



New South Wales

# **Industrial Relations Amendment (Federal Award Employees) Act 1998 No 164**

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New South Wales

# **Industrial Relations Amendment (Federal Award Employees) Act 1998 No 164**

Act No 164, 1998

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An Act to amend the *Industrial Relations Act 1996* to enable the Australian Industrial Relations Commission and the Federal Court of Australia to exercise functions with respect to the unfair dismissal of certain Federal award employees: and for other purposes. [Assented to 14 December 1998]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Industrial Relations Amendment (Federal Award Employees) Act 1998*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Industrial Relations Act 1996 No 17**

The *Industrial Relations Act 1996* is amended as set out in Schedule 1.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 83 Application of Part

Insert after section 83 (1):

- (1A) This Part applies to the termination of employment of a Federal award employee employed in the State, but only to the extent that section 90A applies to it.

### [2] Section 83 (5)

Insert in alphabetical order:

*Federal Act* means the *Workplace Relations Act 1996* of the Commonwealth.

*Federal award employee* has the same meaning as in section 170CD of the Federal Act.

### [3] Sections 90A and 90B

Insert after section 90:

#### 90A Federal award employees

- (1) The purpose of this section is to enact provisions relating to the termination of employment of certain Federal award employees, as contemplated by section 5 (8) and (9) of the Federal Act.
- (2) In this section:

*affected employee* means a person whose employment is terminated and who is, or who was before the termination, a Federal award employee employed in the State, but does not include an employee referred to in section 170CB (1) (a)–(d) of the Federal Act.

- (3) The provisions of Subdivision B of Division 3 of Part VIA of the Federal Act (and any other relevant provisions of the Federal Act and any relevant regulations under the Federal Act) apply as a law of the State for the purpose of enabling the Australian Industrial Relations Commission to exercise functions with respect to the termination of employment of affected employees.
- (4) The provisions of the Federal Act (and any relevant regulations under the Federal Act) apply as a law of the State for the purpose of enabling the Federal Court of Australia to exercise functions with respect to the termination of employment of affected employees in connection with orders of the Australian Industrial Relations Commission to the extent that those orders are made in the exercise of the provisions of the Federal Act as applied by this section.
- (5) The regulations may:
  - (a) declare that specified provisions of the Federal Act or of the regulations under the Federal Act are within the operation of subsection (3) or (4) or both. or
  - (b) exclude specified provisions of the Federal Act or of the regulations under the Federal Act from the operation of subsection (3) or (4) or both.
- (6) Regulations may not be made for the purposes of subsection (5) unless the Minister certifies to the Governor that the Commonwealth Minister administering the Federal Act has been consulted about the proposed regulations.

#### **90B Termination of operation of section 90A**

- (1) The Governor may, at any time, by proclamation, fix a day as the day on which section 90A ceases to operate.

- (2) Section 90A ceases to operate on the day fixed under this section, except as regards matters pending before the Australian Industrial Relations Commission or the Federal Court of Australia immediately before that day.

**[4] Schedule 4 Savings, transitional and other provisions**

Insert at the end of clause 2 (1):

*Industrial Relations Amendment (Federal Award Employees) Act 1998*

**[5] Schedule 4, clause 17A**

Insert after clause 17:

**17A Federal award employees**

Section 90A (which was inserted by the *Industrial Relations Amendment (Federal Award Employees) Act 1998*) does not apply to a termination of employment that occurred before the commencement of that section.

[Minister's second reading speech made in—  
Legislative Assembly on 10 November 1998  
Legislative Council on 3 December 1998]