

Industrial Relations (Tribunals) (Reform of Act) Amendment Rule 2017

Explanatory notes for SL 2017 No. 26

made under the

Industrial Relations Act 2016

General Outline

Short title

Industrial Relations (Tribunals) (Reform of Act) Amendment Rule 2017 (the Amendment Rule)

Authorising law

Section 1025 of the *Industrial Relations Act 2016*.

Policy objectives and the reasons for them

The policy objective of the *Industrial Relations Act 2016* (the IR Act 2016) is to provide a framework for the conduct of industrial relations within the State's industrial relations jurisdiction that is fair and balanced and supports the delivery of high-quality services, economic prosperity and social justice for Queenslanders. The IR Act 2016 provides for the continuance of the Industrial Court of Queensland (court) and the Queensland Industrial Relations Commission (QIRC), recognises the Industrial Registry and confers jurisdiction on industrial magistrates.

The policy objective of the *Industrial Relations (Tribunal) Rules 2011* (the Rules) is to provide for the just and expeditious disposition of the business of the court, the QIRC, the Industrial Magistrates Court and the Industrial Registrar at a minimum of expense. In effect, the Rules are required to support certain administrative functions of the tribunals, as provided for in the primary legislation.

The IR Act 2016 is due to commence on proclamation, which is scheduled for 1 March 2017. This Act will replace the *Industrial Relations Act 1999* (IR Act 1999).

The current Rules were created under the IR Act 1999 to give effect to certain provisions of that Act. Section 1025 of the IR Act 2016 permits rules made under the IR Act 1999 to continue to have effect as if they were rules made under the IR Act 2016. However the Rules as they exist for the purpose of the IR Act 1999 require some amendment to meet the requirements of the IR Act 2016.

The majority of amendments to the Rules involve minor amendment to replace cross-references to provisions in the IR Act 1999 with the relevant provisions in the IR Act 2016. Other amendments make minor changes to reflect or correct amendments to the underpinning legislative provision or to reflect current drafting styles. Amendments are also made to omit rules that have been made obsolete as the underpinning legislative provision has not been included in the IR Act 2016.

The most substantial amendments to existing Rules are those required for new provisions introduced in the IR Act 2016, including for example, the transfer of the industrial jurisdiction for anti-discrimination matters to the QIRC. These amendments involve the insertion of a new subdivision for applications and proceedings under the *Anti-Discrimination Act 1991 (ADA)* and include rules for:

- applications for exemptions or renewals of exemptions, from the operation of a specified provision of the ADA;
- applications for orders under the ADA protecting complainant's interests;
- applicants obligation to provide copies of QIRC orders in relation to complaints made under the ADA;
- applications for the review of a decision of the anti-discrimination commissioner's about a complaint lapsing under the ADA;
- QIRC obligations regarding dissemination of written reasons for decisions on proceedings under the ADA;
- Industrial Registrar obligations to provide the anti-discrimination commissioner notice of appeal against a QIRC decision;
- Industrial Registrar obligations with respect to publishing amendments of bargaining instrument on the QIRC website.

These amendments replicate Queensland Civil and Administrative Tribunal Rules.

Achievement of policy objectives

The Amendment Rule achieve the objective by regulating the practice and procedure to be followed by the tribunals and by providing a simple guide to assist parties and others in bringing matters before the tribunals.

Consistency with policy objectives of authorising law

Division 8, Chapter 11 of the IR Act 2016 provides the authority for making rules about particular matters and the conditions under which rules may be made, for example, with the consent of the Rules Committee. As the Rules Committee has consented to the amendments to the Rules and the amendments fall within the scope of matters that rules may be made about, consistency with the policy objectives of the authorising law is achieved.

Inconsistency with policy objectives of other legislation

The Amendment Rule is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The Amendment Rule will ensure that procedures are in place to provide guidance for how proceedings are dealt with in the IR Act 2016. There are no significant costs for Government in the implementation of the Amendment Rule. Any costs to Government will be funded from within existing resources.

Consistency with fundamental legislative principles

The legislation is consistent with fundamental legislative principles.

Consultation

Amendments to the Rules are required as a result of the introduction of the IR Act 2016. Extensive consultation on the provisions of the IR Act 2016 was undertaken during the development of that legislation.

Consultation specifically on the Amendment Rule was also undertaken with the Queensland Council of Unions (QCU), the Australian Workers Union (AWU), Together Queensland (TQ) and the Local Government Association of Queensland (LGAQ).

In addition to this, the Rules Committee has been consulted in accordance with Division 8, Chapter 11 of the IR Act 2016.

With the exception of the removal of the application fee charged to an employee for reinstatement, in accordance with the Queensland Government Guide to Better Regulation, the Office of Industrial Relations (OIR) applied the following self-assessable exclusions from undertaking further regulatory impact analysis:

- Category (d) – Regulatory proposals of a savings nature; and
- Category (e) – Regulatory proposals that are of a transitional nature.

OIR consulted the Queensland Productivity Commission in relation to the removal of the fee applied to an employee making an application for reinstatement.

Results of Consultation

The Rules Committee has approved the amendments to the Rules as required by Division 8, Chapter 11 of the IR Act 2016.

The QCU, AWU, TQ, LGAQ, and staff of the Industrial Registry have considered the provisions of the Amended Rule, no party has objected to the contents of this Regulation.

The Queensland Productivity Commission has advised that it considers the removal of the fee for reinstatement applications reduces the burden of regulation with no apparent significant adverse impacts and is therefore excluded from further assessment under the Queensland Government Guide to Better Regulation.