

1992—No. 513

INDUSTRIAL RELATIONS ACT 1991—REGULATION

(Relating to amalgamations commenced before 31 March 1992)

NEW SOUTH WALES



[Published in Gazette No. 114 of 11 September 1992]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Industrial Relations Act 1991, has been pleased to make the Regulation set forth hereunder.

J. P. HANNAFORD
Attorney General and
Minister for Industrial Relations.

The Industrial Relations Regulation 1992 is amended by inserting after clause 128 the following clauses:

Transitional provision: interim registered amalgamations

129. (1) This clause applies to an organisation which was registered on an interim basis under section 23B of the Trade Union Act 1881 before 31 March 1992 as a trade union resulting from an amalgamation if:

- (a) the organisation did not receive permanent registration under that Act before that date; and
- (b) the trade unions which amalgamated to form the organisation were, immediately before that date, registered under the Industrial Arbitration Act 1940; and
- (c) the organisation complies with the requirements for rules under Part 3 of Chapter 5 of the Act.

(2) The Industrial Registrar may register an organisation to which this clause applies under Part 2 of Chapter 5 of the Act. For that purpose, the requirements of that Part relating to applications for registration are taken to have been complied with.

(3) When an organisation is so registered, the application (if any) of Part 4 of Chapter 5 of the Act to the organisation and to the trade unions which amalgamated to form the organisation, ceases.

Transitional provision: treatment of application for amalgamation, ballot etc.

130. (1) If an application for the registration of an amalgamation of 2 or more trade unions under section 23A of the Trade Union Act 1881 was made before 31 March 1992, but not granted before that date, the application is taken to be an application to the Industrial Registrar for the submission of the amalgamation to ballot under section 533 of the Industrial Relations Act 1991.

(2) If application was made before 31 March 1992 to the Electoral Commissioner for the conduct of a ballot referred to in section 22B of the Trade Union Act 1881, the application is taken to be a notification under section 539 of the Industrial Relations Act 1991.

(3) Anything done by the Industrial Registrar or the Electoral Commissioner on or after 31 March 1992 in relation to either of those applications is taken to be done for the purposes of the Industrial Relations Act 1991.

EXPLANATORY NOTE

This Regulation is made under section 569 of the Industrial Relations Act 1991, which provides for transitional regulations in relation to amalgamations of unions already under way at the commencement of that Act on 31 March 1992. The Regulation amends Chapter 8 (Miscellaneous Provisions) of the Industrial Relations Regulation 1992 by inserting two new clauses.

The first of the new clauses, clause 129, refers to amalgamated trade unions which had been registered on an interim basis before the repeal of the old Trade Union Act 1881, but which had not received permanent registration before that repeal.

Clause 129 will permit the amalgamated body to be registered as an industrial organisation under the Industrial Relations Act 1991 (“the new Act”) without the need for all the usual procedural requirements for applications for registration to be satisfied. However, this will only be possible if the body meets the requirements for rules under the new Act.

The new clause will apply to the National Union of Workers', New South Wales Branch. That union is composed of 5 State unions which had held ballots of their members before the amalgamation. The amalgamated body, however, had not received its final, permanent registration under the old Act, or under the Industrial Arbitration Act 1940, before the repeal of both those Acts by the new Act on 31 March 1992.

The second new clause, clause 130, will clarify the procedure for the completion of the amalgamation of trade unions. The clause will apply if the process of amalgamation was initiated before 31 March 1992.

The procedure is to be essentially the one prescribed by the new Act for amalgamations initiated on or after 31 March 1992, but any steps taken before that date will not have to be repeated if they are substantially the same as those required under the new Act.
