

[2007] AIRC 294

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AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996

s.158(1) RAO Schedule - Application for alteration of eligibility rules

**Application/Notification by CPSU, the Community and Public Sector Union
(D2006/69)**

VICE PRESIDENT WATSON

SYDNEY, 16 APRIL 2007

*Alteration of eligibility rules***DECISION****INTRODUCTION**

[1] This is an application under s 158 of Schedule 1 – Registration and Accountability of Organisations (the RAO Schedule) of the *Workplace Relations Act 1996* (the Act) by the Community and Public Sector Union (CPSU) to the Commission for its consent to alter the eligibility rules of the CPSU.

[2] The application seeks to insert new paragraphs in Section 1 (D) of Part II of Rule 2 and Section 1(B)(1) of Part II of Rule 3 to enable the CPSU to enrol persons employed by irrigation co-operatives in NSW – including the Coleambally Irrigation Co-Operative Limited, Jemalong Irrigation Limited, Lower Murray Irrigation Limited, Murray Irrigation Limited and Murrumbidgee Irrigation Limited – and the Museum of Contemporary Art in Sydney.

REQUIREMENTS FOR CONSENT

[3] Pursuant to s 158 of the RAO Schedule, alterations to the eligibility rules of an organisation do not take effect unless the Commission consents to the alteration. Section 158(2) provides that the Commission must not consent to an application unless it is satisfied that the alteration has been made under the rules of the organisation. Further, in the case of an application to alter eligibility rules, s 158(4) provides that the Commission must not consent to an alteration of the eligibility rules of an organisation if, in relation to persons who would be eligible for membership, there is, in its opinion, another organisation

*“ (a) to which those persons could more conveniently belong; and
(b) that would more effectively represent those persons.”*

This section does not apply if the Commission accepts an undertaking from the organisation seeking the alteration that it considers appropriate to avoid demarcation disputes that may otherwise arise between the organisation seeking the alteration and another organisation: s 158(5).

[4] The Commission may also refuse to consent to an alteration on the basis of the grounds listed in ss 158(6),(7) or any other ground (s 158(8)).

INFORMATION PROVIDED WITH THE APPLICATION

[5] The initial application was received by the Australian Industrial Registry on 15 September 2007. The application detailed the necessary particulars, reason and effect of the proposed alteration and contained a declaration by the Joint National Secretary, John Carey, stating that the alteration had been made in accordance with the rules of the organisation and listing the required steps to verify this claim. The Notice of the application was gazetted in the Commonwealth of Australia Gazette of 18 October 2006. Three objections to the application were filed with the Registry by the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union (the AMWU), the Australian Municipal, Administrative, Clerical and Services Union (the ASU) and the Australian Workers Union (the AWU). An amended application was filed by the CPSU on 12 March 2007.

[6] The objections filed by the AMWU and the AWU were withdrawn on the basis of the amended application filed by the CPSU. As a result of discussions between the CPSU and the ASU, the objection by the ASU was settled on the basis of a written undertaking provided by the CPSU regarding their intent in seeking to extend their membership coverage. This undertaking was read onto transcript, and related documents tendered as exhibits, at the hearing of this matter on 4 April 2007.

CONCLUSIONS

[7] I am satisfied that the alterations have been made under the rules of the organisation. I am also satisfied that the application, and the material accompanying it, complies with the necessary legislative requirements. ¹ The amended application, which more specifically defines the class of persons to which membership may now include (and indeed exclude), does not offend the subsections of s 158(4) or require that the Commission must refuse its consent. Further, pursuant to s 158(5), the Commission accepts the undertaking given by the CPSU as being appropriate to avoid demarcation disputes that might otherwise arise from an overlap between the eligibility rules of the CPSU and the ASU. In my view, there are no grounds to refuse consent to the application by the CPSU. I consent to the alterations in the amended application. The alterations will come into operation from 24 April 2007.

BY THE COMMISSION:

VICE PRESIDENT

Appearances:

D Mendelsson and M Perica for the Community and Public Sector Union.

J Nucifora and B O'Brien for the Australian Municipal, Administrative, Clerical and Services Union.

G Beard and L Booth for the Australian Workers' Union.

A Kentish for the Automotive, Food, Metals, Engineering, Printing and Kindred Industries

Hearing details:

2007.

Sydney:

April 4.

¹ *Workplace Relations (Registration and Accountability of Organisations) Regulations 2003* (Cth), Reg 121.

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