

SUPREME COURT OF TASMANIA

PRACTICE DIRECTION

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The following Practice Direction is published by direction of the Chief Justice, the Honourable Justice Alan Blow OAM.

APPLICATIONS FOR QUASHING DECISIONS OF THE FULL BENCH OF THE TASMANIAN INDUSTRIAL COMMISSION

- 1 This Practice Direction concerns the titles of proceedings for the quashing of decisions of the Full Bench of the Tasmanian Industrial Commission.
- 2 Decisions of the Full Bench can be challenged only in proceedings under s72 of the *Industrial Relations Act* 1984. That section reads as follows:

"(1) Where a Full Bench makes a decision in respect of an appeal, that decision is, subject to this section, final.

(2) A person who wishes to challenge a decision of a Full Bench in respect of an appeal may apply to the Supreme Court, by motion supported by affidavit, for an order *nisi* calling on the Full Bench to show cause why the decision should not be quashed in whole or in part.

(3) On the return of an order *nisi* referred to in subsection (2), the Supreme Court may discharge the order or make it absolute with or without costs.

(4) A decision of a Full Bench in respect of an appeal shall not be challenged otherwise than under this section."
- 3 The section provides a statutory remedy. That remedy does not involve any exercise of the Royal Prerogative. Her Majesty the Queen is therefore never a party to proceedings under s72 at any stage, and must not be named as a party.
- 4 The appropriate form of application is an originating application not intended to be served – Form 5 under the *Supreme Court Forms Rules* 2000. Service is ordinarily unnecessary unless and until an order *nisi* is made.

- 5 The person challenging the Full Bench decision must be named as the applicant.
- 6 The Tasmanian Industrial Commission must be named as a respondent. Persons whose interests could be affected by the application should also be named as respondents.
- 7 Rule 624(2) of the *Supreme Court Rules* 2000, when it applies, requires the Queen to be named as a party in the title to proceedings. However that sub-rule should not be interpreted as applying to proceedings for an order under s72 of the *Industrial Relations Act* or any other statutory remedy.