



New South Wales

# Industrial Relations Advisory Council Bill 2010

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to establish the Industrial Relations Advisory Council (*the Council*) to provide, in the public interest, a regular and organised means by which representatives of the Government, employers and employees, and other persons invited by the Minister, may consult together on industrial matters of State-wide concern.

## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

**Clause 3** defines certain words and expressions used in the proposed Act.

**Clause 4** sets out the object of the proposed Act as set out in the Overview above.

## **Part 2 Industrial Relations Advisory Council**

**Clause 5** establishes the Council.

**Clause 6** provides that the Council is to consist of the following members:

- (a) the Minister,
- (b) the Director-General of the Department of Premier and Cabinet,
- (c) the Director-General of the Department of Services, Technology and Administration,
- (d) 7 persons nominated by Unions NSW,
- (e) one person nominated by the NSW Business Chamber,
- (f) one person nominated by the Australian Industry Group (NSW Branch),
- (g) one person nominated by the Australian Federation of Employers and Industries,
- (h) one person nominated by the Local Government and Shires Associations of New South Wales,
- (i) one person nominated by the Catholic Commission for Employment Relations,
- (j) one person nominated by the Law Society of New South Wales,
- (k) one person nominated by the Bar Association of New South Wales.

**Clause 7** sets out the functions of the Council (including assisting the Minister in formulating, and to advise the Minister on implementing, policies affecting industrial relations and employment in the State).

**Clause 8** provides that the Council may establish committees for specified purposes to assist it in connection with the exercise of its functions.

**Clause 9** provides that views expressed by individual members of the Council (as distinct from the views or decision of the Council as a whole) must be kept confidential and that the Minister may remove a member from office for contravening that provision.

## **Part 3 Miscellaneous**

**Clause 10** enables the Governor to make regulations for the purposes of the proposed Act.

**Clause 11** provides for the review of the proposed Act in 5 years.

## **Schedule 1 Provisions relating to members of Council**

**Schedule 1** contains provisions relating to membership and procedure of the Council.



New South Wales

# Industrial Relations Advisory Council Bill 2010

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New South Wales

# Industrial Relations Advisory Council Bill 2010

No. , 2010

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## **A Bill for**

An Act to establish the Industrial Relations Advisory Council; and for other purposes.

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**The Legislature of New South Wales enacts:** 1

**Part 1 Preliminary** 2

**1 Name of Act** 3

This Act is the *Industrial Relations Advisory Council Act 2010*. 4

**2 Commencement** 5

This Act commences on the date of assent to this Act. 6

**3 Definitions** 7

In this Act: 8

*appointed member* means a member referred to in section 6 (1) (d). 9

*Chairperson* means the Chairperson of the Council. 10

*Council* means the Industrial Relations Advisory Council established under this Act. 11  
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*exercise* a function includes perform a duty. 13

*function* includes a power, authority or duty. 14

*member* means a member of the Council. 15

**4 Object of Act** 16

The object of this Act is to establish the Industrial Relations Advisory Council to provide, in the public interest, a regular and organised means by which representatives of the Government, employers and employees, and other persons invited by the Minister, may consult together on industrial matters of State-wide concern. 17  
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<b>Part 2</b>	<b>Industrial Relations Advisory Council</b>	1
<b>5</b>	<b>Establishment of Council</b>	2
	There is established by this Act an Industrial Relations Advisory Council.	3 4
<b>6</b>	<b>Membership of Council</b>	5
(1)	The Council is to consist of:	6
	(a) the Minister, who is to be the Chairperson, and	7
	(b) the Director-General of the Department of Premier and Cabinet, and	8 9
	(c) the Director-General of the Department of Services, Technology and Administration, and	10 11
	(d) the following members appointed by the Minister:	12
	(i) 7 members nominated by Unions NSW,	13
	(ii) one member nominated by the NSW Business Chamber,	14
	(iii) one member nominated by the Australian Industry Group (NSW Branch),	15 16
	(iv) one member nominated by the Australian Federation of Employers and Industries,	17 18
	(v) one member nominated by the Local Government and Shires Associations of New South Wales,	19 20
	(vi) one member nominated by the Catholic Commission for Employment Relations,	21 22
	(vii) one member nominated by the Law Society of New South Wales,	23 24
	(viii) one member nominated by the Bar Association of New South Wales.	25 26
(2)	Nothing in this section prevents the Minister from inviting or authorising any other person to attend, or participate in, a meeting of the Council.	27 28 29
(3)	Schedule 1 contains provisions relating to members of the Council.	30
<b>7</b>	<b>Functions of Council</b>	31
	The functions of the Council are as follows:	32
	(a) to assist the Minister in formulating, and to advise the Minister on implementing, policies affecting industrial relations and employment in the State,	33 34 35

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Part 2 Industrial Relations Advisory Council

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- (b) to advise the Minister on legislative proposals of industrial significance, 1  
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- (c) to consider matters referred to the Council by the Minister or members of the Council. 3  
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**8 Committees of Council** 5

- (1) The Council may establish committees for specified purposes to assist it in connection with the exercise of its functions. 6  
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- (2) A committee must include at least one member of the Council. 8
- (3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be determined by the Council or, subject to any determination of the Council, by the committee. 9  
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**9 Confidentiality** 12

- (1) The views expressed by individual members of the Council (as distinct from the views or decision of the Council as a whole) must be kept confidential. 13  
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- (2) However, this section does not prevent an appointed member from reporting to the body on whose nomination the member was appointed on the views expressed at a meeting of the Council. 16  
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- (3) There must be no public announcement of a view or decision reached by the Council unless the Council resolves that the announcement should be made. 19  
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- (4) Without limiting the generality of clause 3 (3) of Schedule 1, the Minister may remove an appointed member from office if the member contravenes this section. 22  
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<b>Part 3</b>	<b>Miscellaneous</b>	1
<b>10</b>	<b>Regulations</b>	2
	The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.	3 4 5 6
<b>11</b>	<b>Review of Act</b>	7
(1)	The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.	8 9 10
(2)	The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.	11 12
(3)	A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.	13 14

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<b>Schedule 1</b>	<b>Provisions relating to members of Council</b>	1
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<b>1</b>	<b>Deputies of members</b>	3
(1)	The Minister may, from time to time, appoint a person to be the deputy of a member, and may revoke any such appointment.	4 5
(2)	In the absence of a member, the member's deputy may, if available, act in place of the member.	6 7
(3)	While acting in place of a member, the deputy has all the functions of the member and is taken to be a member.	8 9
<b>2</b>	<b>Term of office</b>	10
	Subject to this Schedule, an appointed member holds office for such period (not exceeding 3 years) as is specified in the member's instrument of appointment, and is eligible for re-appointment.	11 12 13
<b>3</b>	<b>Vacancy in office</b>	14
(1)	The office of an appointed member becomes vacant if the member:	15
(a)	dies, or	16
(b)	completes a term of office and is not re-appointed, or	17
(c)	resigns the office by instrument in writing addressed to the Minister, or	18 19
(d)	ceases to be the nominee of the body on whose nomination the member was appointed, or	20 21
(e)	is removed from office by the Minister under this clause, or	22
(f)	absents himself or herself from 4 consecutive meetings of the Council of which reasonable notice has been given to the member personally or in the ordinary course of post, unless:	23 24 25
(i)	the Council has granted the member leave to be absent from those meetings, or	26 27
(ii)	within 4 weeks after the last of those meetings, the member is excused by the Council for having been absent from those meetings, or	28 29 30
(g)	becomes bankrupt, applies to take benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or	31 32 33 34

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(h)	becomes a mentally incapacitated person, or	1
(i)	is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable.	2 3 4 5 6
(2)	A body referred to in section 6 (1) (d) may, by instrument in writing addressed to the Minister, revoke the nomination of an appointed member.	7 8 9
(3)	The Minister may remove an appointed member from office at any time.	10
<b>4</b>	<b>Filling of vacancy of member</b>	11
	If the office of an appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.	12 13
<b>5</b>	<b>General procedure</b>	14
	The procedure for the calling of meetings of the Council and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Council.	15 16 17
<b>6</b>	<b>Meetings of Council</b>	18
	The Council must hold at least 2 meetings in each calendar year.	19
<b>7</b>	<b>Quorum</b>	20
(1)	Subject to subclause (2), the quorum for a meeting of the Council is 7 of its members.	21 22
(2)	A quorum for the meeting of the Council must include each of the following members or that member's deputy:	23 24
(a)	the Minister,	25
(b)	the Director-General of the Department of Premier and Cabinet,	26
(c)	the Director-General of the Department of Services, Technology and Administration.	27 28