

Act No. 43

INDUSTRIAL ARBITRATION (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Industrial Arbitration Act 1940—

- (a) to repeal an obsolete provision which prohibited certain bread delivery contracts being entered into unless approved by the Industrial Commission or a conciliation committee;
- (b) to repeal a provision which enables the Industrial Commission to fix minimum remuneration rates under certain contracts for building work or door-to-door sales or handbill delivery work;
- (c) to provide increased scope for consultation between the President of the Industrial Commission and the heads of other State and Federal industrial tribunals; and
- (d) to provide the President of the Industrial Commission with greater flexibility in determining the composition of the Commission sitting in court session.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act is to commence on the date of assent to the proposed Act.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Industrial Arbitration Act 1940.

SCHEDULE 1—AMENDMENTS

Repeal of provisions concerning contract regulation

The Bill repeals sections 88B and 88FA of the Principal Act. (Schedule 1 (5) and (7)).

Section 88B is an obsolete provision which required the approval of the Industrial Commission or a conciliation committee before certain contracts could be entered into between bread manufacturers and bread carters.

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Section 88FA enables the Industrial Commission to fix the minimum rate of remuneration under certain contracts for building work or door-to-door sales or handbill delivery work.

Constitution of Industrial Commission in court session

The Principal Act currently provides that the Commission in court session is to consist of at least 3 persons chosen by the President.

If the matter to be determined involves substantially judicial questions, at least 2 of the persons chosen must be judicial members of the Commission and 1 must be a non-judicial member. In other cases at least 1 of the persons must be a judicial member and there must be 1 non-judicial member and 1 Conciliation Commissioner.

The Bill (Schedule 1 (1)) alters this so that, in all cases, the Commission in court session will consist of at least 3 persons chosen by the President from among members of the Commission and Conciliation Commissioners. At least 1 must be a judicial member of the Commission and 1 other (but only 1) may be a Conciliation Commissioner.

Consultation with other industrial authorities

The Bill (Schedule 1 (4)) broadens the scope of a provision of the Principal Act which currently empowers the President of the Industrial Commission to confer with the Australian Conciliation and Arbitration Commission to secure co-ordination between awards.

When amended, the provision will empower the President to confer with any Federal, State or Territorial industrial authority to co-ordinate their decisions and any other matters arising under their administrations.

Savings and transitional provisions

Schedule 1 (9) and (10) insert a Schedule of savings and transitional provisions (consequent on the enactment of the proposed Act) into the Principal Act. Under those provisions, any order in force under a provision to be repealed by the proposed Act is rescinded and the reconstitution of the Commission in court session is not to apply for part heard matters unless the President of the Commission decides to reconstitute it for that purpose.

Consequential amendments

Schedule 1 (6) and (8) omit cross references to the sections of the Principal Act to be repealed by the proposed Act.

Schedule 1 (2) and (3) are consequential on the amendment concerning consultation with other industrial authorities (Schedule 1 (4)).
