

Act No. 123

**INDUSTRIAL ARBITRATION (TRIBUNALS AND  
DELEGATIONS) AMENDMENT BILL 1987**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The objects of this Bill are—

- (a) to amend the Industrial Arbitration Act 1940 so as to vary in a minor respect the requirements relating to the constitution of the Industrial Commission of New South Wales in court session, to provide that the Vice-President of the Commission may delegate the functions of that office and to provide for the Governor to determine the seniority of conciliation commissioners (other than the conciliation commissioner for apprenticeships); and
- (b) to validate proceedings conducted in the name of the Retail Trade Industrial Tribunal in the absence of assessors.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with the exception of the validation to be effected by clause 5 and other minor provisions, commence on a day or days to be appointed by the Governor-in-Council.

Clause 3 defines the Principal Act.

Clause 4 gives effect to the Schedule of amendments to the Principal Act.

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Clause 5 validates proceedings, and orders, awards, rulings and decisions which purport to have been conducted before or made by the Retail Trade Industrial Tribunal in the absence of the 2 assessors appointed to assist and advise the Tribunal. The clause saves the effect of the particular decisions and orders made by the New South Wales Court of Appeal in the case in which it was decided by that Court that, in the absence of the assessors, the Tribunal was not validly constituted.

Schedule 1 (1) amends section 14 (Industrial commission) of the Principal Act so as to provide that the Commission must include at least 2 judicial members when sitting in court session if the President is of the opinion that the matter to be determined involves substantially judicial questions (instead of solely a question of law, as presently provided).

Schedule 1 (2) inserts proposed section 14B (Delegation by Vice-President) into the Principal Act which will enable the Vice-President of the Commission to delegate certain functions to the most senior conciliation commissioner available to carry them out.

Schedule 1 (3) amends section 15 (Conciliation commissioners) of the Principal Act so as to provide for the seniority of conciliation commissioners (other than the conciliation commissioner for apprenticeships) to be determined by the Governor.

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