

## **PRACTICE DIRECTION NUMBER 2 OF 2021**

### **INDUSTRIAL REGISTRAR**

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#### **APPROVAL TO ENGAGE IN PROTECTED INDUSTRIAL ACTION**

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This Practice Direction applies where an employee organisation seeks the approval of the Industrial Registrar for a process to be approved under s 235(2) of the *Industrial Relations Act 2016* (Qld) (the Act) and/or, makes an application under s 235(1) of the Act to engage in industrial action.

Before engaging in protected industrial action, the employee organisation proposing the industrial action must have a process approved by the Industrial Registrar which will allow its members to express their democratic views on the proposed industrial action.

1. For the Industrial Registrar to consider a process for approval made by an individual employee organisation under s 235(2) of the Act, the process must:
  - (a) be supplied to the Industrial Registrar in an electronic form in a format that allows the text to be searched and copied; and
  - (b) allow the relevant members of the employee organisation to express their democratic views.
2. Prior to the process being undertaken, the process must be supplied to and approved by the Industrial Registrar.
3. A process will not be retrospectively approved.
4. A process undertaken without the approval of the Industrial Registrar will not satisfy s 235(1)(a) of the Act.
5. A process, once undertaken, will only be considered an expression of the support for the industrial action which was, at that time, proposed to the employees who participated in the process.
6. Subject to 8 below, a process once approved by the Industrial Registrar will remain approved for the purposes of s 235 of the Act.
7. Processes approved prior to the release of this Practice Direction will remain in force until such time an employee organisation seeks an amendment to that process.

8. Where an employee organisation wishes to undertake a process, which is different to one previously approved by the Industrial Registrar, then the employee organisation must have the entirety of the different process approved. If approved, the different process entirely replaces the previously approved process.
9. An application to engage in protected industrial action made under s 235(1) of the Act must be in the current approved form and cannot be filed with the Industrial Registry until the approved process under s 235(2) of the Act has been completed.
10. Any evidence in support of an application made under s 235(1) of the Act must be in the form of an affidavit, conforming with the *Industrial Relations (Tribunals) Rules 2011* (Qld), and filed together with the application to engage in protected industrial action.
11. An application to engage in protected industrial action must be executed by a person with capacity identified under the rules of the employee organisation.
12. Once satisfied, the Industrial Registrar will approve for relevant members of the employee organisation to access protected industrial action up to the time at which an agreement covering their employment is certified or determined by the Queensland Industrial Relations Commission.
13. This Practice Direction will commence operation immediately.

**M.P. Shelley**  
Industrial Registrar  
17 June 2022