—Act, s 757**

- (1) For section 757(1)(c) of the Act, the registrar must give the organisation written notice of the registrar's intention to issue a certificate under section 755 of the Act.
- (2) The notice must state—
  - (a) the reasons for the proposed division of the organisation on an alternative basis as mentioned in section 752(3) of the Act; and
  - (b) any proposed changes to the rules under section 757(3) of the Act; and



- (c) that a reporting unit affected by the proposed alternative division has the opportunity to be heard under section 43 on the proposed changes to the rules.

#### **42 Procedure for revoking certificate—Act, s 759**

- (1) For section 759(6)(b) of the Act, the registrar must give each reporting unit of an organisation written notice of—
  - (a) the registrar’s intention to revoke a certificate issued to the organisation; and
  - (b) any proposed rule changes.
- (2) The notice must state—
  - (a) the reasons for the proposed revocation; and
  - (b) that a reporting unit affected by the revocation has the opportunity to be heard under section 43 on the proposed rule changes.

#### **43 Opportunity to be heard about rule changes—Act, ss 757 and 759**

- (1) For sections 757(4) and 759(8) of the Act, the registrar must, for the purpose of giving an organisation and an affected reporting unit an opportunity to be heard on a matter—
  - (a) fix a time and a place for a hearing on the matter; and
  - (b) give the organisation and each reporting unit, at least 7 days before the hearing, a written notice stating—
    - (i) the matter that is to be heard; and
    - (ii) the time and place for the hearing; and
    - (iii) that the organisation and an affected reporting unit have the right to make submissions to the registrar about the matter; and
    - (iv) how submissions may be made.
- (2) The organisation and an affected reporting unit may make submissions to the registrar by—

- (a) giving the registrar written submissions at least 2 days before the hearing; or
- (b) appearing at the hearing and making oral submissions.

#### **44 Information for concise financial report—Act, s 778**

- (1) For section 778(3)(a) of the Act, a concise financial report must include—
  - (a) the following financial statements included in the general purpose financial report—
    - (i) a profit and loss statement, or other operating statement;
    - (ii) a balance sheet;
    - (iii) a statement of cash flows; and
  - (b) disclosure of information for the previous financial year corresponding to the disclosures made for the financial year to which the report relates; and
  - (c) the principal factors affecting the financial performance, financial position and financial and investing activities of the reporting unit; and
  - (d) reports or statements mentioned in section 763(2)(c) of the Act included in the general purpose financial report; and
  - (e) a statement that the concise financial report has been derived from the full report and cannot be expected to give as full an understanding of the financial performance, financial position and financial and investing activities of the reporting unit as the full report; and
  - (f) the notice mentioned in section 787(6) of the Act.
- (2) A concise report may include other information from the full report.
- (3) In this section—

*full report* means a report mentioned in section 778(1)(a) of the Act.

**45 Period to prepare general purpose financial report—Act, s 785**

For section 785(5) of the Act, the period is as soon as practicable after the end of the financial year.

**46 Certificate for general purpose financial report—Act, s 785**

For section 785(8)(b) of the Act, the certificate must certify whether, in the opinion of the designated officer—

- (a) all requirements prescribed under the Act for establishing and keeping the ORU's accounts have been complied with in all material respects during the financial year; and
- (b) the general purpose financial statement presents a true and fair view, in compliance with the prescribed accounting standards, of the ORU's transactions for the financial year and the financial position at the end of the year.

**47 Information about reporting unit—Act, s 787**

For section 787(1) of the Act, the information is the information mentioned in schedule 4.

## **Part 13                      Amalgamations and     withdrawals**

### **Division 1                      Federations**

#### **48      Application for recognition as federation**

- (1) Existing organisations may jointly apply to the commission for recognition as a federation.
- (2) The application must—
  - (a) be filed in the registry before the existing organisations make a ballot application for a proposed amalgamation; and
  - (b) include the following particulars—
    - (i) the proposed federation’s name;
    - (ii) the names of the existing organisations proposed to be constituent organisations of the proposed federation;
    - (iii) the proposed federation’s address for service;
    - (iv) the names of the proposed officers of the federation; and
  - (c) be accompanied by a copy of—
    - (i) the proposed federation’s rules; or
    - (ii) the agreement about the proposed federation’s functions and powers.
- (3) The commission must allow the application if satisfied the existing organisations intend to make a ballot application for the proposed amalgamation within 3 years after being recognised as a federation.
- (4) If the application is allowed, the registrar must enter the following particulars in the register kept under section 614(1)(a) of the Act—

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

#### **49 Representation by federation**

- (1) After it is recognised, a federation may represent its constituent organisations and the members of the constituent organisations under the Act.
- (2) However—
  - (a) an organisation belonging to a federation may still represent itself or its members; and
  - (b) a federation may not become a party to an industrial instrument.

#### **50 Amendment of federation's composition**

- (1) A federation may, with the commission's approval, amend its composition—
  - (a) if another organisation intends to become concerned in the proposed amalgamation—to include the organisation; or
  - (b) to release an organisation from the federation.
- (2) If a federation amends its composition, the registrar must enter particulars of the amendment in the register kept under section 614(1)(a) of the Act.

#### **51 When federation ends**

A federation ends—

- (a) on the amalgamation day for the proposed amalgamation; or
- (b) if a ballot application for the proposed amalgamation is not made within 3 years after the existing organisations were recognised as a federation—on the day after the end of that period; or

- (c) if, on an application by the Minister or by a person the full bench considers is an interested person, a full bench decides the achievement of an object of this Act is being prevented by the industrial conduct of the federation or any of its constituent organisations—on the day the decision is made.

## **52 Change in particulars, rules or agreement for federation**

- (1) This section applies to a federation if there is a change in—
  - (a) a particular mentioned in section 48(2)(b); or
  - (b) the federation’s rules; or
  - (c) the agreement about the federation’s functions and powers.
- (2) Within 28 days after the change, the federation is to file in the registry a statement including the details of the change.

## **Division 2 Community of interest declaration**

### **53 Community of interest declaration for amalgamation**

- (1) Existing organisations for a proposed amalgamation may jointly apply to the commission for a declaration under this section.
- (2) The application must—
  - (a) state the grounds on which it is made; and
  - (b) nominate 1 of the applicants as the person authorised to receive on the applicants’ behalf service of documents for the application, a proposed amalgamation and each proposed alternative amalgamation; and
  - (c) be signed by the president or secretary of each joint applicant; and
  - (d) be accompanied by a copy of each resolution for the proposed amalgamation under section 56(4), signed by

- 
- the president or secretary of the applicant whose management committee passed it; and
- (e) be filed in the registry before or with the ballot application for the proposed amalgamation.
- (3) Service of a document on the person nominated for subsection (2)(b) is taken to be service on each of the applicants.
  - (4) If the application is filed before the ballot application, the commission must promptly fix a time and place to hear submissions on the application.
  - (5) If, after a hearing under this section or section 79, the commission is satisfied there is a community of interest between the existing organisations about the existing organisations' industrial interests, it must make a declaration to that effect.
  - (6) There is a community of interest between existing organisations about the existing organisations' industrial interests if—
    - (a) a substantial number of members of 1 of the organisations are—
      - (i) eligible to become members of the other organisation or each of the other organisations; or
      - (ii) engaged in the same work or industry or in aspects of the same or similar work or industry as members (*other members*) of the other organisation or each of the other organisations; or
      - (iii) bound by the same industrial instruments as other members; or
      - (iv) for an employee organisation—employed in the same or similar work by employers engaged in the same industry as other members; or
    - (b) the commission is otherwise satisfied there is a community of interest.

## **54 End of declaration**

- (1) A community of interest declaration ends if—
  - (a) the application for the declaration was filed before a ballot application for the proposed amalgamation is filed; and
  - (b) a ballot application for the proposed amalgamation is not filed within 6 months after the declaration.
- (2) The commission may revoke a community of interest declaration if satisfied there is no longer a community of interest between the existing organisations about the existing organisations' industrial interests.

## **Division 3 Acting for constituent part**

### **55 Who may act for constituent part**

Anything that must or may be done under this part by a constituent part must or may be done by—

- (a) a management committee of the constituent part; or
- (b) if there is no management committee of the constituent part—the representative constituent member.

## **Division 4 Amalgamation and withdrawal schemes**

### **56 Management committee approval**

- (1) A scheme for a proposed amalgamation and any changes to the scheme must be approved by each existing organisation the scheme is about.
- (2) A scheme for a proposed withdrawal and any changes to the scheme must be approved by the constituent part seeking to withdraw.



- 
- (3) An approval under subsection (1) may be given only by the organisation's management committee.
  - (4) The management committee's approval must be by resolution.
  - (5) Despite an existing organisation's rules, the following are taken to have been made under its rules if approved by its management committee's resolution—
    - (a) a scheme;
    - (b) a scheme amendment;
    - (c) a proposed amendment of its rules in a scheme.

## **57 Amalgamation or withdrawal scheme**

- (1) The scheme for a proposed amalgamation must state the following—
  - (a) the general nature of the amalgamation, showing—
    - (i) the existing organisations; and
    - (ii) if an existing organisation is the proposed amalgamated organisation—that fact; and
    - (iii) if an association proposed to be registered as an organisation is the proposed amalgamated organisation—that fact and its name; and
    - (iv) the organisations that are proposed to be deregistered;
  - (b) that all members of the proposed deregistering organisations are to become, on amalgamation, without payment of an entrance fee, members of the amalgamated organisation;
  - (c) if it is proposed to change an existing organisation's name—particulars of the proposed change;
  - (d) if it is proposed to amend an existing organisation's eligibility and other rules—particulars of the proposed amendments;

[s 58]

---

- (e) if an association is proposed to be registered as an organisation—its eligibility and other rules;
  - (f) if it is proposed to change an existing organisation’s list of callings—particulars of the proposed change;
  - (g) the arrangements that will exist on amalgamation for the property of the proposed deregistering organisations;
  - (h) the arrangements that will exist on amalgamation for the liabilities of the proposed deregistering organisations.
- (2) The scheme for a proposed withdrawal must state the following—
- (a) the general nature of the withdrawal, showing—
    - (i) the amalgamated organisation; and
    - (ii) the name and rules of the proposed newly registered organisation;
  - (b) that all constituent members are to become on withdrawal, without payment of an entrance fee, members of the newly registered organisation.
- (3) Subsections (1) and (2) do not limit the matters stated in a scheme.

## **58 Alternative schemes for amalgamation**

- (1) A scheme for a proposed amalgamation of 3 or more existing organisations may have 1 or more alternative schemes for an alternative amalgamation of 2 or more of the existing organisations.
- (2) Each alternative scheme must be approved by each existing organisation the alternative amalgamation is about.
- (3) Each alternative scheme must show details of the differences between—
  - (a) the proposed amalgamation and each proposed alternative amalgamation; and

- (b) a proposed organisation's rules, and proposed amendments to the existing organisations' rules, under—
  - (i) the proposed amalgamation; and
  - (ii) each proposed alternative amalgamation.

## **59 Amending schemes**

- (1) The commission may, before a ballot for a proposed amalgamation starts, permit the existing organisations for the amalgamation to amend the amalgamation scheme.
- (2) The commission may, before a ballot for a proposed withdrawal starts, permit a constituent part to amend the withdrawal scheme.
- (3) The permission may—
  - (a) for a permission to amend a proposed amalgamated organisation's rules—allow the amendment to be made by resolutions of the existing organisations' management committees—
    - (i) as far as the amendment affects the proposed amalgamated organisation or its rules; and
    - (ii) despite the proposed amalgamated organisation's rules; and
  - (b) for a permission to amend an existing organisation's rules—despite the rules, allow the existing organisation by a resolution of its management committee to amend the rules, other than a proposed amalgamated organisation's rules; and
  - (c) for a permission to amend the rules of a proposed newly registered organisation—allow the amendment to be made by the constituent part—
    - (i) as far as the amendment affects the proposed newly registered organisation or its rules; and

- (ii) despite the proposed newly registered organisation's rules; and
  - (d) provide for procedures that, despite an organisation's rules, may or must be followed by a management committee or a constituent part; and
  - (e) be given on conditions stated by the commission.
- (4) If the commission gives the permission on conditions and the conditions are contravened, the commission may—
  - (a) amend the scheme; or
  - (b) give directions or make orders about—
    - (i) holding the ballot; or
    - (ii) procedures for the amalgamation or withdrawal.
- (5) Subsection (4) does not limit the commission's other powers.
- (6) If a scheme is amended, whether under this section or otherwise, the scheme outline must be amended to reflect the amendment.

## **60 Scheme outlines**

- (1) A scheme outline must be no more than 3,000 words, unless the commission approves otherwise.
- (2) The outline may, if the commission approves, include things other than words, including, for example, diagrams, illustrations and photographs.
- (3) The commission may, before an amalgamation ballot begins, allow the existing organisations seeking amalgamation to amend the outline.
- (4) The commission may, before a withdrawal ballot begins, allow the constituent part seeking withdrawal to amend the outline.
- (5) The commission may amend the outline to—
  - (a) correct factual errors; or
  - (b) ensure it complies with the Act.

---

## **Division 5                      Applications about ballots**

### **61            Application to submit proposed amalgamation to a ballot**

- (1) An application may be made to the commission for an amalgamation ballot.
- (2) The application must be made jointly by the existing organisations and any association proposed to be registered as an organisation under the amalgamation.
- (3) The application must—
  - (a) be accompanied by—
    - (i) a copy of the scheme for the proposed amalgamation; and
    - (ii) a written scheme outline; and
  - (b) nominate 1 of the applicants as the person authorised to receive on the applicants' behalf service of documents for the application, proposed amalgamation and each proposed alternative amalgamation; and
  - (c) be signed by the president or secretary of each joint applicant; and
  - (d) be accompanied by a copy of each resolution for the proposed amalgamation under section 56, signed by the president or secretary of the existing organisation whose management committee passed it; and
  - (e) be accompanied by an affidavit by a member of each existing organisation's management committee stating subsection (5)(b) has been complied with.
- (4) Service of a document on the applicant nominated under subsection (3)(b) is taken to be service on each of the applicants.
- (5) An application may be made only if each existing organisation's management committee has—
  - (a) resolved to make the application; and

- (b) notified each member of the making of the resolution by—
  - (i) giving the member a copy of the resolution; or
  - (ii) including the resolution in a publication the organisation gives its members free of charge.

## **62 Application to submit proposed withdrawal to a ballot**

- (1) An application may be made to the commission for a withdrawal ballot.
- (2) However, an application may not be made if—
  - (a) it is more than 2 years after the amalgamation happened; or
  - (b) in the year immediately before it is intended to make the application, the commission rejected an application for a withdrawal ballot to be held for the constituent part of the organisation seeking withdrawal; or
  - (c) an application for a withdrawal ballot has previously been made and granted and the subsequent ballot did not approve the withdrawal.
- (3) The application may be made by—
  - (a) the lesser of—
    - (i) the number equal to 5% of the constituent members on the day the application is filed; or
    - (ii) 2,000 constituent members; or
  - (b) the management committee of a constituent part.
- (4) An application may be made only if the constituent part has given the constituent members notice of the making of the application.
- (5) The notice must be given—
  - (a) personally; or
  - (b) by post, addressed to the constituent member's residential address; or

- 
- (c) in a publication the amalgamated organisation or constituent part gives the constituent members free of charge.
  - (6) The application must state a person (the *representative constituent member*) to be the applicant's representative for the ballot—
    - (a) to receive documents on the applicant's behalf; and
    - (b) for other purposes under this part.
  - (7) The application must be accompanied by an affidavit by the representative constituent member stating subsection (4) has been complied with.

### **63 Amalgamation ballot exemption—number of members**

- (1) A proposed amalgamated organisation may apply to the commission for an exemption (a *ballot exemption*) from the requirement to hold a ballot for the amalgamation.
- (2) The application may be made only on the ground that the number of persons that could become members of the proposed amalgamated organisation is not more than 25% of the number of members of the applicant when the applicant's management committee resolved to make the application.
- (3) The application must—
  - (a) be filed in the registry together with the ballot application for the amalgamation; and
  - (b) state the ground on which it is made; and
  - (c) be signed by the president or secretary of the applicant; and
  - (d) be accompanied by an affidavit by a member of the applicant's management committee stating—
    - (i) the number of persons who could become members of the proposed amalgamated organisation is not more than 25% of the number

of members of the applicant when the management committee resolved to make the application; and

- (ii) subsection (4)(b) has been complied with.
- (4) An application may be made only if the applicant's management committee has—
- (a) resolved to make the application; and
  - (b) notified the organisation's members of the making of the resolution by—
    - (i) giving each member a copy of the resolution; or
    - (ii) including it in a publication the organisation gives its members free of charge.

#### **64 Amalgamation ballot exemption—recognising federal ballot**

- (1) This section applies if—
- (a) an organisation's counterpart federal body has amalgamated with another organisation's counterpart federal body under the Commonwealth Registered Organisations Act; and
  - (b) the organisations propose to amalgamate under the Act.
- (2) The organisations may apply to the commission for an exemption from holding an amalgamation ballot.
- (3) The application must—
- (a) be filed in the registry with the ballot application for the amalgamation; and
  - (b) state the grounds on which it is made; and
  - (c) be signed by the president or secretary of each organisation; and
  - (d) be accompanied by an affidavit by a member of each applicant's management committee stating subsection (4)(b) and (c) has been complied with.



- 
- (4) An application may be made only if the management committee of each organisation has—
- (a) resolved to make the application; and
  - (b) notified each member of the making of the resolution by—
    - (i) giving the member a copy of the resolution; or
    - (ii) including the resolution in a publication the organisation gives its members free of charge; and
  - (c) notified each member of the member's right to object to the application under section 74 in 1 of the following ways—
    - (i) personally;
    - (ii) by post, addressed to the member's residential address;
    - (iii) by including notice of the right in a publication the organisation gives its members free of charge.

## **65 Withdrawal ballot exemption—recognising federal ballot**

- (1) This section applies if—
- (a) a ballot has been held under the Commonwealth Registered Organisations Act to decide whether a constituent part of an amalgamated organisation under that Act should withdraw from the organisation; and
  - (b) the constituent part has been registered as an organisation under the Commonwealth Registered Organisations Act, section 110.
- (2) The constituent part may apply to the commission for an exemption from holding a withdrawal ballot.
- (3) The application must—
- (a) be filed in the registry with the ballot application for the withdrawal; and
  - (b) state the grounds on which it is made; and

- (c) state a person (the *representative constituent member*) to be the applicant's representative for the ballot—
    - (i) to receive documents on the applicant's behalf; and
    - (ii) for other purposes under this part; and
  - (d) be signed by the representative constituent member; and
  - (e) be accompanied by an affidavit by the representative constituent member stating subsection (4) has been complied with.
- (4) An application may be made only if the constituent part has given each constituent member notice of the making of the application and of the member's right to object to the application under section 75 in 1 of the following ways—
- (a) personally;
  - (b) by post, addressed to the constituent member's residential address;
  - (c) by including it in a publication the amalgamated organisation or constituent part gives the constituent members free of charge.

## **66 Application for alternative ballot**

- (1) An existing organisation may apply to the commission for approval for an amalgamation ballot that is not a postal ballot (an *alternative ballot*).
- (2) A constituent part may apply to the commission for approval for a withdrawal ballot that is not a postal ballot (also an *alternative ballot*).
- (3) The application must—
  - (a) be filed in the registry with the ballot application for the amalgamation or withdrawal; and
  - (b) state, or be accompanied by, the proposal for the alternative ballot; and
  - (c) for an amalgamation ballot—

- (i) be signed by the applicant's president or secretary; and
  - (ii) be accompanied by an affidavit by a member of the applicant's management committee stating subsection (4) has been complied with; and
- (d) for a withdrawal ballot—
  - (i) be signed by the applicant's representative constituent member; and
  - (ii) be accompanied by an affidavit by the applicant's representative constituent member stating subsection (5) has been complied with.
- (4) An application for an amalgamation ballot may be made only if the applicant's management committee has—
  - (a) resolved to make the application; and
  - (b) notified each member of the making of the resolution by—
    - (i) giving the member a copy of the resolution; or
    - (ii) including it in a publication the organisation gives its members free of charge.
- (5) An application for a withdrawal ballot may be made only if the constituent part has given each member notice of the making of the application in 1 of the following ways—
  - (a) personally;
  - (b) by post, addressed to the member's residential address;
  - (c) by including it in a publication the amalgamated organisation or constituent part gives the constituent members free of charge.
- (6) The alternative ballot must provide—
  - (a) that the ballot is to be—
    - (i) a secret ballot of the existing organisation's members or constituent members who have a right to vote in the ballot; and

- (ii) held at meetings of the members; and
  - (iii) carried out by the electoral commission; and
  - (iv) otherwise held under the Act; and
- (b) that members are to be given at least 21 days notice of—
- (i) the meetings; and
  - (ii) the things to be considered at the meetings; and
  - (iii) each member's entitlement to an absentee vote; and
- (c) for the posting of the scheme outline and the 'yes' case or 'no' case under section 99; and
- (d) for absentee voting.

## **67 Withdrawing from application**

- (1) A party to an application under section 53(1) or 61(1) may file a notice of the withdrawal of the application in the registry.
- (2) If a notice is filed under subsection (1), the registrar must take the steps the registrar considers necessary to ensure the notice is brought to the attention of the organisations, associations and persons likely to be affected by the withdrawal.
- (3) The parties to an application under section 53(1) or 61(1) may jointly file a notice of withdrawal of the application in the registry.
- (4) An applicant under section 62(1), 63(1), 64(2), 65(2) or 66 may file a notice of withdrawal of the application in the registry.
- (5) A party or applicant filing a notice of withdrawal must file with the notice a statement that the party's or applicant's management committee has passed a resolution approving the withdrawal of the application.
- (6) However, if an applicant has no management committee, the applicant must file with the notice a statement that the applicant has passed a resolution approving the withdrawal of the application.

- 
- (7) The statement must be signed by an authorised officer of the party or applicant or the representative constituent member.

## **Division 6                    ‘Yes’ or ‘no’ case**

### **68        Filing ‘yes’ case**

- (1) An existing organisation for a proposed amalgamation may file in the registry a written statement (a *‘yes’ case*) supporting either or both of the following—
- (a) the proposed principal amalgamation;
  - (b) each proposed alternative amalgamation.
- (2) A constituent part that wants to withdraw from an amalgamated organisation may file a written statement (also a *‘yes’ case*) supporting the withdrawal.
- (3) A ‘yes’ case must be no more than 2,000 words.
- (4) A ‘yes’ case must be filed with the ballot application for the proposed amalgamation or withdrawal.

### **69        Filing ‘no’ case**

- (1) The number of members mentioned in subsection (2) of an existing organisation for a proposed amalgamation may file in the registry a written statement (a *‘no’ case*) opposing either or both of the following—
- (a) the proposed amalgamation;
  - (b) each proposed alternative amalgamation.
- (2) The number of members filing a ‘no’ case for an amalgamation must be at least the lesser of—
- (a) 5% of the organisation’s total members when the ballot application for the proposed amalgamation was filed; or
  - (b) 1,000.

[s 70]

---

- (3) The number of members mentioned in subsection (4) of an amalgamated organisation from which a constituent part wants to withdraw may file in the registry a written statement (also a *'no' case*) opposing the proposed withdrawal.
- (4) The number of members filing a 'no' case for a withdrawal must be at least the lesser of—
  - (a) 5% of the constituent members when the ballot application for the proposed withdrawal was filed; or
  - (b) 1,000.
- (5) A 'no' case must be—
  - (a) filed no later than 7 days before the hearing for the proposed amalgamation or withdrawal; and
  - (b) no more than 2,000 words.

## **70 Commission statements**

- (1) If 2 or more 'no' cases are filed, the commission may prepare a written statement opposing the amalgamation—
  - (a) based on the 'no' cases; and
  - (b) as far as practicable, fairly presenting the substance of the arguments in the 'no' cases; and
  - (c) if practicable, in consultation with representatives of the persons who filed the 'no' cases.
- (2) The statement must be no more than 2,000 words.
- (3) The statement is taken to be the only 'no' case for the amalgamation.

## **71 'Yes' or 'no' cases may include things other than words**

If the commission approves, a 'yes' case or a 'no' case may include things other than words, including, for example, diagrams, illustrations and photographs.

---

## **72 Amending ‘yes’ or ‘no’ cases**

The commission may—

- (a) allow the person who filed a ‘yes’ case or a ‘no’ case to amend it; and
- (b) amend a filed ‘yes’ case or a ‘no’ case to—
  - (i) correct factual errors; or
  - (ii) ensure it complies with the Act.

## **Division 7                      Objections**

### **73 Objections about amalgamations**

- (1) The following persons may object to an application under section 61—
  - (a) a member of an existing organisation the amalgamation is about;
  - (b) an interested person for a decision about the proposed amalgamation.
- (2) The objection must be on the ground that the proposed amalgamated organisation does not meet or, if the amalgamation takes effect, will not meet the requirements for registration under sections 603 to 605 of the Act.

### **74 Objection to amalgamation ballot exemption—recognising federal ballot**

A member of an organisation that has applied for an exemption from holding a ballot for a proposed amalgamation under section 64 may object to the application on the ground that the exemption would detrimentally affect the member’s interests.

**75      Objection to withdrawal ballot exemption—recognising federal ballot**

A constituent member of a constituent part that has applied for an exemption from holding a withdrawal ballot under section 65 may object to the application on the ground that the exemption would detrimentally affect the member's interests.

**76      Notice of objection**

- (1) A notice of objection under section 73 must be filed—
  - (a) by the day fixed by the commission; or
  - (b) if the commission substitutes a later day for the fixed day—by the substituted day; or
  - (c) if no day is fixed—within 28 days after a notice under section 81 for the proposed amalgamation is first published.
- (2) A notice of objection under section 74 or 75 must be filed within 28 days after a notice of the application is given under section 78.
- (3) The notice must state—
  - (a) the objector's name and address; and
  - (b) the grounds of the objection; and
  - (c) particulars of the grounds.
- (4) A notice of objection from an organisation must—
  - (a) be under the organisation's seal; or
  - (b) be signed by the organisation's authorised officer.
- (5) The person who files the notice must serve a copy of it on each applicant within 7 days after the filing.



---

## **77 Answering objection**

- (1) If a copy of a notice of objection has been served under section 76(5), the applicant may file a statement answering the notice.
- (2) The statement must—
  - (a) be signed by an authorised officer of each applicant; and
  - (b) state the facts relied on in answer to the objection; and
  - (c) be filed in the registry within 14 days after the notice of objection is served on the applicants.
- (3) The applicant must serve a copy of the statement on the objector stated in the notice of objection within 7 days after filing it.

## **Division 8 Hearing**

### **78 Notice of application**

- (1) This section applies if an application for a proposed amalgamation is filed under section 61 or an application for a proposed withdrawal is filed under section 62.
- (2) For a proposed amalgamation, the commission must promptly give notice of the following matters to all members of the existing organisations the amalgamation is about—
  - (a) the application;
  - (b) an application for a community of interest declaration under section 53;
  - (c) an application for a ballot exemption;
  - (d) an application for an alternative ballot;
  - (e) for an application mentioned in any of paragraphs (a) to (d)—a right to object to the application under this part.
- (3) A notice under subsection (2) must be—

- (a) given in a newspaper circulating throughout the State;  
and
  - (b) published on the QIRC website.
- (4) For a proposed withdrawal, the commission must promptly give notice of the following matters to all constituent members—
- (a) the application;
  - (b) an application for a ballot exemption;
  - (c) an application for an alternative ballot;
  - (d) for an application mentioned in any of paragraphs (a) to (c)—a right to object to the application under this part.
- (5) A notice under subsection (4) must be—
- (a) given in a newspaper circulating throughout the State;  
and
  - (b) published on the QIRC website.

## **79 Amalgamation or withdrawal hearing**

- (1) When the time for filing a statement answering a notice of objection under section 76(2) for a proposed amalgamation or withdrawal has ended, the commission must promptly fix a time and place for a hearing to hear submissions about—
- (a) the application; and
  - (b) if an application for a community of interest declaration under section 53 was filed with the application—making a declaration for the amalgamation; and
  - (c) if a ballot exemption was applied for—giving the exemption; and
  - (d) if approval for an alternative ballot was applied for—giving the approval.
- (2) The commission—
- (a) must promptly give notice of the time and place for the hearing to—

- (i) the applicant; and
  - (ii) all organisations; and
  - (iii) a person who has filed an objection to an application to be heard at the hearing; and
- (b) may notify other persons it considers may be interested in the hearing.

*Example for paragraph (b)—*

notifying the electoral commission

## **80 Amalgamation ballot approval if no objections or objections withdrawn**

- (1) At a hearing for a proposed amalgamation, if there are no objections to be heard under section 82, the commission must allow the application and approve the submission of the amalgamation to ballot if it considers the application meets the following conditions (the *ballot conditions*)—
- (a) the application complies with section 61;
  - (b) the amalgamation involves registering a proposed organisation;
  - (c) a person ineligible for membership of an existing organisation for the amalgamation will not be eligible for membership of the amalgamated organisation;
  - (d) if the name of the proposed amalgamated organisation is the same as another organisation's name or so similar to another organisation's name as to be likely to cause confusion—the other organisation has consented in writing to the name;
  - (e) the proposed amalgamated organisation's rules and any proposed amendment of an existing organisation's rules do not contravene the Act or an industrial instrument;
  - (f) a proposed deregistration of an existing organisation complies with the Act.

- (2) If the commission considers the application does not meet the ballot conditions, it may allow the application only if satisfied the ballot conditions will be met by—
  - (a) permitting the applicant to amend the amalgamation scheme; or
  - (b) accepting the applicant's undertaking to amend the amalgamation scheme.
- (3) If the commission is not satisfied under subsection (1) or (2) it must—
  - (a) refuse the application; or
  - (b) adjourn the proceeding.
- (4) A permission under subsection (2)(a) may—
  - (a) despite an existing organisation's rules, allow the organisation to amend the scheme, including proposed alterations to the organisation's rules; and
  - (b) provide for the procedure that, despite the rules, may or must be followed by the management committee for the application; and
  - (c) be given on conditions stated by the commission.
- (5) If an undertaking under subsection (2)(b) or conditions under subsection (4)(c) are contravened, the commission may—
  - (a) amend the scheme; or
  - (b) give orders or directions about—
    - (i) holding the ballot; or
    - (ii) the procedure for the amalgamation.
- (6) Subsections (3) and (5) do not limit the commission's other powers.

## **81 Notifying refusal of ballot application**

- (1) This section applies if the commission refuses to approve a ballot application because the ballot condition in

section 80(1)(c) is not met and the commission is not satisfied as stated in section 80(2).

- (2) The registrar must publish a notice of the refusal in a newspaper in a way that, in the registrar's opinion, is likely to come to the attention of persons who would likely have been affected by the proposed amalgamation to which the application relates.
- (3) The notice must state—
  - (a) the ground stated in section 73 for an objection; and
  - (b) the day under section 76(1) by which a notice of objection must have been filed.

## **82 Hearing objection**

- (1) When the time for filing a statement answering a notice of objection under section 76(1) has ended, the commission must promptly—
  - (a) fix a time and place to hear objections to the application; and
  - (b) give the applicant and any objector notice of the time and place of the hearing.
- (2) The commission may fix separate hearings for different objections.

## **83 Amalgamation ballot approval after hearing objections**

- (1) After the hearing of objections under section 82, the commission must allow the application and approve the submission of the amalgamation to ballot if it considers the application meets the following conditions (the *ballot conditions*)—
  - (a) the application complies with section 61;
  - (b) the amalgamation involves registering a proposed organisation;

- (c) a person ineligible for membership of an existing organisation for the amalgamation will not be eligible for membership of the amalgamated organisation;
  - (d) if the name of the proposed amalgamated organisation is the same as another organisation's name or so similar to another organisation's name as to be likely to cause confusion—the other organisation has consented in writing to the name;
  - (e) the proposed amalgamated organisation's rules and any proposed amendment of an existing organisation's rules do not contravene the Act or an industrial instrument;
  - (f) a proposed deregistration of an existing organisation complies with the Act.
- (2) If the commission considers the application does not meet the ballot conditions, it may allow the application only if satisfied the ballot conditions will be met by—
- (a) permitting the applicant to amend the amalgamation scheme; or
  - (b) accepting the applicant's undertaking to amend the amalgamation scheme.
- (3) If the commission considers an application does not meet the ballot conditions and is not satisfied the ballot conditions will be met by the things mentioned in subsection (2), the commission must allow the application only if satisfied—
- (a) no properly made objection is justified; and
  - (b) the amalgamation does not contravene the Act or an industrial instrument.
- (4) If the commission is not satisfied under subsection (1), (2) or (3) it must—
- (a) refuse the application; or
  - (b) adjourn the proceeding.
- (5) A permission under subsection (2)(a) may—

- 
- (a) despite an existing organisation's rules, allow the organisation to amend the scheme, including proposed alterations to the organisation's rules; and
  - (b) provide for the procedure that, despite the rules, may or must be followed by the management committee for the application; and
  - (c) be given on conditions stated by the commission.
- (6) If an undertaking under subsection (2)(b) or conditions under subsection (5)(c) are contravened, the commission may—
- (a) amend the scheme; or
  - (b) give orders or directions about—
    - (i) holding the ballot; or
    - (ii) the procedure for the amalgamation.
- (7) Subsections (4) and (6) do not limit the commission's other powers.

## **84 Withdrawal ballot approval**

- (1) At the hearing for a proposed withdrawal, the commission must allow the application and approve the submission of the withdrawal to ballot if it considers the application meets the following conditions—
- (a) the application for the ballot is made as required by section 62;
  - (b) if the name of the proposed newly registered organisation is the same as another organisation's name or so similar to another organisation's name as to be likely to cause confusion—the other organisation has consented in writing to the name;
  - (c) the proposed newly registered organisation's rules do not contravene the Act or an industrial instrument.
- (2) If the commission orders that a ballot be held, it may make the orders it considers appropriate for the conduct of the ballot.

## **85 Ballot exemption—number of members**

- (1) This section applies at a hearing for a proposed amalgamation if a ballot exemption application under section 63 was filed with the ballot application for the amalgamation.
- (2) If the number of persons that could become members of the proposed amalgamated organisation is not more than 25% of the number of members of the applicant when the applicant's management committee resolved to make the application, the commission must allow the ballot exemption, unless it considers the exemption should be refused because of special circumstances.
- (3) If the commission gives the exemption, the organisation's members are taken to have approved—
  - (a) the proposed amalgamation; and
  - (b) each proposed alternative amalgamation.

## **86 Amalgamation ballot exemption—recognising federal ballot**

- (1) If an application for an exemption from holding an amalgamation ballot has been made under section 64, the commission may give the exemption only if satisfied—
  - (a) the percentage of Queensland voters in the federal ballot approving the amalgamation was the same as, or more than, the percentage that would have been required to approve the amalgamation under section 116 had the Queensland voters been voting in a ballot for an amalgamation to which section 116 applied; and
  - (b) if the organisations' and the counterpart federal bodies' eligibility rules differ—the interests of the organisations' members who were ineligible to vote in the federal ballot have not been detrimentally affected; and
  - (c) any objections on the ground mentioned in section 73 have been resolved; and



- 
- (d) all likely legal challenges, including inquiries under the Commonwealth Registered Organisations Act, in the federal jurisdiction have ended.
  - (2) If the commission is satisfied of the things mentioned in subsection (1), the commission must give the exemption, unless it considers the exemption should be refused because of special circumstances.
  - (3) If the commission gives the exemption, the organisation's members are taken to have approved—
    - (a) the proposed amalgamation; and
    - (b) each proposed alternative amalgamation.
  - (4) In this section—

*federal ballot* means a ballot that has been held under the Commonwealth Registered Organisations Act to approve a proposed amalgamation.

## **87 Withdrawal ballot exemption—recognising federal ballot**

- (1) If an application for an exemption from holding a ballot for a proposed withdrawal is made under section 65, the commission may give the exemption only if satisfied—
  - (a) the percentage of Queensland voters in the federal ballot approving the withdrawal from amalgamation was the same as, or more than, the percentage that would have been required to approve the withdrawal under section 116 had the Queensland voters been voting in a ballot for a withdrawal to which section 116 applied; and
  - (b) if the proposed newly registered organisation's eligibility rules are different from those of the organisation registered under the Commonwealth Registered Organisations Act, section 110—the interests of the constituent members who were ineligible to vote in the federal ballot have not been detrimentally affected; and

- (c) objections about the possible changes of eligibility rules have been resolved; and
  - (d) all likely legal challenges, including inquiries under the Commonwealth Registered Organisations Act, in the federal jurisdiction have ended.
- (2) If the commission is satisfied of the things mentioned in subsection (1), the commission must give the exemption, unless it considers the exemption should be refused because of special circumstances.
- (3) If the commission gives an exemption, the constituent members are taken to have approved the withdrawal.
- (4) In this section—

*federal ballot* means a ballot that has been held under the Commonwealth Registered Organisations Act to decide whether a constituent part of an amalgamated organisation under that Act should withdraw from the organisation.

## **88 Alternative ballot approval**

- (1) This section applies to a hearing for a proposed amalgamation or withdrawal if an application for an alternative ballot has been made under section 66.
- (2) After consulting with the manager of the ballot, the commission must approve the alternative ballot if satisfied the proposal—
- (a) is practicable; and
  - (b) complies with section 66(3); and
  - (c) is likely to give members of the existing organisation, or constituent members, with a right to vote—
    - (i) fuller participation than a ballot under section 95; and
    - (ii) an adequate opportunity to vote on the amalgamation without intimidation.

---

## 89 Notice to manager of ballot

- (1) If the commission approves a ballot for a proposed amalgamation or withdrawal, the registrar must promptly—
  - (a) notify the manager of the ballot; and
  - (b) give the manager a copy of the ballot documents.
- (2) After the manager is notified, the manager must promptly take the action the manager considers necessary to hold the ballot as quickly as possible.
- (3) In this section—

*ballot documents* means—

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

## 90 Fixing ballot period

- (1) If the commission approves the submission of a proposed amalgamation or withdrawal to a ballot, the commission must—
  - (a) consult with the manager of the ballot about the matters mentioned in paragraphs (b) and (c); and
  - (b) fix days and times for the ballot to start and finish; and
  - (c) fix the roll cut-off day under section 107.
- (2) The ballot must start within 28 days of the approval, unless—
  - (a) the commission is satisfied the manager of the ballot needs more time to arrange the ballot; or
  - (b) the applicant for the amalgamation or withdrawal ballot requests a later day.
- (3) If a scheme for a proposed amalgamation has 1 or more proposed alternative schemes, all ballots for the proposed

[s 91]

---

amalgamation and proposed alternative amalgamations must have the same start and finish days.

- (4) The commission may, after consulting with the manager of the ballot, change the start or finish day.

## **Division 9                      Ballots**

### **91            Electoral commission to conduct ballot**

A ballot for a proposed amalgamation or withdrawal must be conducted by the electoral commission.

### **92            Providing information and documents to electoral officers**

- (1) This section applies if—
  - (a) the registrar has notified the electoral commission of an application for a ballot for a proposed amalgamation or withdrawal; and
  - (b) the electoral commission has, by written notice, appointed an electoral officer as manager of the ballot; and
  - (c) the manager considers the following are reasonably necessary for a ballot that is or may be required because of the application—
    - (i) information within the knowledge of an officer of an existing organisation, amalgamated organisation or constituent part;
    - (ii) documents in the officer's custody or control or to which the officer has access.
- (2) The manager may, by written notice, require the officer to—
  - (a) give the manager information within the officer's knowledge; and
  - (b) produce the following to the manager—

- 
- (i) documents in the officer's custody or control; or
  - (ii) documents to which the officer has access.
- (3) The notice must state—
- (a) if it requires the officer to give information—
    - (i) the information required; and
    - (ii) a period, of at least 7 days, in which the information is to be given; and
    - (iii) a reasonable way of giving it; and
  - (b) if it requires the officer to produce documents—
    - (i) the documents required; and
    - (ii) a reasonable period, of at least 7 days, in which the documents are to be produced; and
    - (iii) a reasonable place at which the documents are to be produced.
- (4) The officer must not contravene the notice, unless the officer has a reasonable excuse.
- Maximum penalty—20 penalty units.
- (5) It is a reasonable excuse for the officer not to comply with the notice if doing so might tend to incriminate the officer.
- (6) In this section—
- officer*, of an organisation, includes an employee of the organisation.

## 93 Action and directions by manager of ballot

A manager of a ballot for a proposed amalgamation or proposed withdrawal may take the action and give the directions the manager reasonably considers necessary to ensure no unlawful disclosure or irregularity happens in the ballot.

**94 Manager of ballot must give copy of scheme or outline if asked**

- (1) This section applies if—
  - (a) a manager of a ballot for a proposed amalgamation or proposed withdrawal has received a copy of—
    - (i) the ballot application for the ballot; or
    - (ii) a scheme or scheme outline for a ballot application; and
  - (b) a voter asks for a copy of the ballot application, scheme or scheme outline.
- (2) The manager must promptly give the voter a copy, free of charge.

**95 Members' secret postal ballot**

- (1) This section applies to each existing organisation concerned in a proposed amalgamation, and to a constituent part concerned in a proposed withdrawal, if—
  - (a) the commission has approved a ballot for the amalgamation or withdrawal; and
  - (b) the commission—
    - (i) has not approved an alternative ballot for the amalgamation or withdrawal; or
    - (ii) for a proposed amalgamation—has not given the organisation a ballot exemption under section 85 or 86; or
    - (iii) for a proposed withdrawal—has not given the constituent part a ballot exemption under section 87.
- (2) The manager of the ballot must carry out secret postal ballots of the members who have a right to vote in the ballot on the amalgamation or withdrawal about—
  - (a) whether the members approve the proposed amalgamation or withdrawal; and

- (b) if the scheme for the amalgamation has an alternative scheme—if the proposed amalgamation does not take place, whether the members approve the alternative amalgamation.
- (3) If there is an alternative scheme for an amalgamation, the same ballot paper must be used for voting on the proposed amalgamation and proposed alternative amalgamation.

## **96 Form of ballot paper**

A ballot paper must be in the form provided for in the rules made under section 551 of the Act.

## **97 Notice of ballot**

- (1) The manager of a ballot for a proposed amalgamation or withdrawal must, before the ballot starts, give each person with a right to vote in the ballot notice of the start and finish days and times of the ballot.
- (2) If the commission has approved an alternative ballot under section 88(2), the manager of the ballot must—
  - (a) fix the place for the ballot; and
  - (b) give at least 21 days notice to each voter of—
    - (i) the place, day and times; and
    - (ii) the procedure to get and cast an absentee vote.
- (3) The manager of the ballot may give a notice under this section by—
  - (a) post addressed to the voter's residential address; or
  - (b) including it in a publication the organisation or constituent part gives the organisation's members with a right to vote in the ballot free of charge; or
  - (c) another way the manager considers will reasonably bring the notice to each member's attention.

## **98 Postal ballots—distributing voting material**

- (1) A manager of a secret postal ballot must post the following material for the ballot (the *voting material*) to each voter—
  - (a) a ballot paper initialled by the manager;
  - (b) a copy of the scheme outline and any amendments to it;
  - (c) a copy of each ‘yes’ case and any amendments to it;
  - (d) a copy of each ‘no’ case and any amendments to it;
  - (e) an unsealed reply paid envelope (a *return envelope*) addressed to the manager;
  - (f) a ballot envelope and voting declaration;
  - (g) other material the manager considers appropriate for the ballot, including, for example, directions or notes to help the voter to comply with the Act and cast a valid vote;
  - (h) a statement telling the voter how and where the voter may obtain a copy of the latest version of the scheme.
- (2) The voting declaration must state ‘I certify I am the person whose name appears on this envelope and I have voted on the ballot paper enclosed.’.
- (3) The voting material must be posted to a voter—
  - (a) in a sealed envelope addressed to the voter’s address on the roll for the ballot; and
  - (b) as soon as practicable, but not earlier than 2 days before the start day of the ballot.
- (4) If a voter gives the manager notice that the voter will be at an address other than the address stated on the roll when voting material is to be given, the manager must post the material to the address stated in the notice.
- (5) Before posting voting material to a voter, the manager must mark a ballot number for each voter on—
  - (a) the roll against the voter’s name; and
  - (b) the voting declaration.



- (6) The manager must give each voter a different ballot number.
- (7) The ballot numbers must start with a number chosen by the manager.
- (8) A ballot paper or ballot envelope must not be marked in a way that could identify the voter.

## **99 Material for alternative ballots**

- (1) The manager of an alternative ballot must post to each voter at the voter's address on the roll—
  - (a) a copy of the latest version of—
    - (i) the scheme outline for the proposed amalgamation or withdrawal and any amendments to it; and
    - (ii) each 'yes' case for the proposed amalgamation or withdrawal and any amendments to it; and
    - (iii) each 'no' case for the proposed amalgamation or withdrawal and any amendments to it; and
  - (b) a statement telling the voter how and where the voter may obtain a copy of the latest version of the scheme.
- (2) The documents must be posted in enough time for them to be delivered, in the ordinary course of post, at least 7 days before the start day of the ballot.

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

- (1) The manager of an alternative ballot must give a ballot paper initialled by the manager to each voter at the meeting at which the ballot is to be held.
- (2) However, if a voter tells the manager the voter will be absent from the meeting, the manager must give the voter each of the following as soon as practicable before the meeting starts—
  - (a) a ballot paper;
  - (b) a ballot envelope;
  - (c) a return envelope;

- (d) a voting declaration.

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

- (1) This section applies if a ballot document for a proposed amalgamation or withdrawal posted to a voter—
  - (a) has not been received by the voter; or
  - (b) has been lost or destroyed; or
  - (c) is a ballot paper that has been spoilt.
- (2) The voter may apply to the manager of the ballot for a duplicate of the ballot document.
- (3) The application must—
  - (a) be received by the manager on or before the finish day of the ballot; and
  - (b) state the grounds for the application; and
  - (c) if practicable, be substantiated by evidence verifying or tending to verify the grounds; and
  - (d) state the voter has not voted at the ballot; and
  - (e) if the ballot document is a spoilt ballot paper—be accompanied by the ballot paper.
- (4) If the application complies with subsection (3), the manager must—
  - (a) give a duplicate of the document to the voter; or
  - (b) for a spoilt ballot paper—
    - (i) mark ‘spoilt’ on the paper; and
    - (ii) initial the paper where marked and keep the paper; and
    - (iii) give a fresh ballot paper to the voter.
- (5) In this section—

***ballot document*** means—

  - (a) a document mentioned in section 100(2); or

- (b) voting material given to a voter under section 98.

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

- (1) If a voter at an alternative ballot satisfies the manager of the ballot, before putting the ballot paper in the ballot box, that the voter has spoiled the paper, the manager must—
- (a) mark ‘spoilt’ on the paper; and
  - (b) initial the paper where marked and keep the paper; and
  - (c) give a fresh ballot paper to the voter.
- (2) If a voter at an alternative ballot satisfies the manager of the ballot, before the ballot finishes, that the voter’s ballot paper has been lost, stolen or destroyed, the manager must give the voter a duplicate ballot paper.

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

The manager must have a ballot box and—

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

## **104 How to vote by post**

- (1) This section applies if—
- (a) a ballot is a secret postal ballot; or
  - (b) a voter is given voting material under section 100(2) to cast an absentee vote in an alternative ballot.
- (2) The voter may vote only by completing the following steps—
- (a) completing a ballot paper by complying with the instructions on the paper;

[s 105]

---

- (b) putting the ballot paper in the ballot envelope;
- (c) sealing the ballot envelope;
- (d) filling in and signing the voting declaration;
- (e) putting the voting declaration and the ballot envelope in the return envelope;
- (f) sealing the return envelope;
- (g) complying with a direction given under section 98(1)(g);
- (h) returning the return envelope to the manager of the ballot before the ballot finishes by—
  - (i) posting it so the manager receives it before the ballot finishes; or
  - (ii) putting it in the ballot box before the ballot finishes.

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

- (1) This section applies to a vote at a meeting for an alternative ballot.
- (2) The voter must vote by—
  - (a) completing a ballot paper; and
  - (b) complying with the instructions on the paper about how to vote and putting it in the ballot box.

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

- (1) A manager of a ballot for a proposed amalgamation or withdrawal must—
  - (a) put each return envelope apparently containing a ballot paper in the ballot box; and
  - (b) put all other voting material returned to the manager in a safe place until the vote has been counted.

Maximum penalty—20 penalty units.

- 
- (2) If, after the finish day of the ballot for a proposed amalgamation or withdrawal, the manager receives a return envelope apparently containing a ballot paper for the ballot, the manager must—
- (a) keep the envelope sealed; and
  - (b) mark the envelope ‘Received after the finish day’; and
  - (c) keep the envelope in safe custody, but separately from voting material received before the finish day.

## Division 10            Roll

### 107    Roll—who may vote

- (1) The roll of voters for a ballot for a proposed amalgamation or withdrawal is the roll of persons having the right to vote at the ballot on a day (the *roll cut-off day*) fixed by the commission.
- (2) The day fixed must be at least 30 days and not more than 60 days before the ballot starts.
- (3) A person has the right to vote at a ballot for a proposed amalgamation if the person may, under the rules of the organisation, vote—
  - (a) at the ballot; or
  - (b) in an election.
- (4) A person has the right to vote at a ballot for a proposed withdrawal if the person—
  - (a) is a member of the amalgamated organisation; and
  - (b) has the right to be a member of the proposed newly registered organisation under its proposed eligibility rules after the withdrawal day.
- (5) The roll must be prepared at the direction of the manager of the ballot.
- (6) The manager must ensure the roll—

[s 108]

---

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

Maximum penalty for subsection (6)—20 penalty units.

### **108 Roll—inspection**

- (1) A manager of a ballot for a proposed amalgamation or withdrawal must make the roll for the ballot available for inspection—
  - (a) in the period that—
    - (i) starts on the day after the roll must be completed under section 107(6)(b); and
    - (ii) ends 30 days after the ballot result is declared; and
  - (b) during ordinary business hours at the place the manager performs the manager's duties for the ballot.

Maximum penalty—20 penalty units.

- (2) The following persons may inspect the roll, free of charge, or take a copy of the roll or part of the roll—
  - (a) for an amalgamation ballot—a member of an existing organisation the ballot is about;
  - (b) for a withdrawal ballot—a member of the amalgamated organisation from which the constituent part is seeking to withdraw;
  - (c) for an amalgamation ballot or withdrawal ballot—a person authorised by the manager.

---

## **Division 11            Scrutineers**

### **109    Scrutineers**

- (1) An existing organisation's management committee may appoint a member of the organisation as a scrutineer for a ballot to represent the interests of members for a proposed amalgamation.
- (2) An amalgamated organisation's management committee may appoint a member of the organisation as a scrutineer for a ballot to represent the interests of members for a proposed withdrawal.
- (3) An appointment under subsection (1) or (2) must be written and be signed by a member of the management committee of the organisation on the committee's behalf.
- (4) A constituent part may appoint a constituent member as a scrutineer for a ballot to represent the interests of the part for a proposed withdrawal.
- (5) An appointment under subsection (4) must be written and be signed by the representative constituent member.
- (6) A committee or constituent part that appoints a scrutineer must notify the manager of the ballot of the scrutineer's name as soon as possible after the appointment.
- (7) If a 'no' case has been filed for an amalgamation, the manager must allow any member of an existing organisation to be a scrutineer to safeguard the interests of members of the organisation against the proposal, but only if the manager is satisfied the member represents the members who filed the 'no' case.
- (8) However, there may be only 1 scrutineer under this section for each committee or constituent part entitled to appoint a scrutineer under this section for each official who is present where the ballot is being conducted.
- (9) Also, there may be only 1 scrutineer under subsection (7) for each official who is present where the ballot is being conducted.

- (10) In this section—  
*official* see schedule 2, section 23.

## **110 Scrutineers' rights**

- (1) A scrutineer may be present when—
- (a) ballot papers or other voting material for a ballot are prepared and given to voters; or
  - (b) voting material is received and put in the ballot box or in a safe place under section 106(1); or
  - (c) votes are counted.
- (2) The manager of a ballot may refuse to allow a person to act as a scrutineer if—
- (a) the manager asks to inspect the person's written appointment as a scrutineer; and
  - (b) the person does not produce it.

## **111 Scrutineers' objections**

- (1) Before votes are counted for a ballot for a proposed amalgamation or withdrawal, a scrutineer may advise the manager of the ballot that the scrutineer considers an error has been made in conducting the ballot.
- (2) When votes for a ballot for a proposed amalgamation or withdrawal are being counted, a scrutineer may—
- (a) object to a ballot paper being admitted as formal or rejected as informal; or
  - (b) advise the manager of the ballot that the scrutineer considers an error has been made in conducting the ballot or counting votes.
- (3) If the scrutineer advises the manager of an error under subsection (1) or (2)(b), the manager must—
- (a) decide whether the error has been made; and



- (b) if appropriate, direct action to be taken to correct or mitigate the error.
- (4) If a scrutineer objects under subsection (2)(a), the manager must—
  - (a) decide whether the ballot paper is to be admitted or rejected; and
  - (b) note the decision on the ballot paper; and
  - (c) initial the note.

## **112 Direction to leave count**

- (1) A manager of a ballot for a proposed amalgamation or withdrawal may direct a person to leave the place where votes for the ballot are being counted if the manager reasonably believes the person—
  - (a) does not have the right to be present, or remain present, at the count; or
  - (b) is interrupting the count, other than to exercise a scrutineer's right.
- (2) A person must comply with a direction under subsection (1), unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

## **Division 12 Counting votes**

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

- (1) This section applies if a vote is cast under section 104.
- (2) As soon as possible after the ballot finishes, the manager of the ballot must—
  - (a) seal the ballot box in a way that prevents voting material from being put in it; and

- (b) take the ballot box to the place where votes are to be counted.
- (3) The manager must then—
  - (a) unseal the ballot box; and
  - (b) take out the return envelopes; and
  - (c) open each return envelope and take out the ballot envelope and the voting declaration; and
  - (d) examine the declaration and mark off the voter's name on the roll; and
  - (e) check the ballot number on the declaration against the ballot number marked against the voter's name on the roll; and
  - (f) ensure the declaration is signed.
- (4) After complying with subsection (3), the manager must put the ballot envelopes in a container and the declarations into another container if satisfied—
  - (a) each declaration is signed; and
  - (b) the ballot number on each declaration corresponds with the ballot number marked beside the voter's name on the roll.
- (5) However, the manager must not put a ballot envelope or declaration in the containers mentioned in subsection (4) if—
  - (a) the manager reasonably believes the voter to whom it was sent did not sign the declaration; or
  - (b) the person named on the declaration is not the person to whom it was sent.
- (6) Subsection (5) does not apply if the manager is satisfied the person who filled in and signed the declaration—
  - (a) is a voter; and
  - (b) has not previously voted in the ballot; and
  - (c) has a reasonable explanation for using someone else's ballot material.

- (7) The manager must keep ballot envelopes and declarations excluded under subsection (5) separate from other ballot envelopes and declarations.
- (8) A declaration is valid only if—
  - (a) it complies with subsection (4); and
  - (b) subsection (5) does not apply.
- (9) A valid declaration must be accepted as valid, and an invalid declaration must be rejected, by the manager.
- (10) If a declaration is accepted as valid by the manager, the manager must—
  - (a) note the acceptance of validity on the declaration; and
  - (b) record the correct ballot number on the roll against the name of the voter who signed the declaration.
- (11) After separating the ballot envelopes and declarations, the manager must, in the following order—
  - (a) seal the container holding declarations;
  - (b) open the ballot envelopes not excluded under subsection (5) and take out the ballot papers;
  - (c) if a ballot envelope contains more than 1 ballot paper—mark each of the ballot papers from the envelope ‘informal under section 114(3)(e)’;
  - (d) put all of the ballot papers in the ballot box.

## **114 Counting votes**

- (1) The manager for a proposed amalgamation or withdrawal must—
  - (a) admit the formal votes and reject the informal votes; and
  - (b) count the formal votes, and record the number for and against the proposal; and
  - (c) count the informal votes.

[s 115]

---

- (2) If there is an alternative scheme for a proposed amalgamation and a ballot does not approve the proposed amalgamation, the manager must—
  - (a) admit the formal votes, and reject the informal votes, for the alternative amalgamation; and
  - (b) count the formal votes, and record the number for and against the alternative amalgamation; and
  - (c) count the informal votes for the alternative amalgamation.
- (3) A vote is informal only if—
  - (a) the ballot paper is not initialled by the manager and the manager is not satisfied the paper is authentic; or
  - (b) the ballot paper is marked in a way that allows the voter to be identified; or
  - (c) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or
  - (d) the ballot paper does not comply with a direction given under section 98(1)(g); or
  - (e) the ballot envelope from which the ballot paper was taken contained more than 1 ballot paper.

## **115 Ballot records to be kept**

- (1) This section applies—
  - (a) if a ballot is held for a proposed amalgamation or proposed withdrawal; and
  - (b) despite the rules of an organisation or constituent part.
- (2) The electoral commission must do everything necessary to ensure all ballot records for the ballot are kept for 1 year after the ballot.

---

## **Division 13                      Approval of proposal**

### **116      Members' decision on amalgamation or withdrawal**

- (1) This section applies if a proposed amalgamation or withdrawal is submitted to a ballot.
- (2) The amalgamation or withdrawal is approved by an existing organisation or constituent part only if—
  - (a) when a community of interest declaration exists for the proposed amalgamation—more than 50% of the formal votes cast by the members of the organisation are for the amalgamation; or
  - (b) otherwise—
    - (i) at least 25% of the members of the existing organisation or constituent members on the roll of voters cast a vote in the ballot; and
    - (ii) more than 50% of the formal votes cast by members of the existing organisation or constituent members are for the amalgamation or withdrawal.

### **117      Amalgamation approval**

- (1) If each existing organisation for a proposed amalgamation approves the proposed amalgamation, the proposed amalgamation is approved.
- (2) An alternative amalgamation is approved if—
  - (a) the scheme for the proposed amalgamation has an alternative scheme; and
  - (b) 1 or more existing organisations for the amalgamation do not approve the proposed amalgamation; and
  - (c) each existing organisation that the alternative amalgamation is about approves the alternative amalgamation.

## **118 Ballot result report**

- (1) The ballot manager must, within 14 days after the declaration of the result of a ballot for a proposed amalgamation or withdrawal, give the registrar a written ballot result report containing the particulars mentioned in section 34.
- (2) A contravention of this section does not invalidate a ballot.

## **119 Further ballot if amalgamation not approved**

- (1) This section applies if—
  - (a) an amalgamation ballot (the *first ballot*) for a proposed amalgamation is held; and
  - (b) an existing organisation does not approve the amalgamation.
- (2) The existing organisations may jointly file another ballot application for the proposed amalgamation.
- (3) If the application is filed within 1 year of the declaration of the first ballot, the commission may—
  - (a) omit a procedural step under this part for the proposed amalgamation; or
  - (b) order the conduct of a fresh ballot in place of an earlier ballot in the amalgamation; or
  - (c) give the directions and make the orders it considers necessary or desirable.

---

## **Division 14            Ballot inquiries**

### **Subdivision 1        Applications and referrals to                                  commission**

#### **120    Commission may conduct ballot inquiry**

The commission may, on an application referred to it by the registrar under this division, conduct an inquiry (a *ballot inquiry*) about a claimed irregularity in an amalgamation or withdrawal ballot.

#### **121    Who may apply**

An application for a ballot inquiry may be made only by—

- (a) for an amalgamation ballot—a member of an existing organisation the ballot is about; or
- (b) for a withdrawal ballot—a constituent member.

#### **122    Requirements for application**

- (1) The application must be made no later than 30 days after the result of the ballot has been declared.
- (2) The application must—
  - (a) state—
    - (i) the ballot for which the application is made; and
    - (ii) the irregularity claimed to have happened; and
  - (b) be accompanied by an affidavit by the applicant stating the facts claimed in the application are true to the best of the applicant’s knowledge and belief.

## **123 Referral to commission**

- (1) The registrar may refer the application to the commission only if satisfied—
  - (a) there are reasonable grounds to inquire whether there has been an irregularity in the ballot that may have affected, or may affect, the ballot result; and
  - (b) the circumstances justify an inquiry.
- (2) In deciding whether to refer, the registrar may consider other appropriate information the registrar knows about.
- (3) If the registrar refers the application, the commission must—
  - (a) fix a time and place for the inquiry; and
  - (b) give directions to ensure the persons who must be given an opportunity to be heard under section 894 of the Act are given notice of the time and place.

## **Subdivision 2 Investigations and interim orders**

### **124 Commission may authorise registrar to investigate**

- (1) The commission may, by order made before or after the registrar's decision to refer, authorise the registrar to do any of the following—
  - (a) inspect ballot records for the ballot;
  - (b) take possession of the ballot records;
  - (c) enter a place of business used or occupied by the existing organisation, amalgamated organisation or constituent part at which the registrar reasonably believes the ballot records are held, using necessary and reasonable help;
  - (d) require a person to give the registrar the ballot records in the person's possession or under the person's control, or to keep the ballot records, until—
    - (i) an inquiry is completed; or



- (ii) an earlier time ordered by the commission.
- (2) A person must comply with a requirement under subsection (1)(d) to give ballot records, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (3) A person must not obstruct the registrar when exercising a power under this section.

Maximum penalty—20 penalty units.

## **125 Interim orders**

After the registrar refers the application, the commission may make an interim order —

- (a) stopping any further steps—
  - (i) to conduct the ballot; or
  - (ii) that give effect to the ballot result; or
- (b) consequential to another interim order.

## **126 When interim order ends**

An interim order ends—

- (a) on the day stated in the order for it to end; or
- (b) if it is discharged by the commission; or
- (c) at the end of the ballot inquiry and everything the commission ordered, other than under an interim order, during the inquiry.

## **Subdivision 3 Conduct of ballot inquiries**

### **127 Commission's functions and powers for inquiry**

- (1) For a ballot inquiry, the commission must inquire into and decide—

- (a) if an irregularity has happened in the ballot; and
  - (b) other questions it considers necessary about the conduct and results of the ballot.
- (2) The commission may make orders it considers necessary for the inquiry, including, for example, a recount of votes for the ballot.

### **128 Orders if irregularity found**

- (1) This section applies if the commission finds an irregularity has happened, or is likely to happen, in a ballot.
- (2) The commission may make an order—
- (a) for a fresh ballot or the repeat of a step in the ballot; or
  - (b) amending the rules of an organisation or constituent part in a way it considers necessary to correct a procedural defect in the rules; or
  - (c) directing safeguards it considers appropriate to stop irregularities in the ballot, fresh ballot or repeat step.
- (3) Also, if the commission finds the ballot result may have been, or may be, affected by the irregularity or another irregularity, the commission may, by order, declare the ballot, or a step taken in or for it, to be void.
- (4) The commission may make any other order that is consequential to an order under this section.

### **129 Enforcing orders under this division**

The commission may make an order in the nature of an injunction, either mandatory or restrictive, it considers necessary to enforce an order or perform its functions or exercise its powers under this division.

---

## Subdivision 4 Offences about ballot inquiries

### 130 Disadvantaging applicant for inquiry

- (1) A person must not cause, inflict or procure a disadvantage to another person because the other person has applied for a ballot inquiry.

Maximum penalty—20 penalty units.

- (2) In this section—

*disadvantage* includes damage, detriment, injury, loss, punishment and violence.

### 131 Obstructing orders being carried out

A person must not obstruct someone who is carrying out a commission order under this division.

Maximum penalty—20 penalty units.

## Subdivision 5 Miscellaneous

### 132 Financial help for application

- (1) An applicant for a ballot inquiry may apply to the Minister for financial help.
- (2) The Minister may direct that financial help from the State be given to the applicant for the cost of the application, including witness expenses, if—
  - (a) the commission found an irregularity happened in the ballot and the Minister considers the circumstances justify the payment; or
  - (b) the commission certifies the applicant acted reasonably in applying for the inquiry; or

- (c) after considering the commission's findings at the inquiry, it is not just that the applicant should pay any of the costs.
- (3) The registrar must decide the amount of the financial help.

### **133 Costs of fresh ballot ordered by inquiry**

- (1) If the commission orders a fresh ballot under this part, the State must pay the costs of the fresh ballot.

*Example of a cost—*

the cost of premises used for the fresh ballot

- (2) In this section—

*fresh ballot*, for an amalgamation or withdrawal, includes—

- (a) a step in a ballot; and
- (b) a safeguard, not allowed for under the rules of the organisation or constituent part, for a ballot or step in a ballot.

## **Division 15 Amalgamation or withdrawal taking effect**

### **134 Who may apply to fix day for amalgamation or withdrawal**

- (1) Any organisation that has approved an amalgamation or alternative amalgamation under section 117 may apply to the commission to fix an amalgamation day for the amalgamation.
- (2) A constituent part that has approved a withdrawal under section 116(2)(b) may apply to the commission to fix a withdrawal day for the withdrawal.

### **135 Fixing day for amalgamation or withdrawal**

- (1) The commission may fix an amalgamation day by notice published on the QIRC website.

- 
- (2) The commission may fix a withdrawal day by notice published on the QIRC website.
  - (3) However, the commission must not fix an amalgamation day or withdrawal day before—
    - (a) the time for making an application for an inquiry into an alleged irregularity in a ballot has ended; or
    - (b) if an application mentioned in paragraph (a) has been made—the application has been decided and the result of any fresh ballot ordered by the commission has been declared.
  - (4) Before fixing an amalgamation day, the commission must—
    - (a) consult with the existing organisations for the amalgamation about the proposed amalgamation day; and
    - (b) be satisfied the proposed amalgamated organisation’s rules comply with the Act; and
    - (c) be satisfied there are no pending proceedings, other than civil proceedings, against the existing organisations for a contravention of—
      - (i) the Act or another Act; or
      - (ii) an industrial instrument; or
      - (iii) an order made under the Act or another Act.
  - (5) Before fixing a withdrawal day, the commission must be satisfied the proposed newly registered organisation’s rules comply with the Act.
  - (6) If the commission has fixed an amalgamation day or withdrawal day by notice published on the QIRC website, the registrar must publish the notice in a newspaper circulating generally throughout the State.

### **136 Order to apportion assets and liabilities on withdrawal**

- (1) If the commission fixes a withdrawal day, the commission must make the orders necessary to apportion the assets and

liabilities of the amalgamated organisation between the amalgamated organisation and the proposed newly registered organisation.

- (2) In making the order, the commission must consider—
  - (a) the assets and liabilities of the constituent part before it, or the organisation of which it was a branch, was deregistered for the formation of the amalgamated organisation; and
  - (b) any change in the net value of those assets or liabilities since the amalgamation; and
  - (c) the interests of the creditors of the amalgamated organisation.

### **137 Holding office after withdrawal**

- (1) If the commission fixes a withdrawal day, a newly registered organisation's rules may allow a person to hold an elected office in the organisation if the person—
  - (a) was elected to an equivalent office in the constituent part of the amalgamated organisation; and
  - (b) held the office immediately before the withdrawal day for the constituent part.
- (2) However, the rules may not allow the person to hold the office, without an election, for more than the longer of—
  - (a) the person's unexpired office term immediately before the withdrawal day; or
  - (b) 1 year after the withdrawal day.

### **138 Effect of amalgamation on commission decisions**

If the commission fixes an amalgamation day, from that day—

- (a) a commission decision that bound a proposed deregistering organisation and its members immediately before that day binds the amalgamated organisation and its members; and

- (b) a reference in a commission decision to a deregistered organisation is taken to include a reference to the amalgamated organisation.

*Example for paragraph (b)—*

A reference to an organisation's obligation to a deregistered organisation is taken to include the amalgamated organisation.

### **139 Effect of withdrawal on order of commission or industrial instrument**

- (1) This section applies to an order of the commission or industrial instrument that, immediately before a withdrawal day for a newly registered organisation, bound the amalgamated organisation in relation to the constituent part of the organisation and the constituent members.
- (2) From the withdrawal day, the order or industrial instrument—
- (a) binds the newly registered organisation and its members; and
  - (b) has effect for all purposes as if a reference in the order or industrial instrument to the amalgamated organisation included a reference to the newly registered organisation.

### **140 Effect of amalgamation on instruments**

- (1) From an amalgamation day for an amalgamated organisation, the following instruments continue to have effect—
- (a) an instrument that—
    - (i) a deregistered organisation is a party to; or
    - (ii) was given to, by, or in favour of a deregistered organisation; or
    - (iii) refers to a deregistered organisation;
  - (b) an instrument under which—
    - (i) money is, or may become, payable to or by a deregistered organisation; or

- (ii) property may be disposed of to or by a deregistered organisation.
- (2) For acts, omissions, transactions and matters done on or after the amalgamation day, the instrument applies as if a reference in the instrument to a deregistered organisation were a reference to the amalgamated organisation.

#### **141 Effect of withdrawal on agreements, arrangements or other instruments**

- (1) This section applies if an instrument other than an order of the commission or an industrial instrument—
  - (a) operated immediately before a withdrawal day for a newly registered organisation; and
  - (b) is an agreement, arrangement or other instrument—
    - (i) that applied to the amalgamated organisation from which a constituent part withdrew to form the newly registered organisation; or
    - (ii) given to, or in favour of, the amalgamated organisation; or
    - (iii) that refers to the amalgamated organisation; or
    - (iv) under which a right or liability accrues, or may accrue, to the amalgamated organisation for the constituent part and its members.
- (2) The instrument, as far as its context permits, continues to operate from the withdrawal day as if a reference in the instrument to the amalgamated organisation included a reference to the newly registered organisation.

#### **142 Effect of amalgamation on pending proceedings**

- (1) This section applies if a deregistered organisation was a party to a pending proceeding in a court or tribunal immediately before the amalgamation day for an amalgamated organisation.



- (2) The amalgamated organisation is substituted for each deregistered organisation as a party to the proceeding.
- (3) The proceeding must continue as if the amalgamated organisation were, and had always been, the deregistered organisation.

### **143 Effect of withdrawal on pending proceedings**

- (1) This section applies if—
  - (a) an amalgamated organisation from which a constituent part withdrew to form a newly registered organisation was, immediately before the withdrawal day for the newly registered organisation, a party to a proceeding in a court or tribunal; and
  - (b) the proceeding was—
    - (i) pending on the withdrawal day; and
    - (ii) wholly or partly about the constituent members' interests.
- (2) From the withdrawal day, the newly registered organisation—
  - (a) if the proceeding was wholly about the constituent members' interests—is substituted for the amalgamated organisation; or
  - (b) if the proceeding was partly about the constituent members' interests—becomes a party.
- (3) From the withdrawal day, the newly registered organisation has the same rights and obligations as the amalgamated organisation.

### **144 Amalgamated organisation to carry out amalgamation**

An amalgamated organisation for a completed amalgamation must take all necessary steps to carry out the amalgamation under this part.

## **Part 14**                      **Employers declared not to be national system employers**

### **145**      **Declaration for Act, s 955—Hospital and Health Services**

For section 955(2) of the Act, each Hospital and Health Service under the *Hospital and Health Boards Act 2011* stated in schedule 5, part 1 is declared not to be a national system employer for the purposes of the Commonwealth Fair Work Act.

### **146**      **Declaration for Act, s 955—local governments**

For section 955(2) of the Act, each local government under the *Local Government Act 2009* stated in schedule 5, part 2 is declared not to be a national system employer for the purposes of the Commonwealth Fair Work Act.

### **147**      **Declaration for Act, s 955—other employers**

For section 955(2) of the Act, each entity listed in schedule 5, part 3 is declared not to be a national system employer for the purposes of the Commonwealth Fair Work Act.

### **147A**      **Revocation of declaration—Act, s 955**

- (1) For section 955(3) of the Act, the declaration of the Local Government Superannuation Scheme ABN 23 053 121 564 not to be a national system employer for the purposes of the Commonwealth Fair Work Act, by the repealed *Industrial Relations Regulation 2000*, is revoked.

*Note—*

See also section 152 and the repealed *Industrial Relations Regulation 2011*, section 149 in relation to declarations for the Commonwealth Fair Work Act, section 14(2) made by the repealed *Industrial Relations Regulation 2000*.

- (2) This section applies despite section 152(1).

---

## **Part 15                      General**

### **148      Certificate of employment on termination—Act, s 935**

- (1) For section 935(1) of the Act, the particulars are as follows—
- (a) the employee’s full name and address;
  - (b) a description of the trade or occupation in which the employee was employed;
  - (c) the dates on which the employee started and finished employment with the employer;
  - (d) the address of the workplace at which the employee was employed.
- (2) The certificate must be signed and dated by the employer.

## **Part 16                      Repeal, saving and transitional provisions**

### **Division 1                  Repeal**

#### **149      Repeal**

The following regulations are repealed—

- Industrial Relations Regulation 2011, SL No. 170
- Industrial Relations (Transitional) Regulation 2017, SL No. 25.

### **Division 2                  Saving and transitional provisions**

#### **150      Definition for division**

In this division—

*repealed regulation* means the repealed *Industrial Relations Regulation 2011*.

## **151 Model rules**

- (1) This section applies if—
  - (a) before the commencement, an organisation, by a resolution under its rules, adopted all the model election rules (the *former model election rules*) under the repealed regulation, schedule 2 as in force from time to time, without change; and
  - (b) immediately before the commencement, the organisation's resolution to adopt the former model election rules was current.
- (2) On the commencement, the organisation is taken to have adopted the model election rules under schedule 2 of this regulation.

## **152 Declarations for Commonwealth Act, s 14(2) under repealed regulation**

- (1) The repeal of the repealed regulation does not affect the declarations made under part 13A and schedule 7A of that regulation.
- (2) The declarations are taken to have been made under section 955(2) of the Act.

*Note—*

See section 147A in relation to the revocation of a declaration of an employer to which this section applies.

## **153 Proposed amalgamations and withdrawals**

- (1) This section applies if, before the commencement, any action was taken under the repealed regulation, part 13 for a proposed amalgamation or withdrawal.

- (2) The repealed regulation continues to apply for the completion of the amalgamation or withdrawal.

## **154 References to repealed regulation**

A reference in an Act or other document to the repealed regulation may, if the context permits, be taken to be a reference to this regulation.

## **Schedule 1      Percentage of gross amount payable to model or performer**

section 13

<b>Column 1 Work</b>	<b>Column 2 Percentage of gross amount payable</b>
1 For work involving live theatre, a live musical or a live variety performance but not involving film, television or electronic media, for any period after 5 weeks	5%
2 For other work	10%

---

## Schedule 2      Model election rules

section 32

### Part 1                      Definitions

#### 1                      Definitions

In these rules—

**ballot box** means a ballot box kept under section 15.

**candidate**, for an election, means a person—

- (a) who has nominated as a candidate for the office the election is about; and
- (b) whose nomination has been accepted under section 6(3); and
- (c) whose nomination has not been withdrawn.

**eligible member** means a person who was a financial member of the organisation 30 days before the opening day for nominations.

**higher office** means—

- (a) for the office of management committee member—an office other than the office of trustee; or
- (b) for the office of assistant secretary—the office of secretary, vice-president or president; or
- (c) for the office of secretary—the office of vice-president or president; or
- (d) for the office of vice-president—the office of president.

**initialled**, by the manager of an election, includes being marked with a copy of the manager's initials.

**member** means a member of the organisation.

**return envelope** see section 14(1)(e).





---

processes under which the election is conducted are transparent; and

- (d) must ensure suitable arrangements are made with Australia Post for the return of ballot papers to a box or locked bag at a post office.
- (2) The manager of an election, other than an electoral officer, may take the action and give the directions the manager considers reasonably necessary—
- (a) to ensure no irregularities happen in the election; or
  - (b) to remedy a procedural defect that appears to the manager to exist about the election.

*Note—*

See section 673 of the Act for the actions and directions an electoral officer may take or give.

- (3) To ensure the integrity of an election, the address for return of ballot papers must not be the organisation's usual postal address.

## **Part 3                      Pre-election procedures**

### **3                      Closing day and time for nominations**

- (1) The manager of the election must fix the opening day and closing day for nominations for office.
- (2) The closing day must be at least 28 days after notice is given under section 5.
- (3) Nominations open at midday on the opening day and close at midday on the closing day.

### **4                      Start and finish days of ballot**

- (1) If a ballot becomes necessary under section 8, the manager of the election must fix the start and finish days for the ballot to decide the result of the election.

- (2) The start day must not be before the closing day for nominations for the offices to be filled at the election.

## **5 Calling for nominations**

- (1) The manager of the election must call for nominations for the offices to be filled by notice given to members in 1 of the following ways—
- (a) by post to each member at the address recorded in the members register;
  - (b) if the organisation publishes a journal or newsletter it gives its members free of charge, by advertisement in the journal or newsletter;
  - (c) in a daily newspaper circulating in the area where the organisation's members live or work.
- (2) The notice must state—
- (a) the opening day for nominations; and
  - (b) the closing day for nominations; and
  - (c) that nominations for office—
    - (i) open at midday on the opening day; and
    - (ii) close at midday on the closing day; and
  - (d) who may nominate as a candidate in the election; and
  - (e) that nominations for office must be written, signed by the nominee and given to the manager before nominations close; and
  - (f) the start and finish days for a ballot to decide the result of the election if a ballot becomes necessary under section 8; and
  - (g) that only a person who was a financial member 30 days before the opening day for nominations may vote in the election; and
  - (h) that the ballot will be decided by a first-past-the-post system of voting.

---

## 6 Nomination procedure

- (1) A nomination for office must be written, signed by the nominee and given to the manager of the election before nominations close.
- (2) A person may nominate for more than 1 office.

*Note—*

For what happens if a person nominates for more than 1 office, see sections 9 and 30.

- (3) The manager must accept a nomination if—
  - (a) it complies with subsection (1); and
  - (b) the nominee is an eligible member.
- (4) A candidate may withdraw the candidate's nomination by written notice given to the manager no later than 7 days after nominations close.

## 7 What happens if a nomination is defective

- (1) The manager of the election must reject a nomination given to the manager after nominations have closed.
- (2) If a nomination for an office is defective, other than because the nominee is not qualified to hold the office or because the nomination was made after the closing time, the manager must—
  - (a) reject it; and
  - (b) give the nominee notice of the defect; and
  - (c) if practicable, give the nominee an opportunity to remedy the defect.
- (3) If practicable, the notice must be given before nominations close.
- (4) Failure to give the notice does not invalidate the election.

## **8 When a ballot must be held**

If there are more candidates for election to an office than the number to be elected, the manager must conduct a secret postal ballot under part 4.

## **9 Election without ballot**

The manager of the election must declare a candidate elected to an office if—

- (a) nominations have closed; and
- (b) the candidate does not hold another office; and
- (c) the candidate has—
  - (i) not nominated for a higher office; or
  - (ii) nominated for a higher office and is not elected to the higher office; and
- (d) if the election is for president or secretary—the candidate is the only candidate; and
- (e) if the election is for another type of office—the number of candidates for the office is not more than the number of offices of the same type to be elected at the same time.

# **Part 4 Conducting ballots**

## **Division 1 General**

### **10 Roll—preparation**

- (1) A roll for a ballot must be prepared at the direction of the manager of the election.
- (2) The manager must ensure the roll—
  - (a) states—

- 
- (i) the name of each person who is an eligible member of the organisation in alphabetical order; and
    - (ii) each eligible member's address, opposite the member's name; and
  - (b) is completed when nominations for the election close.
  - (3) The organisation must give the manager—
    - (a) a copy of its members register; and
    - (b) access to the organisation's records reasonably necessary for the manager to ensure the roll is accurate.

## 11 Roll—inspection

- (1) The manager of the election must make the roll for the election available for inspection—
  - (a) in the period that—
    - (i) starts on the day after the roll must be completed under section 10; and
    - (ii) ends 30 days after the result of the election is declared; and
  - (b) at the manager's office when it is open for business.
- (2) A candidate, member or a person authorised by the manager may inspect the roll, free of charge.
- (3) If, during the period stated in subsection (1), a candidate or member asks for a copy of the roll or a stated part of the roll, the manager must give the person the copy, free of charge.

## 12 When someone can claim a right to vote

- (1) Despite section 10(2), if an eligible member's name does not appear on the roll, the member may apply to the manager of the election to have the member's name included on the roll.

*Note—*

Under section 984 of the Act, the application must be written.

- (2) If the manager is satisfied the applicant is an eligible member, the manager must include the applicant's name on the roll.

## **Division 2                    Voting material**

### **13        Ballot papers**

- (1) A ballot paper for the election must—
- (a) have a watermark or other distinctive pattern that prevents it being reproduced other than by the manager of the election or a person authorised by the manager; and
  - (b) be of paper that hides a vote marked on it from view when it is folded once; and
  - (c) be a different colour from the colour used for ballot papers at the 2 previous elections held for the organisation; and
  - (d) list the names of each candidate once only for each office the election is for, with the surname first, followed by the candidate's other names; and
  - (e) state how the voter may vote; and
  - (f) state that the voter must fill in and sign the voting declaration or the vote will not be counted; and
  - (g) state that the voter must return the ballot paper to the manager so it is received on or before the finish day of the ballot.

*Note—*

See section 39 of this regulation for other requirements for ballot papers.

- (2) The order of names on the ballot paper must be decided by lot.
- (3) If 2 or more candidates have the same surname and first names, the candidates must be distinguished in an appropriate way.

*Example—*

The occupation of each candidate may be added to the ballot paper.

## 14 Distributing voting material

- (1) The manager of the election must post the following things (the *voting material*) to each voter—
  - (a) a ballot paper initialled by the manager;
  - (b) a copy of the scheme outline and any amendments to it;
  - (c) a copy of each ‘yes’ case and any amendments to it;
  - (d) a copy of each ‘no’ case and any amendments to it;
  - (e) an unsealed reply paid envelope (a *return envelope*) addressed to the manager;
  - (f) a ballot envelope and a voting declaration;
  - (g) other material the manager considers appropriate for the ballot, including, for example, directions or notes to help the voter comply with these rules and cast a valid vote;
  - (h) a statement that tells the voter how and where the voter may obtain a copy of the latest version of the scheme.
- (2) Voting material must be posted to each voter—
  - (a) in a sealed envelope addressed to the voter’s address on the roll; and
  - (b) as soon as practicable, but no earlier than 2 days before the start day for the ballot.
- (3) The voting declaration must state ‘I certify I am the person whose name appears on this envelope and I have voted on the ballot paper enclosed.’.
- (4) If a voter gives the manager notice that the voter will be at an address other than the address stated on the roll when voting material is to be given, the manager must post the material to the address stated in the notice.
- (5) Before posting voting material to a voter, the manager must mark a ballot number for each voter on—

- (a) the roll against the voter's name; and
  - (b) the declaration form.
- (6) The manager must give each voter a different ballot number.
- (7) The ballot numbers must start with a number chosen by the manager.
- (8) A ballot paper or ballot envelope must not be marked in a way that could identify the voter.

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

The manager must have a ballot box and—

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

### **16 Duplicate voting material**

- (1) This section applies if voting material posted to a voter—
- (a) has not been received by the voter; or
  - (b) has been lost or destroyed; or
  - (c) if the document is a ballot paper—has been spoilt.
- (2) The voter may apply to the manager of the election for a duplicate of the voting material.
- (3) The application must—
- (a) be received by the manager on or before the finish day for the ballot; and
  - (b) state the grounds for the application; and
  - (c) if practicable, be substantiated by evidence verifying or tending to verify the grounds; and



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

## **Division 3                      Voting**

### **17            How long ballot is open**

A ballot must remain open for—

- (a) at least 21 days; and
- (b) no longer than 49 days.

### **18            How to vote**

A voter may vote only by completing the following steps—

- (a) completing a ballot paper by—
  - (i) writing a tick or cross in the square opposite the name or names of the number of candidates the voter may vote for under section 19; and
  - (ii) complying with the instructions on the paper about how to vote;
- (b) putting the ballot paper in a ballot envelope;
- (c) sealing the ballot envelope;

- (d) filling in and signing the voting declaration for the ballot paper;
- (e) putting the voting declaration and the ballot envelope in the return envelope;
- (f) sealing the return envelope;
- (g) complying with a direction given under section 14(1)(g);
- (h) returning the return envelope to the manager of the election so the envelope is received on or before the finish day for the ballot.

## **19 How many votes may be cast**

A voter may vote for only the following number of candidates on a ballot paper—

- (a) for an election for president or secretary—1 candidate;
- (b) for an election for another type of office—the number of candidates that is not more than the number of offices of the same type to be elected at the same time.

## **Division 4 Counting and scrutiny of votes**

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

- (1) The manager of the election must put all voting material returned to the manager in the ballot box until voting has ended.
- (2) If, after the finish day for the ballot, the manager receives a return envelope apparently containing a ballot paper for the election, the manager must—
  - (a) keep the envelope sealed; and
  - (b) mark the envelope ‘Received by the manager after the finish day for the ballot’; and
  - (c) keep the envelope in safe custody, but separately from return envelopes received before or on the finish day.

---

**21 Scrutineers—appointment**

- (1) A candidate may—
  - (a) act personally as a scrutineer; or
  - (b) appoint another person (an *appointee*) as a scrutineer for the candidate.
- (2) An appointment must be in writing and signed by the candidate.
- (3) A candidate must notify the manager of the election of the name of the candidate's appointee as soon as possible after the appointee is appointed.
- (4) The manager may refuse to allow an appointee to act as a scrutineer if—
  - (a) the manager asks to inspect the appointment as a scrutineer; and
  - (b) the appointee does not produce it.

**22 Scrutineers' rights**

Subject to section 23, a scrutineer may be present when—

- (a) ballot papers or other voting material for a ballot are prepared and given to voters; and
- (b) voting material is received and put in safe custody under section 20; and
- (c) votes are counted.

**23 Scrutineers—numbers attending**

- (1) Each candidate may have only 1 scrutineer exercising a right under section 22 for each official present where the ballot is being conducted.
- (2) In this section—

*official* means—

  - (a) if the ballot is being conducted by the electoral commission—an electoral officer; or

- (b) otherwise—
  - (i) the manager of the election; or
  - (ii) another person appointed by the manager to exercise the manager's powers for the election.

## **24 Initial scrutiny of voting material**

- (1) As soon as possible after the ballot finishes, the manager of the election must—
  - (a) seal the ballot box in a way that prevents voting material from being put in it; and
  - (b) take the ballot box to the place where votes are to be counted.
- (2) The manager must then—
  - (a) unseal the ballot box; and
  - (b) take out the return envelopes; and
  - (c) open each return envelope and take out the ballot envelope and the voting declaration; and
  - (d) examine the declaration and mark off the voter's name on the roll; and
  - (e) check the ballot number on the declaration against the ballot number marked against the voter's name on the roll; and
  - (f) ensure the declaration is signed.
- (3) After complying with subsection (2), the manager must put the ballot envelopes in a container and the declarations into another container if satisfied—
  - (a) each declaration is signed; and
  - (b) the ballot number on each declaration corresponds with the ballot number marked beside the voter's name on the roll.
- (4) However, the manager must not put a ballot envelope or declaration in the containers mentioned in subsection (3) if—

- 
- (a) the manager reasonably believes the voter to whom it was sent did not sign the declaration; or
  - (b) the person named on the declaration is not the person to whom it was sent.
- (5) Subsection (4) does not apply if the manager is satisfied the person who filled in and signed the declaration—
- (a) is a voter; and
  - (b) has not previously voted in the ballot; and
  - (c) has a reasonable explanation for using someone else's ballot material.
- (6) The manager must keep ballot envelopes and declarations excluded under subsection (4) separate from other ballot envelopes and declarations.
- (7) A declaration is valid only if—
- (a) it complies with subsection (3)(a) and (b); and
  - (b) subsection (4) does not apply.
- (8) A valid declaration must be accepted as valid, and an invalid declaration must be rejected, by the manager.
- (9) If a declaration is accepted as valid by the manager the manager must—
- (a) note the acceptance of validity on the declaration; and
  - (b) record the correct ballot number on the roll against the name of the voter who signed the declaration.
- (10) After separating the ballot envelopes and declarations, the manager must, in the following order—
- (a) seal the container holding declarations;
  - (b) open the ballot envelopes not excluded under subsection (4) and take out the ballot papers;
  - (c) if a ballot envelope contains more than 1 ballot paper for each office the election is for—mark each of the ballot papers from the envelope 'informal under section 25(2)(e)';

- (d) put all of the ballot papers in the ballot box.

## **25 Counting votes**

- (1) To count votes, the manager of the election must—
  - (a) admit the formal votes and reject the informal votes; and
  - (b) count the formal votes, and record the number for each candidate; and
  - (c) count the informal votes.
- (2) A vote is informal only if—
  - (a) the ballot paper is not initialled by the manager under section 26(4)(b) and the manager is not satisfied the paper is authentic; or
  - (b) the ballot paper is marked in a way that allows the voter to be identified; or
  - (c) the ballot paper is not marked in a way that makes it clear how the voter meant to vote; or
  - (d) the ballot paper does not comply with a direction given under section 14(1)(g); or
  - (e) the ballot envelope from which the ballot paper was taken contained more than 1 ballot paper.

## **26 Scrutineers' objections**

- (1) Before votes are counted, a scrutineer may advise the manager of the election the scrutineer considers an error has been made in conducting the ballot.
- (2) When votes are counted, a scrutineer may—
  - (a) object to a ballot paper being admitted as formal or rejected as informal by the manager of the election; or
  - (b) advise the manager of the election that the scrutineer considers an error has been made in conducting the ballot or counting votes.

- 
- (3) If a scrutineer advises the manager under subsection (1) or (2)(b), the manager must—
    - (a) decide whether the error has been made; and
    - (b) if appropriate—direct action be taken to correct or mitigate the error.
  - (4) If a scrutineer objects under subsection (2)(a), the manager must—
    - (a) decide whether the ballot paper is to be admitted or rejected; and
    - (b) note the decision on the ballot paper and initial the note.

## **27 Direction by manager to leave count**

The manager of the election may direct a person to leave the place where votes are being counted if the manager reasonably believes the person—

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

## **Division 5 Election result**

### **28 How result is decided**

- (1) The way of deciding the result of a ballot is by a first-past-the-post system.
- (2) If only 1 office of the same type is to be filled in an election, the candidate with the most formal votes is elected.
- (3) If more than 1 office of the same type is to be filled, that number of candidates corresponding with the number of offices to be filled who have the most formal votes are elected.
- (4) This section is subject to sections 29 and 30.

**29 What happens if votes for 2 or more candidates are equal**

- (1) If the manager of the election can not decide which candidate is elected to an office because the votes cast for 2 or more candidates are equal, the manager must decide which candidate is elected by drawing lots.
- (2) A decision under subsection (1) must be made in the presence of a scrutineer who wishes to attend.

**30 What happens if multiple nominee elected**

If a candidate is elected to an office, other than as a trustee, and the candidate is also elected to a higher office, the manager of the election may only declare the candidate elected to the higher office.



---

## Schedule 3 Requirements for financial policies

### section 40

#### 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 a credit card of the organisation may be issued to an officer or employee 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 periodically; 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'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
- (d) require the organisation to keep a register of conflicts of interest disclosed by suppliers under an obligation mentioned in paragraph (c).

### **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 4 Information to be given to members or registrar

section 47

### Part 1 Preliminary

#### 1 Information limited to last financial year for which general purpose financial report prepared

- (1) Information about a reporting unit that is mentioned in this schedule is limited to the stated information relating to the last financial year for which a report was prepared under section 763 of the Act.
- (2) A reference in this schedule to the financial year is a reference to the financial year mentioned in subsection (1).

#### 2 References to prescribed donations, grants and loans

- (1) A reference in this schedule to a prescribed donation, a prescribed grant or a prescribed loan is a reference to a donation or a grant made, or a loan given, by a reporting unit—
  - (a) to a member of the reporting unit; and
  - (b) certified by a relevant officer that the officer was satisfied the donation, grant or loan was necessary to relieve the member or a dependant of the member from financial or other hardship.
- (2) In this section—

*relevant officer* means an officer of the reporting unit approved under the rules of the reporting unit to authorise donations, grants or loans made or given to a member of the reporting unit.

### **3 Form of information**

Information that must be made available to a member of a reporting unit, or to the registrar, under section 787(1) of the Act—

- (a) must be in writing and signed by a designated officer under section 753(1) of the Act; and
- (b) must, unless the application states a different way in which the information must be made available—
  - (i) if the application was made by the registrar—be delivered by hand, or sent by prepaid post, to the registrar; or
  - (ii) if the application was made by a member of the reporting unit and states an address for the member—be sent by prepaid post to that address; or
  - (iii) in any other case—be left for collection at the office of the reporting unit.

## **Part 2 Information to be given**

### **4 Donations and grants**

- (1) For a donation or grant of more than \$1,000 made to the reporting unit during the financial year—
  - (a) the amount of the donation or grant; and
  - (b) if the donation or grant was made for a stated purpose—the stated purpose; and
  - (c) if the donation or grant is not a prescribed donation or prescribed grant—the name and address of the entity to which the donation or grant was made.
- (2) For a donation or grant of more than \$1,000 made by the reporting unit during the financial year—
  - (a) the purpose for which the donation or grant was made; and

- (b) the amount of the donation or grant; and
- (c) if the donation or grant is not a prescribed donation or prescribed grant—the name and address of the entity to which the donation or grant was made.

## **5 Amounts more than \$1,000**

- (1) This section applies for an amount that—
  - (a) is more than \$1,000; and
  - (b) is not an amount that must be disclosed in the reporting unit's general purpose financial report.
- (2) For an amount received or paid by the reporting unit during the financial year—
  - (a) the amount received or paid; and
  - (b) the name and address of the entity from whom the amount was received or to whom the amount was paid; and
  - (c) the purpose for which the amount was received or paid by the reporting unit; and
  - (d) the nature of the transaction; and
  - (e) if a member of a reporting unit has other information to assist the reporting unit to identify in its financial records the information applied for under section 787(1) of the Act—the other information.
- (3) An amount paid by the reporting unit to an officer or employee of the reporting unit, whether as a single transaction or multiple transactions, for reimbursement of out of pocket expenses.

## **6 Loans**

- (1) For a loan of more than \$1,000 made by the reporting unit during the financial year—
  - (a) the amount of the loan; and
  - (b) the purpose for which the loan was required; and

- (c) the security given for the loan; and
  - (d) if the loan is not a prescribed loan—the name and address of the entity to whom the loan was made and the arrangements made for the repayment of the loan.
- (2) For a loan of more than \$10,000 received by the reporting unit during the financial year—
- (a) the name and address of the entity from whom the loan was received; and
  - (b) the amount of the loan; and
  - (c) the reason the loan was needed; and
  - (d) the security given for the loan; and
  - (e) the arrangements made for the repayment of the loan.

## **7 Funds other than general funds**

For a fund the reporting unit is required by its rules to operate other than a general fund—

- (a) the purpose for which the fund was operated; and
- (b) the amount in the fund at the beginning of the financial year, if applicable; and
- (c) whether money was transferred to the fund from another fund or an account operated by the reporting unit; and
- (d) if money mentioned in paragraph (c) was transferred—a description of each fund or account from which money was transferred and the amount transferred from each fund or account; and
- (e) the total amount of money, other than money mentioned in paragraphs (c) and (d), paid into the fund; and
- (f) the total amount of payments made out of the fund for the purpose mentioned in paragraph (a); and
- (g) whether a payment was made out of the fund for a purpose other than the purpose mentioned in paragraph (a); and
- (h) if a payment mentioned in paragraph (g) was made—



- (i) the amount of the payment and the purpose for which it was made; and
  - (ii) the date the payment was approved by a member of the management committee or an employee of the organisation; and
  - (iii) the designation within the reporting unit of the person who approved the payment; and
- (i) whether money was transferred from the fund to another fund or an account operated by the reporting unit; and
- (j) if money mentioned in paragraph (i) was transferred—
  - (i) a description of each fund or account to which the money was transferred and the amount transferred to each fund or account; and
  - (ii) the date the approval of the transfer was given; and
  - (iii) the designation within the reporting unit of the entity who approved the transfer; and
- (k) if the fund is operating on the last day of the financial year—the amount of the balance of the fund or account; and
- (l) if the fund stopped operating during the financial year—
  - (i) the closing balance of the fund; and
  - (ii) if any part of the fund was invested in assets during the financial year—the amount invested and a description of the assets; and
- (m) the amount for payroll deduction facilities provided by the employer of the member by or for whom the application under section 787(1) of the Act was made.

## **Schedule 5      Employers declared not to be national system employers**

sections 145 to 147

### **Part 1                      Hospital and Health Services**

- 1 Cairns and Hinterland
- 2 Central Queensland
- 3 Central West
- 4 Children's Health Queensland
- 5 Darling Downs
- 6 Gold Coast
- 7 Mackay
- 8 Metro North
- 9 Metro South
- 10 North West
- 11 South West
- 12 Sunshine Coast
- 13 Torres and Cape
- 14 Townsville
- 15 West Moreton
- 16 Wide Bay

### **Part 2                      Local governments**

- 1 Aurukun Shire Council
- 2 Balonne Shire Council

- 3 Banana Shire Council
- 4 Barcaldine Regional Council
- 5 Barcoo Shire Council
- 6 Blackall-Tambo Regional Council
- 7 Boulia Shire Council
- 8 Bulloo Shire Council
- 9 Bundaberg Regional Council
- 10 Burdekin Shire Council
- 11 Burke Shire Council
- 12 Cairns Regional Council
- 13 Carpentaria Shire Council
- 14 Cassowary Coast Regional Council
- 15 Central Highlands Regional Council
- 16 Charters Towers Regional Council
- 17 Cherbourg Aboriginal Shire Council
- 18 Cloncurry Shire Council
- 19 Cook Shire Council
- 20 Croydon Shire Council
- 21 Diamantina Shire Council
- 22 Doomadgee Aboriginal Shire Council
- 23 Douglas Shire Council
- 24 Etheridge Shire Council
- 25 Flinders Shire Council
- 26 Fraser Coast Regional Council
- 27 Gladstone Regional Council
- 28 Gold Coast City Council
- 29 Goondiwindi Regional Council
- 30 Gympie Regional Council

Schedule 5

---

- 31 Hinchinbrook Shire Council
- 32 Hope Vale Aboriginal Shire Council
- 33 Ipswich City Council
- 34 Isaac Regional Council
- 35 Kowanyama Aboriginal Shire Council
- 36 Livingstone Shire Council
- 37 Lockhart River Aboriginal Shire Council
- 38 Lockyer Valley Regional Council
- 39 Logan City Council
- 40 Longreach Regional Council
- 41 Mackay Regional Council
- 42 Mapoon Aboriginal Shire Council
- 43 Maranoa Regional Council
- 44 Mareeba Shire Council
- 45 McKinlay Shire Council
- 46 Moreton Bay Regional Council
- 47 Mornington Shire Council
- 48 Mount Isa City Council
- 49 Murweh Shire Council
- 50 Napranum Aboriginal Shire Council
- 51 Noosa Shire Council
- 52 North Burnett Regional Council
- 53 Northern Peninsula Area Regional Council
- 54 Palm Island Aboriginal Shire Council
- 55 Paroo Shire Council
- 56 Pormpuraaw Aboriginal Shire Council
- 57 Quilpie Shire Council
- 58 Redland City Council

- 59 Richmond Shire Council
- 60 Rockhampton Regional Council
- 61 Scenic Rim Regional Council
- 62 Somerset Regional Council
- 63 South Burnett Regional Council
- 64 Southern Downs Regional Council
- 65 Sunshine Coast Regional Council
- 66 Tablelands Regional Council
- 67 Toowoomba Regional Council
- 68 Torres Shire Council
- 69 Torres Strait Island Regional Council
- 70 Townsville City Council
- 71 Western Downs Regional Council
- 72 Whitsunday Regional Council
- 73 Winton Shire Council
- 74 Woorabinda Aboriginal Shire Council
- 75 Wujal Wujal Aboriginal Shire Council
- 76 Yarrabah Aboriginal Shire Council

### **Part 3                      Other employers**

- 1 Gold Coast Waterways Authority established under the *Gold Coast Waterways Authority Act 2012*
- 2 National Injury Insurance Agency, Queensland established under the *National Injury Insurance Scheme (Queensland) Act 2016*
- 3 Queensland Curriculum and Assessment Authority established under the *Education (Queensland Curriculum and Assessment Authority) Act 2014*

Schedule 5

---

- 4 TAFE Queensland established under the *TAFE Queensland Act 2013*
- 5 Tourism and Events Queensland continued in existence under the *Tourism and Events Queensland Act 2012*
- 6 Trade and Investment Queensland established under the *Trade and Investment Queensland Act 2013*

---

## Schedule 6      Dictionary

## section 3

*alternative ballot* see section 66.

*amalgamation day* means a day fixed under section 135(1) as the amalgamation day for an amalgamation.

*authorised officer* see section 337(3) of the Act.

*ballot exemption* see section 63(1).

*ballot inquiry* see section 120.

*constituent member* means a member of an amalgamated organisation who is part of the constituent part seeking to withdraw from the organisation.

*existing organisation* see section 838 of the Act.

*formal*, for a ballot, means valid.

*industrial tribunal*, for part 8, see section 15.

*informal*, for a ballot, means invalid.

*interested person*, in relation to a decision under chapter 12 of the Act, means a person mentioned in section 894(1) of the Act.

*management committee*, of a constituent part of an amalgamated organisation, means a management committee elected entirely or substantially by the constituent members.

*manager*, of an election or ballot, means—

- (a) the electoral officer conducting the election or ballot; or
- (b) if an exemption has been granted under section 815 of the Act—the returning officer appointed under section 817 of the Act to conduct the election.

*‘no’ case* see section 69(1) and (3).

*president*, of an organisation, means—

- (a) its president; or

- (b) its chief executive; or
- (c) another officer, however called, who performs the functions of the organisation's president or chief executive.

**proposed newly registered organisation** means the organisation a constituent part will become if a withdrawal takes effect.

**representative constituent member**, for a withdrawal ballot, see section 62(6).

**return envelope** see section 98(1)(e).

**secretary**, of an organisation, means—

- (a) the person who holds the office of secretary in the organisation; or
- (b) if no-one holds the office of secretary of the organisation—the person authorised by the organisation under its rules to sign documents for the organisation.

**voter**, in relation to a ballot for part 13, means a person whose name is on the roll of voters for the ballot under section 107.

**voting material** see section 98(1).

**withdrawal day** means a day fixed under section 135(2) as the withdrawal day for a withdrawal.

**'yes' case** see section 68(1) and (2).