

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

*(The Hon. Helen Hodgson, MLC)*

**LABOUR RELATIONS  
LEGISLATION AMENDMENT  
(No. 2) BILL 1997**

**A BILL FOR**

**AN ACT to amend the Labour Relations Legislation  
Amendment Act 1997.**

The Parliament of Western Australia enacts as follows:

**PART 1**

**Short title**

- 5 **1.** This Act may be cited as the *Labour Relations Legislation  
Amendment (No.2) Act 1997.*

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**Commencement**

2. This Act comes into operation on the day on which it receives the Royal Assent.

**Principal Act**

5 3. In this Act the *Labour Relations Legislation Amendment Act 1997* is referred to as the principal Act.

**Part 3 repealed and substituted**

4. Part 3 of the principal Act is repealed and the following Part is substituted —

10 “

**PART 3 — PRE-STRIKE BALLOTS**

**Part VIB inserted**

9. After Part VIA of the principal Act the following Part is inserted —

15 “

**PART VIB — PRE-STRIKE BALLOTS**

**Pre-Strike Ballots ordered by Commission**

**97. Commission may order secret ballot**

(1) Where —

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(a) an organisation is concerned in an industrial dispute with which the Commission is empowered to deal (whether or not proceedings in relation to the dispute are before the commission); and

5 (b) the commission considers that the prevention or settlement of the industrial dispute might be helped by finding out the attitudes of the members, or the members of a section or class of the members, of the organisation or a branch of the organisation in relation to a matter;

10 the Commission may order that a vote of other members be taken by secret ballot (with or without provision for absent voting), in accordance with directions given by the commission, for the purpose of finding out their attitudes to the matter.

(2) Where it appears to the Commission —

15 (a) that industrial action is being taken or the taking of industrial action is threatened, impending or probable; and

20 (b) that finding out the attitudes of the members, or the members of a section or class of the members, of the organisation concerned or a branch of the organisation, in relation to the matter, might help to stop or prevent the industrial action, or might help the settlement of the matters giving rise to the industrial action;

25 the Commission may order that a vote of the members be taken by secret ballot (with or without provision for absent voting), in accordance with directions given by the commission, for the purpose of finding out their attitudes to the matter.

30 (3) If —

(a) the Commission is required under this Part to be satisfied that a valid majority of persons employed at a particular time

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whose employment is or will be subject to an agreement have genuinely made the agreement or given an approval; and

(b) the Commission is not so satisfied;

5 then —

10 (c) the Commission may order that a vote be taken by secret ballot (with or without a provision for absent voting), in accordance with directions given by the Commission, of persons employed at the time of the ballot whose employment is or will be subject to the agreement to determine whether they would make the agreement or give the approval; and

15 (d) if a majority of the validly cast votes is in favour of making the agreement or giving the approval, the Commission is taken to be satisfied of the requirement.

(4) If it appears to the Commission that -

20 (a) industrial action is being taken or the taking of industrial action is threatened, impending or probable; and

25 (b) finding out, in relation to a matter, the attitudes of the employees whose employment will be subject to the proposed agreement concerned might help to stop or to prevent the industrial action, or might help the settlement of the matters giving rise to the industrial action;

30 the Commission may order that a vote of the employees be taken by secret ballot (with or without a provision for absent voting), in accordance with

directions given by the Commission, for the purpose of finding out their attitudes in relation to the matter.

5 (5) The powers of the commission to make an order under subsection (1) or (2) and to revoke such an order, are exercisable only by the Full Bench.

**Chief Commissioner**

**97A. Application by members of organisation for secret ballot**

- (1) Where —
- 10 (a) the members, or the members of a section or class of the members, of an organisation or branch to engage in industrial action; and
- 15 (b) the members directed or required are, or include, members (in this section called the **relevant affected members**) who are employed by a particular employer at a particular place of work;

20 application may be made to the Commission, by at least the prescribed number of relevant affected members, for an order under subsection (2).

25 (2) Subject to this section, the Commission shall order that a vote of the relevant affected members be taken by secret ballot (with or without the provision for absent voting), in accordance with directions given by the Commission, for the purpose of finding out whether or not those members support the industrial action.

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(3) If the Commission considers that the application should be refused because-

- (a) finding out the attitudes of the relevant affected members would not help-
  - 5 (i) to stop or prevent the industrial action; or
  - (ii) to settle the matters giving rise to the industrial action;
- 10 (b) the industrial action has stopped or is about stop; or
- (c) the industrial action is not likely to happen;

the Commission shall —

- 15 (d) if the Commission is constituted by the Chief Commissioner or a Full Bench - refuse the application; or
- (e) if the Commission is not constituted by the Chief Commissioner or a Full Bench - refer the application to the Chief Commissioner.

20 (4) If the Application is referred to the Chief Commissioner, the Commission shall deal with the application.

25 (5) The powers of the Commission to make an order under subsection (2), and to revoke an order under that subsection, are exercisable only by a Chief Commissioner or a Full Bench.

(6) Where 2 or more applications are made to the Commission under subsection (1) in relation to a particular place of work or a group of employees of a

particular employer, the Chief Commissioner may assign the applications to one Commissioner or a Full Bench.

5 (7) Where, in considering an application under subsection (1), it appears to the Commission that, in all the circumstances, it would be appropriate to make an order for a secret ballot under subsection 97 (1) or (2) rather than under subsection (2) of this section, the Commission may act accordingly.

10 (8) Where —

(a) the Commission has made an order for a secret ballot under subsection (2) of this section or under subsection 97 (1) or (2); and

15 (b) before the vote is taken, the Commission forms the view that the secret ballot should not be proceeded with because —

(i) the industrial dispute has been made, or is about to be, settled; or

20 (ii) the industrial action has stopped, is about to stop or is not likely to happen;

the Commission shall revoke the order.

(8A) If —

25 (a) the Commission has made an order for a secret ballot under subsection 97(3); and

30 (b) before the vote is taken, the Commission forms the view that the secret ballot should not be proceeded with because it has satisfied itself that the requirement

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mentioned in paragraph (a) of that subsection has been met;

the Commission must revoke the order.

(8B) If —

- 5
- (a) the Commission has made an order for a secret ballot under subsection 97(4); and
- (b) before the vote is taken, the Commission forms the view that the secret ballot should not be proceeded with because it has
- 10 satisfied itself that -
- (i) the matters giving rise to the industrial action have been, or are about to be, settled; or
- (ii) the industrial action has stopped or
- 15 been prevented, or is about to stop or be prevented;

the Commission must revoke the order.

(9) For the purposes of this section, a direction or request to members of an organisation or branch of an organisation that is given or made by or on behalf of —

20

- (a) the committee of management of the organisation or branch;
- (b) an officer, employee or agent of the organisation or branch acting in that capacity;
- 25



- 5
- (c) a member or group of members of the organisation or branch authorised to give the direction or request by —
- (i) the rules of the organisation or branch;
- (ii) the committee of management of the organisation or branch; or
- 10
- (iii) an officer, employee or agent of the organisation or branch acting in that capacity; or
- (d) a member of the organisation or branch, who performs the function of dealing with an employer on behalf of the member and other members of the organisation or branch, acting in that capacity;
- 15

shall be taken to be a direction or request by the organisation or branch, as the case may be.

(10) In this section —

20

“**place of work**”, in relation to a group of employees of an employer, includes any place at which the employees included in the group are required to report (whether in person, by telephone or by any other form of communication) for the purpose of

25

being allocated work by the employer or for any other purpose connected with the carrying on of the business of the employer; and



**97C. Conduct of ballot**

(1) Where, under section 97 or 97A, the Commission orders the holding of a secret ballot, the Commission shall, by order —

- 5                   (a) direct the organisation concerned to make arrangements for the conduct of the ballot by a person approved by the Industrial Registrar; or
- 10                   (b) direct the Industrial Registrar to make arrangements for the conduct of the ballot;

and may give any further directions that it considers necessary for ensuring the secrecy of votes and otherwise for the purposes of the conduct of the ballot or the communication of the result to the Commission.

15                   (2) A direction shall not be given under paragraph (1)(a), if the order for the holding of the secret ballot concerned was made under subsection 97A(2).

20                   (3) Where a direction is given under paragraph (1)(a), the State is liable to pay to the organisation the reasonable costs of the conduct of the ballot concerned as assessed by a Registrar.

25                   (4) Where a direction is given under paragraph (1)(b), the Industrial Registrar shall conduct the ballot concerned or make arrangements for its conduct, in accordance with the direction.

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5 (5) Where the result of a ballot conducted under an order under section 97 or 97A is communicated to the Commission, the Commission shall cause the Industrial Registrar to inform each of the following persons, by written notice, of the result —

- 10 (a) the persons who were eligible to vote in the ballot;
- (b) the organisation (if any) to which those persons belonged, and the employers by whom those persons were employed, when those persons became eligible to vote in the ballot.

15 (6) Where the Commission forms the view that the results of a ballot conducted under an order under subsection 97A(2) show that the majority of the members of an organisation, or a branch of an organisation, who recorded a valid vote in the ballot were not in favour of engaging in the industrial action concerned, the Commission shall cause the Industrial Registrar to include in each notice issued under  
20 subsection (5) in relation to the ballot a statement of the view formed by the Commission.

**97D. Commission to have regard to result of ballot**

25 In any conciliation or arbitration proceeding before the Commission in relation to a matter in relation to which the attitudes of persons have been expressed in a ballot conducted under an order under subsection  
30 97(1),(2) or (4) or section 97A, the Commission shall have regard to the result of the ballot.

**97E. Certain members not required to obey directions of organisation**

5 (1) Where a notice under subsection 97C(5) in  
relation to a ballot that is issued to a member of an  
organisation, or a branch of an organisation, includes  
a statement that the Commission has formed the view  
that the results of the ballot show that the majority of  
10 the members of the organisation or branch who  
recorded a valid vote in the ballot were not in favour  
of engaging in the industrial action concerned, then, in  
spite of any rule or practice of the organisation or the  
branch, the member is not required to obey any  
15 direction or request given or made by the organisation  
or branch in relation to engaging in, or supporting in  
any way, the industrial action.

(2) For the purpose of subsection (1), a direction  
or request to members of an organisation that is given  
or made by or on behalf of —

- 20 (a) the committee of management of the  
organisation or branch;
- (b) an officer, employee or agent of the  
organisation or branch acting in that  
capacity;
- 25 (c) a member or group of members of the  
organisation or branch authorised to give  
the direction or request by —
- (i) the rules of the organisation or  
branch;
- 30 (ii) the committee of management of the  
organisation or branch; or
- (iii) an officer, employee or agent of the  
organisation or branch acting in that  
capacity; or

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- 5 (d) a member of the organisation or branch,  
who performs the function of dealing with  
an employer on behalf of the member and  
other members of the organisation or  
branch, acting in that capacity;

shall be taken to be a direction by the organisation or  
branch, as the case may be.”

”.

**New Part 3A**

- 10 5. After Part 3 of the principal Act the following Part is  
inserted —

“

**PART 3A—LIMITED IMMUNITY FOR  
INDUSTRIAL ACTION**

- 15 **Part VIBB inserted**

**10.** After Part VIB of the principal Act the following Part  
is inserted —

“ **PART VIBB — LIMITED IMMUNITY  
FOR INDUSTRIAL ACTION**

- 20 **97F. Interpretation**

(1) In this Part —

- 25 **“balloted industrial action”** means any action  
taken by an employee that is in accordance  
with the majority vote in a ballot conducted  
under Part 3;

**“general industrial action”** means any action taken by an employer or employee for the purpose of —

- 5
- (a) compelling or inducing an employer to accept particular terms or conditions of employment; or
  - (b) enforcing compliance with any demand relating to employment;

**“industrial action”** means —

- 10
- (a) the performance of work in a manner different from that in which it is customarily performed, or the adoption of a practice in relation to work, the result of which is a restriction or limitation on, or a delay in, the performance of the work;
- 15
- (b) a ban, limitation or restriction on the performance of work, or acceptance of or offering for work; or
- 20
- (c) a failure or refusal to attend for work or a failure or refusal to perform any work at all;

25

**“lock out”**, in relation to an employee, means prevent the employee from performing work under a contract of employment without terminating the contract;

**“WA”** means a workplace agreement made in accordance with the *Workplace Agreements Act 1993*; and

**cl. 5**

**“WA industrial action” means —**

- 5 (a) any industrial action taken by an employee directly against an employer for the purpose of compelling or inducing the employer —
- (i) to make a WA, on particular terms and conditions, with the employee; or
- 10 (ii) to make WA, on particular terms and conditions, with the employee and other employees; or
- 15 (b) an employer locking out an employee for the purpose of compelling or inducing the employee to make a WA, on particular terms and conditions, with the employer.

(2) In this Part, a reference to taking action includes a reference to —

- 20 (a) omitting to do something; or
- (b) bringing about a circumstance.

**97G. Limited immunity conferred**

25 (1) Subject to subsection (2), no action lies in respect of WA industrial action or balloted industrial action unless the action has involved or is likely to involve —

- (a) personal injury;
- (b) wilful or reckless destruction of, or damage to, property; or



(c) the unlawful taking, keeping or use of property.

5 (2) Subsection (1) does not prevent an action for defamation being brought in respect of anything that occurred in the course of industrial action.

(3) If an employer locks out an employee under subsection (1), the employer is entitled to refuse to pay any remuneration to the employee in respect of the period of the lockout.

10 (4) An employer is not entitled to lock out an employee under subsection (1) unless the continuity of the employee's employment, for such purposes as are prescribed by the regulations, is not affected by the lockout.

15 **97H. Immunity conditional on giving notice**

(1) The immunity conferred by section 97G in respect of WA industrial action does not apply unless 3 working days' notice of the intention to take the action was given to the other party in the manner and form required by the regulations.

(2) Notice need not be given by an employee under subsection (1) if the employer is taking general industrial action.

25 (3) Notice need not be given by an employer under subsection (1) if the employee is taking general industrial action.

**97I. Employer not to dismiss, prejudice etc. an employee for taking WA industrial action**

30 (1) An employer must not —

(a) dismiss an employee, injure an employee in his or her employment or alter the position of an employee to the employee's prejudice;

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- (b) threaten to dismiss an employee, injure an employee in his or her employment or alter the position of an employee to the employee's prejudice;

5 wholly or partly because the employee is proposing to take, is taking or has taken, WA industrial action.

(2) Subsection (1) does not apply to any of the following actions taken by the employer —

- (a) standing-down the employee;
- 10 (b) refusing to pay the employee where, under the common law, the employer is permitted to do so because the employee has not performed work as directed;
- 15 (c) action of the employer that is itself WA industrial action to which section 97G applies.

20 (3) In proceedings against an employer under this Act for an alleged contravention of subsection (1) of this section, it is to be presumed, unless the employer proves otherwise, that the alleged conduct of the employer was carried out wholly or partly because the employee was proposing to take, was taking or had taken, WA industrial action.”

”.

**25 Part 5 repealed**

**6.** Part 5 of the principal Act is repealed.

**Sections 29 & 30 repealed**

**7.** Sections 29 and 30 of the principal Act are repealed.

**Section 33 repealed and substituted**

**8.** Section 33 of the principal Act is repealed and the following section substituted —

“

5           **Division 2AA of Part II inserted**

**33.** After Division 2A of Part II of the Principal Act the following Division is inserted —

**“Division 2AA — Entry and inspection of premises etc.  
by organisations**

10           **49C. Permits**

(1) A Registrar may, on application by an organisation in accordance with the regulations, issue to an officer or employee of the organisation a permit in the form prescribed for the purposes of this section.

15           (2) The permit —

(a) remains in force until it expires or is revoked under this section; and

(b) expires at the earlier of -

20           (i) 3 years after the day on which it was issued; or

(ii) the time at which the person to whom it was issued ceases to be an officer or employee of the organisation concerned.

25           (3) A Registrar may, on application in accordance with the regulations, revoke the permit if he or she is satisfied that the person to whom it was issued has, in exercising powers under this Division, intentionally

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hindered or obstructed any employer or employee or otherwise acted in an improper manner.

5

(4) An application for the revocation of a permit must set out the grounds on which the application is made.

(5) A person to whom a permit has been issued under this section must, within 14 days after the expiry or revocation of the permit, return the permit to the Registrar.

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(6) If one or more permits issued to a person under this section have been revoked, the Registrar must take the fact into account when deciding whether to issue a further permit under this section to the person.

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**49D. Investigating suspected breaches of Act etc.**

(1) This section applies if a person who holds a permit in force under this Division suspects that a breach has occurred, or is occurring, of -

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- (a) this Act; or
- (b) an award, an order of the Commission, or an industrial agreement, that is in force and binds the organisation of which the person is an officer or employee.

25

(2) For the purpose of investigating the suspected breach, the person may enter, during working hours, any premises where employees work who are members of the organisation of which the person is an officer or employee.

(3) After entering the premises, the person may, for the purpose of investigating the suspected breach —

- 5 (a) require the employer of the employees to allow the person, during working hours, to inspect and, if the person wishes, to make copies of any of the following that are kept by the employer on the premises and are relevant to the suspected breach —
- 10 (i) any time records;
- (ii) any wage records; or
- 15 (iii) any other documents, other than a WA, an ancillary document or a document that shows some or all of the content of a WA or of an ancillary document; and
- (b) during working hours, inspect or view any work, material, machinery, or appliance, that is relevant to the suspected breach;
- 20 and
- (c) during working hours, interview any employees who are:
- 25 (i) members of the organisation of which the person is an officer or employee; or
- (ii) eligible to become members of that organisation;

about the suspected breach.

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5 (4) For the purpose of investigating the suspected breach, the person may (regardless of whether the person exercises powers under subsection (2) or (3)) require the employer of the employees mentioned in subsection (2) —

10 (a) to produce documents of the kind mentioned in any of subparagraphs (3)(a)(i) to (ii) at the premises at which the employees work or at some other agreed place; and

(b) if the documents are to be produced at the premises at which the employees work — to allow the person, during working hours, to enter the premises and -

15 (i) inspect the documents;

(ii) if the person wishes to do so — make copies of the documents; and

20 (c) if the documents are to be produced at some other place — to allow the person, at an agreed time, to inspect the documents at that place and, if the person wishes to do so, to make copies of them.

**49E. Discussions with employees**

25 (1) A person who holds a permit in force under this Division may enter premises in which —

30 (a) work is being carried on to which an award or an industrial agreement or a general order applies that is binding on the organisation of which the person holding the permit is an officer or employee; and

- (b) employees who are members, or eligible to become members, of that organisation work;

5 for the purposes of holding discussions with any of those employees who wish to participate in those discussions.

10 (2) The person may only enter the premises during working hours and may hold the discussions during such hours provided no disruption is caused to the work process.

**49F. Conduct not authorised under sections 49D and 49E**

(1) If —

15 (a) a person proposes to enter, or is on, premises in accordance with section 49D or 49E; and

(b) the occupier of the premises requires the person to show his or her permit;

20 the person is not entitled under that section to enter or remain on the premises unless he or she shows the occupier the permit.

25 (2) A person is only entitled to enter premises, and exercise powers, under section 49D or 49E if the person has given the occupier of the premises at least 24 hours' notice of the person's intention to do so.

(3) A person is not, in exercising any powers under section 49D or 49E, entitled to enter any part of premises used for residential purposes, except with the permission of the occupier.

cl. 8

**49G. Conduct in relation to sections 49D and 49E attracting civil penalties**

5 (1) A person exercising powers under section 49D or 49E must not intentionally hinder or obstruct any employer or employee.

(2) The occupier of premises must not refuse or unduly delay entry to the premises by a person entitled to enter the premises under section 49D or 49E.

10 (3) An employer must not refuse or fail to comply with a requirement under paragraph 49D(3)(a) or subsection 49D(4).

15 (4) A person must not otherwise intentionally hinder or obstruct a person exercising powers under section 49D or 49E. To avoid doubt, a failure to agree on a place or a time as mentioned in paragraph 49D(4)(a) or (c) does not constitute hindering or obstructing a person exercising such powers.

**49H. Civil penalties**

20 (1) In this section —

**“penalty provision”** means subsection 49C (5) or 49G(1),(2),(3) or (4).

25 (2) If a person contravenes a penalty provision, the contravention is not an offence. However, the court may make an order imposing a penalty on a person who contravenes a penalty provision or, where that person acts on behalf of a registered organisation, on that registered organisation.

30 (3) The penalty cannot be more than \$5,000 for a registered organisation or an employer or \$1,000 in other cases.



(4) An application for an order under subsection (2) may be made by any person.

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(5) The court may grant an injunction requiring a person not to contravene, or to cease contravening, a penalty provision.

**49I. Powers of Commission**

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(1) Notwithstanding any other provision of this Act, the Commission may exercise its powers under this Act to prevent and settle industrial disputes about the operation of this Division, but must not make an order for that purpose conferring powers that are additional to, or inconsistent with, powers exercisable under this Division.

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20

(2) However the Commission does have power, for the purpose of preventing or settling the industrial dispute, to revoke a permit issued to a person under section 49C. If it does so, it may make any order that it considers appropriate, for the purpose of preventing or settling the industrial dispute, about the issue of any further permit to the person, or of any permit or further permit to any other person, under that section.”

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**Section 34 repealed**

25 **9.** Section 34 of the principal Act is repealed.

cl. 10

**PART 2**

**Part VIC of the *Industrial Relations Act 1979* repealed and re-enacted**

- 5     **10.** Part VIC of the *Industrial Relations Act 1979* as amended by Part 4 of the principal Act is repealed and re-enacted with amendment in the *Electoral Act 1907* as provided in this Part.

***Electoral Act 1907* amended**

- 11.** The *Electoral Act 1907* is amended by inserting after section 174 the following Part —

10    “

**PART VIA — POLITICAL EXPENDITURE BY ORGANIZATIONS**

**176. Interpretation**

- (1) In this Part —

15            “**election candidate**” means a candidate in a parliamentary election;

              “**organisation**” has the meaning given to it in section 7 of the *Industrial Relations Act 1979* and in addition includes any public company;

20            “**parliamentary election**” means the election of a member or members of the parliament of the State, the Commonwealth, another State or a Territory.

25            “**political expenditure**” has the meaning given by subsection (2), some examples of which are mentioned in subsection (3);

“**political fund**”, in relation to an organization,  
means a fund maintained by the organization  
under section 176B;

5 “**political party**” means a body corporate or other  
body or organization having as one of its objects  
or activities the promotion of the election of  
election candidates endorsed by it; and

“**public company**” has the meaning given to it in the  
Corporations Law.

10 (2) A reference in this Part to political expenditure is a  
reference to expenditure incurred for or in connection with  
directly promoting or opposing a political party or the  
election of a candidate or candidates in a parliamentary  
election.

15 (3) Some examples of political expenditure are —

- (a) making a payment to a political party (whether  
by way of a membership subscription or  
affiliation fee or in any other manner).
- 20 (b) making a payment to an election candidate or a  
group of election candidates;
- (c) paying expenses directly or indirectly incurred by  
a political party;
- 25 (d) paying expenses directly or indirectly incurred in  
connection with a parliamentary election by an  
election candidate or a group of election  
candidates; or
- 30 (e) making a payment to a person on the  
understanding that that person or another  
person will directly or indirectly apply the whole  
or a part of the payment in a way mentioned in  
paragraph (a), (b), (c) or (d).

**cl. 11**

**176A. Payments**

5 For the purposes of this Part any payment made from a fund or account jointly owned, managed or controlled by an organization and another body shall be regarded as having been made by the organization.

**176B. Political donations by organizations**

(1) An organization shall, if necessary for the purposes of this section, maintain a separate fund as a political fund.

10 (2) If an organization receives an amount from any of its members to be applied by way of political expenditure, the organization shall credit the amount to a political fund.

15 (3) If an organization receives any interest or other amount earned or derived from the investment of moneys standing to the credit of a political fund, the organization shall credit the interest or other amount to that political fund.

20 (4) An organization shall not credit any moneys to a political fund other than moneys referred to in subsection (2) or (3) and, in particular, shall not credit any moneys from a member's subscriptions to a political fund.

(5) An organization shall not make any payment by way of political expenditure except from moneys already standing to the credit of a political fund.

(6) If —

25 (a) an organization receives an amount from any of its members to be applied for political expenditure; and

- 5 (b) that amount is received subject to a direction from the member as to the political party or parties, or election candidate or election candidates, to or in respect of which or whom the organization may pay or apply the amount,

the organization shall not make any payment from moneys in a political fund derived from that amount if the payment would be contrary to that direction.

10 **176C. Offences by organizations and officials relating to political expenditure**

- (1) An organization that —
- 15 (a) fails to credit an amount to a political fund as required by section 176B;
- (b) credits an amount to a political fund contrary to section 176B; or
- (c) makes a payment contrary to section 176B,

is guilty of an offence and liable to a penalty of \$5,000.

- 20 (2) If an organization is guilty of an offence against subsection (1), any finance official of the organization who is in any way, by act or omission and directly or indirectly, concerned in or party to the transaction in question, knowing the transaction to have been made in contravention of section 176B is guilty of an offence and liable to a penalty of \$1,000.

- 25 (3) In subsection (2) —

**“finance official”** has the same meaning as it has in section 74 of the *Industrial Relations Act 1979*.

cl. 11

**176D. Disqualification for unauthorized political expenditure**

(1) If an officer of an organization is convicted of an offence against section 176C (2), the court may order —

- 5           (a) that the officer's office becomes vacant when the order is made; and
- (b) that, from the time when the order is made, the officer is disqualified from holding or acting in any office in the organization during such period of not more than 3 years as is specified in the order.
- 10

(2) The court may include in an order under subsection (1) any provision that it considers necessary to ensure the operation of the order and to provide for the election or appointment of a person to replace the officer whose office becomes vacant under the order.

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(3) A person who performs or attempts to perform the functions of an office in the organization while disqualified by an order under subsection (1) from holding or acting in the office commits an offence punishable by the Supreme Court as for a contempt.

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**176E. Recovery of unauthorized payments**

(1) In this section —

**“unauthorized payment”** means —

- 25           (a) a payment made contrary to section 176B; or
- (b) a payment made from moneys that have been credited contrary to section 176B.

5           (2) If an organization is convicted of an offence against section 176C (1) and an unauthorized payment is proved to have been made, the court may order the unauthorized payment to be forfeited to the Crown by the political party, candidate or candidates which or who received the payment or incurred the expenses in respect of which the payment was made, or in a case mentioned in section 176 (3) (e), by the person to whom the payment was made or a person by whom the payment was applied.

10           (3) An amount ordered to be forfeited under subsection (2) is a debt due to the Crown by the political party, candidate, candidates or person, as the case may be, to which or to whom the order is directed.

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