



Queensland

Industrial Relations (Transitional) Regulation 2017

Subordinate Legislation 2017 No. 25

made under the

Industrial Relations Act 2016

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Part 1 Preliminary

1 Short title

This regulation may be cited as the *Industrial Relations (Transitional) Regulation 2017*.

2 Commencement

This regulation commences on 1 March 2017.

3 Declaration that regulation is a transitional regulation—Act, s 1085

This regulation is a transitional regulation.

Note—

Under section 1085(4) of the Act, this regulation expires 1 year after the day of the commencement of section 1085 of the Act.

4 Main purpose

The main purpose of this regulation is to provide for the continued operation of the *Industrial Relations Regulation 2011*, with particular changes necessary to enable its operation under the Act, for a transitional period after the repeal of the *Industrial Relations Act 1999*.

[s 5]

Part 2 **Continued operation and amendment of Industrial Relations Regulation 2011**

Division 1 **Continued operation of regulation**

5 **Continued operation of regulation with particular changes**

- (1) The *Industrial Relations Regulation 2011*, as in force immediately before the repeal of the *Industrial Relations Act 1999*, continues in effect under the *Industrial Relations Act 2016* as provided by this section.
- (2) The regulation—
 - (a) is amended as stated in division 2; and
 - (b) is to be read with any other changes necessary to make it consistent with, and adapt its operation to, the Act.

Division 2 **Amendment of regulation**

6 **Regulation amended**

This division amends the *Industrial Relations Regulation 2011*.

7 **Insertion of new s 2A**

After section 2—

insert—

2A Continued operation and expiry of this regulation

- (1) From 1 March 2017, this regulation continues in effect as provided by the transitional regulation, section 5.

Note—

Under the transitional regulation, section 5(2)(b), this regulation is to be read with the changes necessary to make it consistent with, and adapt its operation to, the Act.

- (2) This regulation expires when the transitional regulation expires.

Note—

Under section 1085(4) of the Act, the transitional regulation expires 1 year after the day of the commencement of section 1085 of the Act.

- (3) In this section—

transitional regulation means the *Industrial Relations (Transitional) Regulation 2017*.

8 Replacement of pt 2, hdg and ss 4–5

Part 2, heading and sections 4 and 5—

omit, insert—

Part 2 Queensland Employment Standards

9 Amendment of s 6 (Working out continuous service—Act, s 71KC(2) and 84(2))

- (1) Section 6, heading, ‘s 71KC(2) and 84(2)’—

omit, insert—

s 123

- (2) Section 6(1) and (7), ‘section 71KC(1) or 84(1)’—

omit, insert—

section 123(1)

- (3) Section 6(4), ‘section 71KB(1) or 83(4)’—

omit, insert—

[s 10]

section 122(1)

10 Amendment of s 7 (Compensation for commission or piece rate employees—Act, ss 71KD and 85)

(1) Section 7, heading, ‘ss 71KD and 85’—

omit, insert—

s 124

(2) Section 7, ‘section 71KD(3) and 85(3)’—

omit, insert—

section 124(3)

11 Replacement of pts 2A and pt 3 and pt 4, hdg

Part 2A, part 3 and part 4, heading—

omit, insert—

Part 3 Collective bargaining

8 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;
- (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 another person—the person who negotiated the instrument and the person for whom it was negotiated;
- (k) the average percentage by which the 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.

[s 12]

- (2) The affidavit must be in the form provided for in the rules of court.
- (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.

12 Amendment of s 10 (Protected industrial action—Act, s 174)

- (1) Section 10, heading, ‘s 174’—
omit, insert—

s 237

- (2) Section 10(1), ‘section 174(6)’—
omit, insert—
section 237(3)(b)

13 Replacement of ss 10A–10H

Sections 10A to 10H—

omit, insert—

Part 4 General protections

10A Temporary absence—prescribed illness or injury—Act, s 297

- (1) This section applies for section 297(1)(a) of the Act.
- (2) An illness or injury for which the employee is absent for 2 days or less is a prescribed illness or 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) the approximate period for which the employee will be absent.
- (3) An illness or injury for which the employee is absent for more than 2 days is a prescribed illness or injury if the employee—
- (a) promptly notifies the employer of the matters mentioned in subsection (2)(a) and (b); and
 - (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.
- (4) However, an illness or injury is not a prescribed illness or injury if the total of the employee's absences in a 1 year period, arising from 1 or more illnesses or injuries, is more than 3 months.

14 Amendment of s 11 (Application for issue of an authority—Act, s 364)

- (1) Section 11, heading, 's 364'—

omit, insert—

s 337

- (2) Section 11, 'section 364(4)(a)'—

omit, insert—

section 337(4)(a)

[s 15]

15 Amendment of s 12 (Recovering overpaid wages—Act, s 396)

(1) Section 12, heading, ‘s 396’—

omit, insert—

s 376

(2) Section 12, ‘section 396(4)’—

omit, insert—

section 376(4)

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

(1) Section 12A, heading, ‘s 396A’—

omit, insert—

s 948

(2) Section 12A, ‘section 396A(5)’—

omit, insert—

section 948(6)

17 Amendment of s 13 (Particulars for written notice—Act, s 408D(2)(a))

(1) Section 13, heading, ‘s 408D(2)(a)’—

omit, insert—

s 400

(2) Section 13(1), ‘section 408D(2)(a)’—

omit, insert—

section 400(2)(a)

(3) Section 13(2), definition *industrial instrument*, from ‘an’—

omit, insert—

a federal industrial instrument.

-
- 18 Amendment of s 14 (Prescribed percentage of gross amount payable to model or performer—Act, s 408D(2)(b))**
- (1) Section 14, heading, ‘s 408D(2)(b)’—
omit, insert—
s 400
- (2) Section 14, ‘section 408D(2)(b)’—
omit, insert—
section 400(2)(b)
- 19 Amendment of s 15 (Prescribed allowances or payments excluded from gross amount payable to model or performer—Act, s 408D(2)(b))**
- (1) Section 15, heading, ‘s 408D(2)(b)’—
omit, insert—
s 400
- (2) Section 15, ‘section 408D(2)(b)’—
omit, insert—
section 400(2)(b)
- 20 Amendment of s 17 (Applications to industrial tribunal)**
- Section 17(2), ‘section 501’—
omit, insert—
section 689
- 21 Amendment of s 18 (Applications for registration, change of list of callings or amendment of name or eligibility rules)**
- Section 18(1)(c), ‘section 472’—
omit, insert—

[s 22]

section 660

22 Amendment of s 19 (Certain applications must state grounds on which they are made)

(1) Section 19(a), ‘section 447’—

omit, insert—

section 635

(2) Section 19(b), ‘part 13’—

omit, insert—

part 12

(3) Section 19(c), ‘section 602’—

omit, insert—

section 824

23 Amendment of s 20 (Application for exemption under Act, s 580)

(1) Section 20, heading, ‘under Act, s 580’—

omit, insert—

—Act, s 802

(2) Section 20(1), ‘section 580’—

omit, insert—

section 802

24 Amendment of s 21 (How making of resolution is to be notified for Act, s 595(1)(b))

(1) Section 21, heading, ‘for Act, s 595(1)(b)’—

omit, insert—

—Act, s 813

(2) Section 21, ‘section 595(1)(b)’—

omit, insert—

section 813(1)(b)

25 Amendment of s 22 (Publishing notice for Act, s 596)

(1) Section 22, heading, ‘for Act, s 596’—

omit, insert—

—Act, s 814

(2) Section 22(1), ‘section 596’—

omit, insert—

section 814

26 Amendment of s 23 (Signing or sealing application for deregistration order under Act, s 39)

(1) Section 23, heading, ‘under Act, s 39’—

omit, insert—

—Act, s 879

(2) Section 23, ‘section 639’—

omit, insert—

section 879

27 Amendment of s 24 (Application by registrar for deregistration order for defunct organisation)

(1) Section 24, heading, after ‘organisation’—

insert—

—Act, s 879

(2) Section 24(1), ‘section 639(4)’—

omit, insert—

section 879(4)

[s 28]

- (3) Section 24(2)(b), ‘residential’—
omit.

28 Amendment of s 25 (Who may object—Act, s 654)

- (1) Section 25, heading, ‘s 654’—
omit, insert—

s 894

- (2) Section 25(1)(a), ‘section 472’—
omit, insert—

section 660

- (3) Section 25(2)—
omit, insert—

- (2) A person who has been given written notice under section 20(2) of an application for an exemption under section 802 of the Act may object to the application.

- (4) Section 25(3), ‘section 594’—
omit, insert—

section 812

- (5) Section 25(4), ‘section 639(4)’—
omit, insert—

section 879(4)

29 Amendment of s 26 (Notice of objection)

- (1) Section 26(1)(a), ‘section 418(1)(b)’—
omit, insert—

section 606(1)(b)

- (2) Section 26(2)(c), from ‘after’—
omit, insert—

after—

- (i) for an objection to an application under section 802 of the Act—the giving of written notice of the application under section 20(2); or
- (ii) for another objection—the publication of the notice of the application to which the objection relates; and

(3) Section 26—

insert—

(2A) For subsection (2)(c)(i), if written notice of the application was given on more than 1 day under section 20(2), the notice of objection must be filed in the registry within 35 days of the latest day on which notice was given.

(4) Section 26(2A) to (4)—

renumber as section 26(3) to 5).

30 Amendment of s 27 (Answering objections—Act, s 654)

Section 27, heading, ‘s 654’—

omit, insert—

s 894

31 Amendment of s 28 (Hearing application and objections—Act, s 654)

(1) Section 28, heading, ‘s 654’—

omit, insert—

s 894

(2) Section 28(1)(a), ‘section 472’—

omit, insert—

section 660

[s 32]

(3) Section 28(1)(b), ‘section 500’—

omit, insert—

section 688

(4) Section 28(2)(b), ‘section 654’—

omit, insert—

section 894

32 Amendment of s 29 (Notice of hearing)

(1) Section 29(1)(a), ‘section 450’—

omit, insert—

section 638

(2) Section 29(1)(c), ‘section 602’—

omit, insert—

section 824

(3) Section 29(1)(d), ‘section 639(3)’—

omit, insert—

section 879(3)

(4) Section 29(2)(a), ‘section 466 or 639(3)(b)’—

omit, insert—

section 654 or 879(3)(b)

33 Amendment of s 30 (Opportunity to make written submissions)

Section 30, ‘section 654’—

omit, insert—

section 894

34 Amendment of s 32 (Cost of copy of rules—Act, s 428)

(1) Section 32, heading, ‘s 428’—

omit, insert—

s 616

(2) Section 32, ‘section 428(2)’—

omit, insert—

section 616(2)

35 Amendment of s 33 (Model election rules—Act, s 454)

Section 33, heading, ‘s 454’—

omit, insert—

s 642

36 Amendment of s 34 (Prescribed information for elections—Act, s 481)

(1) Section 34, heading, ‘s 481’—

omit, insert—

s 669

(2) Section 34(1) and (3), ‘section 481(1)’—

omit, insert—

section 669(1)

(3) Section 34(1)(b)(i), ‘has ended’—

omit, insert—

will be ending

(4) Section 34(4), ‘section 481(2)’—

omit, insert—

section 669(2)

[s 37]

37 Amendment of s 35 (Prescribed particulars for election or ballot result reports—s 119 and Act, ss 488 and 600)

(1) Section 35, heading, ‘ss 488 and 600’—

omit, insert—

ss 676 and 818

(2) Section 35(1)(b), ‘section 488 or 600’—

omit, insert—

section 676 or 818

38 Amendment of s 37 (Copies of result reports to be given)

Section 37, ‘section 488 or 600’—

omit, insert—

section 676 or 818

39 Replacement of pts 11A and 12

Parts 11A and 12—

omit, insert—

**Part 12 Finances and
accountability**

41 Prescribed requirements for financial policies—Act, s 740

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

42 Prescribed value for gifts given and received—Act, s 742

For section 742(1)(a)(i)(B) and (1)(c)(i)(B) of the Act, the prescribed value is \$150.

40 Amendment of s 49 (Application for recognition as federation)

Section 49(4), ‘section 426(1)(a)’—

omit, insert—

section 614(1)(a)

41 Amendment of s 51 (Amendment of federation’s composition)

Section 51(2), ‘section 426(1)(a)’—

omit, insert—

section 614(1)(a)

42 Amendment of s 64 (Amalgamation ballot exemption—number of members)

Section 64(2), ‘the application was filed’—

omit, insert—

the applicant’s management committee resolved to make the application

43 Amendment of various sections—references to Commonwealth (Registered Organisations) Act

Each of the following sections is amended by omitting ‘Commonwealth (Registered Organisations) Act’ and inserting ‘Commonwealth Registered Organisations Act’—

- section 65(1)(a)
- section 66(1)
- section 87(1)(d) and (4), definition *federal ballot*
- section 88(1)(b) and (d) and (4), definition *federal ballot*.

[s 44]

44 Amendment of s 74 (Objections about amalgamations)

Section 74(2), ‘sections 419 to 421’—

omit, insert—

sections 603 to 605

45 Amendment of s 86 (Ballot exemption—number of members)

Section 86(2), ‘the application was filed’—

omit, insert—

the applicant’s management committee resolved to make the application

46 Amendment of s 123 (Requirements for application)

Section 123(1), ‘60’, —

omit, insert—

30

47 Amendment of s 124 (Referral to commission)

Section 124(3)(b), ‘section 654’—

omit, insert—

section 894

48 Amendment of various sections relating to the Act, ch 16

Sections 145A to 145L are amended by—

- (a) omitting ‘s 692’ from the heading of the provision and inserting ‘s 955’; and
- (b) omitting ‘section 692(3)’ and inserting ‘section 955(2)’; and
- (c) omitting ‘Commonwealth Act, section 14(2)’ and inserting ‘Commonwealth Fair Work Act’.

-
- 49 Amendment of s 145A (Declaration for Act, s 692—Hospital and Health Services)**
Section 145A, ‘schedule 5A’—
omit, insert—
schedule 4
- 50 Amendment of s 145C (Declaration for Act, s 692—local governments)**
Section 145C, ‘schedule 5B’—
omit, insert—
schedule 5
- 51 Amendment of s 146 (Certificate of employment on termination—Act, s 700)**
(1) Section 146, heading, ‘s 700’—
omit, insert—
s 935
(2) Section 146(1), ‘section 700(1)’—
omit, insert—
section 935(1)
- 52 Omission of pt 14A (Continuing agreements)**
Part 14A—
omit.
- 53 Insertion of new pt 16**
After section 150—
insert—

Part 16 Transitional provisions for Industrial Relations (Transitional) Regulation 2017

151 Existing proceedings and proceedings not started

- (1) This section applies to a proceeding to which section 1023 or 1024 of the Act applies.
- (2) This regulation, as in force immediately before the commencement, continues to apply in relation to the proceeding.

152 Continuation of repealed s 7D for existing application to certify agreement

Section 7D, as in force immediately before the commencement, continues to apply for an application to which section 1000 of the Act applies.

153 Continuation of pt 7 (Fees charged by private employment agents)

Part 7, as in force immediately before the commencement, continues to apply in relation to a fee received by a private employment agent before the commencement.

154 Continuation of ss 23 and 24 for existing application for deregistration

Sections 23 and 24, as in force immediately before the commencement, continue to apply for an application to which section 1079 of the Act applies.

155 Application of s 123 if ballot declared before commencement

- (1) This section applies if the result of a ballot for a proposed amalgamation or proposed withdrawal was declared before the commencement.
- (2) Section 123, as in force immediately before the commencement, continues to apply for an application under that section for the ballot.

54 Omission of schs 2A, 3–5 and 5C

Schedules 2A, 3 to 5 and 5C—

omit.

55 Amendment and renumbering of sch 2B (Requirements for financial policies)

- (1) Schedule 2B, authorising provision, ‘40B’—

omit, insert—

41

- (2) Schedule 2B—

renumber as schedule 3.

56 Renumbering of schs 5A and 5B

Schedules 5A and 5B—

renumber as schedules 4 and 5.

57 Amendment of sch 7 (Dictionary)

- (1) Schedule 7, definition *manager*, ‘section 597’—

omit, insert—

section 815

- (2) Schedule 7, definition *manager*, ‘section 599’—

[s 58]

omit, insert—

section 817

Part 3 Other transitional provisions

58 Provision for the Act, s 122

The reference in section 122(2) of the Act to subsection (1)(a) is taken to be a reference to subsection (1)(b).

59 Provision for the Act, s 528

The reference in section 528(1) of the Act to personal service is taken to include a reference to service in another way prescribed by the rules.

60 Provision for the Act, s 1076

The reference in section 1076 of the Act to section 845 is taken to be a reference to section 839.

61 Continuation of old ss 847, 848 and 850

- (1) This section applies in relation to a modern award to which new section 994 applies.
- (2) Old sections 847, 848 and 850 continue to apply to a certified agreement—
 - (a) that is a relevant certified agreement within the meaning of old section 839; and
 - (b) that is mentioned in new section 998(1); and
 - (c) for which the modern award is a prescribed modern award within the meaning of old section 847.
- (3) For subsection (2), old section 847(3) and (4) are taken to be replaced by the following subsections—

- (3) On the variation day—
- (a) the requirements under new section 169 for a proposed bargaining instrument are taken to have been satisfied; and
 - (b) the parties to the relevant certified agreement are taken to have started negotiating under new chapter 4.
- (4) For subsection (3)(a), the proposed parties to the proposed bargaining instrument are—
- (a) each party to the relevant certified agreement; and
 - (b) an employee organisation that could have been bound by the relevant certified agreement under old section 166(2).
- (4) Also—
- (a) the reference in old section 848 to section 168 is taken to be a reference to new section 223; and
 - (b) in old section 850(1)(b), the words ‘an agreement is proposed under chapter 6’ are taken to be replaced with the words ‘negotiations have started under new chapter 4 for a proposed bargaining instrument’; and
 - (c) in old section 850(2)(a), the words ‘or make the proposed bargaining award’ are taken to appear after the words ‘proposed agreement’; and
 - (d) the reference in old section 850(2)(b) to section 150 is taken to be a reference to new section 180.
- (5) In this section—
- new*, in relation to a provision, means a provision of the Act.
- old*, in relation to a provision, means a provision of the repealed Act.

ENDNOTES

- 1 Made by the Governor in Council on 23 February 2017.
- 2 Notified on the Queensland legislation website on 24 February 2017.
- 3 The administering agency is Queensland Treasury.

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