



New South Wales

Industrial Relations (General) Amendment (Authority to Prosecute) Regulation 1998

under the
Industrial Relations Act 1996

His Excellency the Governor,.. with the advice of the Executive Council,.. has made the following Regulation under the *Industrial Relations Act 1996*.

JEFFREY SHAW, QC, MLC
Minister for Industrial Relations

Explanatory note

Section 399 of the *Industrial Relations Act 1996* (the Act) provides that proceedings for an offence against the Act or the regulations made under it may be instituted only:

- (a) by the Minister or by a person with the written consent of the Minister, or
- (b) by an inspector (as defined in the Act), or
- (c) by a person, or a person of a class, prescribed by the regulations.

The object of this Regulation is to prescribe, for the purposes of section 399 (1) (c), an industrial organisation concerned in the matter to which the proceedings relate. (An **Industrial organisation** is defined in the Act as an industrial organisation of employees, or an industrial organisation of employers, registered, or taken to be registered, under Chapter 5 of the Act.)

1998 No 655

Industrial Relations (General) Amendment (Authority to Prosecute) Regulation 1998

Explanatory note

This Regulation also requires particulars of proceedings instituted by such an organisation to be sent to the Director-General of the Department of Industrial Relations for information purposes, and prescribes the offence of failing to send those particulars as an offence in respect of which a penalty notice may be served.

This Regulation is made under the *Industrial Relations Act 1996*, and, in particular, under sections 399 (as referred to above) and 407 (the general regulation-making power).

Industrial Relations (General) Amendment (Authority to Prosecute) Regulation 1998

1 Name of Regulation

This Regulation is the *Industrial Relations (General) Amendment (Authority to Prosecute) Regulation 1998*.

2 Amendment of Industrial Relations (General) Regulation 1996

The *Industrial Relations (General) Regulation 1996* is amended as set out in Schedule 1.

3 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendments

(Clause 2)

[1] Clauses 32A and 32B

Insert before clause 33:

32A Authority to prosecute

- (1) The purpose of this clause is to prescribe certain persons as persons who may institute proceedings for an offence against the Act or the regulations.
- (2) An industrial organisation concerned in the industry to which the proceedings relate is prescribed for the purposes of section 399 (1)(c) of the Act.

32B Notification of proceedings

- (1) An industrial organisation that institutes proceedings for an offence against the Act or the regulations must, within 3 days after doing so, send particulars of the proceedings to the Director-General of the Department of Industrial Relations.
Maximum penalty: 5 penalty units.
- (2) Particulars of proceedings sent to the Director-General in accordance with this clause are sent for information only.

[2] Schedule 2 Penalty notice offences

Insert in Column 1 before the matter relating to section 67 (2):

Offences under the Act

[3] Schedule 2

Insert at the end of Schedule 2:

Offences under this Regulation

Clause 32B	not send particulars of proceedings to Director-General	\$200
------------	---	-------