

[Act 1996 No 17]



Industrial Relations Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*
The *Employment Agents Bill 1996* is cognate with this Bill.

Overview of Bill

The object of this Bill is to reform the law concerning industrial relations so as:

- (a) to provide a framework for the conduct of industrial relations that is fair and just,
- (b) to promote efficiency and productivity in the economy of the State,
- (c) to provide for the conduct of industrial relations at an enterprise or workplace level,
- (d) to encourage participation in industrial relations by representative bodies of employees and employers and to encourage the responsible management and democratic control of those bodies,

* Amended in committee—see table at end of volume.

- (e) to facilitate appropriate regulation of employment through awards, enterprise agreements and other industrial instruments,
- (f) to prevent and eliminate discrimination in the workplace and in particular to ensure equal remuneration for men and women doing work of equal or comparable value,
- (g) to provide for the resolution of industrial disputes by conciliation and, if necessary, by arbitration in a prompt and fair manner and with a minimum of legal technicality,
- (h) to encourage and facilitate co-operative workplace reform and equitable, innovative and productive workplace relations.

The Bill repeals the *Industrial Relations Act 1991* (the **1991 Act**). The provisions of that Act relating to the licensing and regulation of private employment agents are being carried forward by the cognate *Employment Agents Bill 1996*.

Key changes effected by the Bill include the following:

- (a) The present Industrial Relations Commission and Industrial Relations Court will be integrated into a single tribunal. Judicial functions under the proposed Act will be exercised by the judicial members of the Commission sitting as the Commission in Court Session. The existing Judges of the Industrial Court (who are also members of the present Commission) will become judicial members and retain the same status, remuneration and rights as Judges of the Supreme Court.
- (b) The new Commission will be given more flexible powers to make awards on conditions of employment and to deal with industrial disputes. The proposed Act will remove restrictions under the 1991 Act on powers exercisable during the initial period of an award or agreement (the so called “interests/rights” dichotomy).
- (c) Enterprise agreements are to be retained as an alternative to award coverage. Under the proposed Act, responsibility for the supervision of agreements and the maintenance of minimum employment standards is to be given to the new Commission.
- (d) The proposed Act will place greater emphasis on the elimination of discrimination in employment and on pay equity for men and women doing work of equal or comparable value.
- (e) The proposed Act will place less emphasis on criminal sanctions for the purposes of enforcement.

- (f) The proposed Act will make provision setting out principles of association and providing for their enforcement so as to encourage membership of industrial organisations as well as prevent the victimisation of those who choose to become or not become members.
- (g) The existing provisions relating to unfair dismissals, parental leave, part-time work, unfair contracts and registration of industrial organisations are to be carried forward with a number of changes to streamline and improve their operation.

Outline of provisions

Chapter 1 Preliminary

Chapter 1 deals with preliminary matters such as the name, commencement and objects of the proposed Act and the definitions used in the proposed Act.

Chapter 2 Employment

Chapter 2 deals with general employment matters. The Chapter makes provision, in particular, with respect to awards, enterprise agreements, parental leave, part-time work, unfair dismissals, unfair contracts and payment of remuneration.

Part 1 Awards

This Part gives the Commission comprehensive powers to make and vary awards setting conditions of employment for employees. Ordinarily, an award will apply for not less than one year and not more than three years, or for a period not exceeding the anticipated life of a project. Awards will continue to contain appropriate procedures for dealing with industrial disputes. The Commission will have an expanded role in ensuring that awards are kept up-to-date, relevant and consistent with the objects of industrial and anti-discrimination legislation. Existing provisions relating to awards (including the maximum 40-hour week, minimum one week sick leave and the prohibition on cashing-in sick leave) are to be retained.

Part 2 Enterprise agreements

This Part continues to make enterprise agreements available as an alternative to award coverage for workplaces. The approval process for new agreements will be changed and agreements will become available for projects on which a number of employers are engaged.

Under the Part, enterprise agreements may be made between employers and industrial organisations of employees and, where there is a secret ballot in which at least 65% of the employees agree, directly between employees and their employer. Peak industrial organisations will be able to negotiate agreements on behalf of their member organisations in order to simplify agreements for major projects on which many employers are engaged.

Enterprise agreements will override inconsistent award provisions. However all agreements will be required to be approved by the Commission. An agreement will be approved only if it does not, on balance, provide a net detriment to employees when compared with the aggregate package of employment conditions that would otherwise be available under the relevant award. The Commission is required to establish principles against which all agreements will be tested to determine whether they meet the requirements of the legislation and the appropriateness of the negotiation process. Relevant industrial organisations and other bodies will be notified of proposed agreements made directly with employees and will be given the right to make submissions to the Commission on whether they should be approved.

Part 3 National and State decisions

This Part carries forward the provisions of the 1991 Act that enable the Commission to adopt general wage and other decisions of the Australian Industrial Relations Commission and to make necessary changes to State awards as a consequence of their adoption.

In addition provision will be made to enable the Commission to make a State-wide decision without the necessity for a national decision.

Part 4 Parental leave

The Part carries forward provisions in the 1991 Act that confer an entitlement to a maximum of 52 weeks unpaid parental leave (maternity leave, paternity leave or adoption leave). However a number of changes have been made to simplify and improve the provisions. In particular, in the case of male

employees, the consent of the employer will no longer be required for the continuation of paternity leave after the first week, or for the continuation of adoption leave after the first 3 weeks, in order to be the primary care giver of the child. The removal of that requirement will bring the State provisions into line with the minimum entitlements applicable under the Commonwealth Act.

Part 5 Part-time work

This Part carries forward provisions in the 1991 Act relating to part-time work agreements. Under the Part employees may, with the agreement of their employers, work part-time. A part-time work agreement may be made despite certain restrictions in awards on such work. A number of changes have been made to streamline the provisions.

Part 6 Unfair dismissals

This Part re-enacts the provisions of the 1991 Act relating to unfair dismissals. The Part enables an application to be made to the Commission to conciliate in relation to the dismissal (or threatened dismissal) of an employee if the dismissal is claimed to be unfair in that it was (or would be) harsh, unreasonable or unjust. The Part provides for arbitration by the Commission if conciliation fails, and empowers the Commission to make appropriate orders for reinstatement, re-employment, payment of lost wages or compensation.

Under the re-enacted provisions an industrial organisation will be able to make a single application in respect of a number of employees who have been dismissed.

Part 7 Protection of injured employees

This Part re-enacts provisions of the 1991 Act designed to protect the employment of employees injured on the job. The application of the provisions and the remedies available have been clarified and extended having regard to the provisions relating to unfair dismissals.

An employee who is dismissed from employment on account of an injury on the job is entitled to be reinstated on demand, if the employee is fit to resume employment. A failure by the employer to accede to this demand may be remedied by an order for reinstatement, made by the Commission. It is an offence for an employer to dismiss the injured employee, on account of the injury, within 6 months of the employee becoming unfit for employment.

Part 8 Protection of entitlements on transfer of business

This Part re-enacts provisions of the 1991 Act that protect the entitlements of employees on a transfer of the employer's business.

Part 9 Unfair contracts

This Part continues the existing industrial jurisdiction to set aside or vary contracts, under which people perform work, that are unfair (including harsh, unconscionable, against the public interest or providing less remuneration than that which would be payable by law to employees). Provision has been included to make it clear that a contract may become unfair after it is made because of the conduct of the parties, any variation of the contract or for any other reason.

The Part also continues the jurisdiction of the Commission to determine minimum remuneration under contracts found to be unfair that relate to building work and to door-to-door hand bill delivery or sale work.

Part 10 Payment of remuneration

This Part provides for the manner in which employees are to be remunerated for their work. The Part continues the relevant provisions of the 1991 Act and the former *Truck Act 1900*. Wages are to be paid in money (or, with appropriate arrangements, by cheque or deposit in a financial institution) and not in goods, board or lodgings. Any such payment in kind does not mitigate a debt consisting of unpaid wages, and is not recoverable by the employer. An employer is prohibited from directing the manner in which an employee spends his or her wages. The Part continues the new provision included in the 1991 Act to give employees the right to nominate their own superannuation fund for superannuation payments with the approval of the employer.

The Part requires that particulars of wages are to be supplied to employees when they are paid and enables regulations to be made requiring employers to keep relevant records.

The Part also carries forward provisions of the 1991 Act relating to permits for under-award pay for impaired employees, orders for the stand-down of employees without pay because of industrial or other action and the liability of principal contractors for remuneration payable to employees of subcontractors.

Chapter 3 Industrial disputes

Chapter 3 deals with power of the Commission to deal with industrial disputes.

Part 1 Conciliation and arbitration of industrial disputes

This Part requires the Commission to deal with an industrial dispute notified to it initially by conciliation. Arbitration may only proceed if, having regard to the effect on the parties and the public generally of any industrial action, the Commission issues a certificate that reasonable attempts have been made to resolve the dispute by conciliation. Provisions for compulsory conferences are continued.

Part 2 Dispute orders

This Part confers powers on the Commission to make dispute orders to deal with industrial disputes (including orders preventing or restraining industrial action, requiring the reinstatement of employees and preventing secondary boycotts). The Commission may punish breaches of dispute orders in a number of ways (including deregulation of an industrial organisation and the imposition of a fine).

Part 3 Common law actions during conciliation of industrial disputes

This Part contains new provisions that provide for a temporary bar on certain common law industrial tort actions arising from an industrial dispute while the Commission is attempting to deal with the dispute by conciliation. The bar will not apply to actions causing death, personal injury, damage to property or defamation.

Part 4 Miscellaneous provisions relating to industrial disputes

This Part contains miscellaneous provisions, including continuation of the prohibition on employers providing strike pay.

Chapter 4 Industrial Relations Commission

Chapter 4 deals with the new Commission, which will replace the existing Commission and the Industrial Court.

Part 1 Establishment and functions of Commission

This Part provides for the establishment of the Industrial Relations Commission of New South Wales and sets out its general functions. The Part requires the Commission to take account of the public interest, including the objects of the proposed Act and the economy of the State.

Part 2 Membership of Commission

This Part provides for the membership of the Commission. The Commission will consist of the President, the Vice-President, Deputy Presidents and Commissioners. The Part provides for the appointment of judicial members from among the Presidential members to constitute the Commission in Court Session.

Part 3 The Commission in Court Session

This Part provides that the judicial members of the Commission constitute a superior court of record called the Commission in Court Session for the purpose of exercising specified judicial functions of the Commission (including criminal proceedings, unfair contracts, contraventions of dispute orders, de-registration and other proceedings relating to industrial organisations and certain appeals). The Part restores the declaratory jurisdiction of the Commission under the former 1940 Act.

Part 4 Organisation of Commission

This Part deals with the constitution of the Commission in exercising its functions (either by a single member or a full bench), the allocation of matters to specially appointed members to deal with regional matters, general award review and discrimination in the workplace.

Part 5 Procedure and powers of Commission

This Part deals with the procedure and powers of the Commission in exercising its jurisdiction. In particular, the Commission (when not in Court Session) is not bound by legal technicalities or the rules of evidence. The

right of the Minister to intervene in proceedings is retained and is extended to the President of the Anti-Discrimination Board. The Part also deals with other provisions in the 1991 Act (including provisions relating to legal representation, the power to order secret ballots, provisions as to costs and contempt proceedings).

Part 6 Rules of Commission

This Part makes provision for the establishment of the Rule Committee of the Commission, the subject-matter of rules and the procedure at meetings of the Rule Committee.

Part 7 Appeals and references to Commission

This Part makes provision for appeals and references to the Commission. Under the Part an appeal will lie to a Full Bench of the Commission (by leave) against a decision of a member of the Commission. Appeals will not be by way of a new hearing.

The Part also covers reference of matters from the Industrial Registrar to the Commission, and appeals to the Commission against certain decisions of the Industrial Registrar. The Part continues the provisions for appeals in criminal matters from Industrial Magistrates and Local Courts under the industrial relations and other legislation to the Commission in Court Session (instead of the District Court).

Part 8 Industrial Committees

This Part provides for the establishment and functions of Industrial Committees of the Commission (at present called Conciliation Committees and Contract Regulation Committees).

Part 9 Co-operation between State and Federal tribunals

This Part continues the relevant provisions of the 1991 Act. Under the Part, if an approach is made by the Australian Industrial Relations Commission, a member of the State Commission may deal with matters covered by Commonwealth legislation and similar arrangements may be made for a member of the Commonwealth Commission to exercise State jurisdiction. Provision is also made for joint proceedings.

Part 10 Industrial Registrar

This Part provides for the continuation of the offices of Industrial Registrar and Deputy Industrial Registrar and for the appointment of other registry staff.

Chapter 5 Industrial organisations

Chapter 5 contains provisions dealing with the following:

- principles of association relating to industrial organisations
- State peak councils
- registration of industrial organisations
- regulation of registered industrial organisations
- demarcation orders
- entry and inspection by officers of industrial organisations
- legality of trade unions.

Part 1 Principles of association

This Part declares certain principles of association.

The first of these principles concerns freedom of association. A person is entitled to be a member of an industrial organisation. Equally, a person cannot be compelled to become, or remain, a member of an industrial organisation.

The second principle concerns freedom from victimisation. An employer or industrial organisation must not victimise an employee or a prospective employee on a number of grounds (including that the person is or is not a member of an organisation of employees or has refused to engage in industrial action).

The Part enables a limited preference arrangement for members of industrial organisations of employees over non-members of such organisations to be inserted in industrial instruments. A preference will only be permitted if it is an award made with the consent of all the parties or an enterprise agreement made by the parties. The operation of preference clauses is to be limited to the engagement of prospective employees and cannot provide preference over a prospective employee with greater merit.

A breach of the Part will no longer constitute a criminal offence, but the Commission will be able to enforce the Part by providing remedies for employees who are victimised in their employment by employers or industrial organisations on account of their membership or non-membership of a union.

Part 2 State peak councils

The Part identifies the Labor Council of New South Wales as the State peak council for employees. Provision is made for the Commission to approve an organisation that represents a significant number of member employer associations operating primarily in New South Wales as a State peak council for employers.

Part 3 Registration of organisations

This Part deals with the registration of industrial organisations for the purpose of participating in the State's industrial relations system.

Division 1 Registration

Division 1 describes the organisations that may apply for registration. These are as follows:

- (a) an organisation of employees or employers formed for the purpose of incorporation under the proposed Act (such an organisation is called a *State organisation*),
- (b) an organisation of employees or employers that is federally registered (without branches) or a branch of such an organisation (such an organisation is called a *federal organisation*),
- (c) an organisation of employers incorporated under the *Corporations Law* or any other Act (such an organisation is called a *separate organisation*).

At present only State organisations may be registered (although previous separate organisations were permitted to continue under the 1991 Act). The category of federal organisations will enable a State branch of a federal organisation to be registered without the necessity to establish a mirror State organisation with the same membership and officials.

This Division sets out the criteria for registration and the procedure by which registration is effected. A procedure for raising objections to the registration of an organisation and for resolving objections is provided. On registration, an organisation that is a State organisation is incorporated under the proposed Act.

Industrial organisations of employees or employers registered or recognised under the 1991 Act immediately before the repeal of that Act are taken to be registered as industrial organisations under the proposed Act.

Division 2 Cancellation of registration

Division 2 makes provision for the cancellation of the registration of industrial organisations by the Commission. Grounds of cancellation include breach by an organisation, or a substantial number of its members, of the requirements of the proposed Act, any industrial instrument or order of the Commission or if an organisation, or a substantial number of its members, have engaged in industrial action that has had, is having or is likely to have, a substantial adverse effect on the safety, health or welfare of the community.

The Commission may cancel the registration of an organisation if the ground for cancellation has been established but only if the Commission considers that the gravity of the case warrants such action. On cancellation of registration, an organisation ceases to be an industrial organisation for the purposes of the proposed Act. Other consequences of the cancellation of registration are described.

Certain alternatives to cancellation of registration are provided if the Commission considers that a ground of cancellation has been established but that justice demands that other action be taken. For example, if the difficulty has arisen because of the conduct of a particular group of members of the industrial organisation, the Commission may make a demarcation order under Part 6 of this Chapter so as to exclude members of that group from eligibility for membership of the organisation concerned. The Commission may also suspend rights, privileges or capacities of an industrial organisation or make other specified orders if it considers that cancellation of registration or alteration of rules is inappropriate.

Part 4 Regulation of State industrial organisations

This Part makes provision for regulation of State industrial organisations.

Division 1 Application

Division 1 states that the Part applies to industrial organisations that are State organisations registered under the proposed Act.

Division 2 Rules

Division 2 deals with matters that must be covered by the rules of State organisations. These matters include general requirements, conditions of eligibility for membership, procedural and administrative matters, elections for and terms of office and the making of loans, grants and donations.

The Division also includes provisions dealing with alteration of the rules of State organisations, changes of names of State organisations, rules that contravene the requirements of proposed Part 4 as to rules and the making of orders by the Commission giving directions for the performance or observance of rules.

Division 3 Election of officers

Division 3 provides for the election of officers of State organisations and permits the making of regulations for that purpose (that may adapt provisions dealing with elections included in the *Industrial Relations Act 1988* of the Commonwealth). The Division deals with offences in relation to, and the cost of, elections.

Provision is made for inquiries by the Commission concerning the conduct of elections for officers in State organisations. If the Commission finds that an irregularity has occurred, orders that the Commission may make include declaring an election void, declaring persons to have been or not to have been elected or requiring a new election to be held.

Division 4 Membership

Division 4 deals with matters relating to membership of organisations, including entitlement to membership, requests for statements of membership, entitlements to a copy of the rules and copies of auditors' reports and audited accounts, resignation from membership and enforcement of the requirements of the Division.

Division 5 Duties and liabilities of officers

Division 5 deals with the duties and liabilities of officers of State organisations. Officers must not act dishonestly, with intent to deceive or defraud an organisation or its members. They must not use their positions for profit and are liable to compensate the organisation for any loss sustained as the result of a failure to comply with these requirements. Officers must also disclose any interest that they may have in any contract or proposed contract with the organisation. Contraventions of the Division are criminal offences.

Division 6 Disqualification from office

Division 6 contains provisions dealing with the disqualification of persons from holding office in State organisations on the basis of their conviction for certain specified serious offences unless they have obtained the leave of the Commission or 5 years has elapsed since they were convicted or released from prison.

Division 7 Records

Organisations are required, in accordance with this Division, to maintain specified records and to lodge specified information, including information concerning membership and the making of loans, grants and donations, with the Industrial Registrar at regular specified intervals.

Division 8 Accounts and audit

Division 8 enables the making of regulations about the accounts and audit of State organisations (which may adopt provisions included in the *Industrial Relations Act 1988* of the Commonwealth).

Division 9 Amalgamation

Division 9 enables the making of regulations about the amalgamation of State organisations (which may adopt provisions included in the *Industrial Relations Act 1988* of the Commonwealth).

Division 10 Validating provisions

Division 10 contains validating provisions that maintain uniform Commonwealth/State provisions. Acts done in good faith or more than 4 years previously by collective bodies of organisation and officers or by persons purporting to act as collective bodies or officers are, subject to specified exceptions, saved despite invalidities that might later be discovered concerning the election of the collective bodies or officers or the making, alteration or rescission of rules.

Powers are conferred on the Commission to make declarations concerning the operation of these provisions and the consequences of any invalidity that has occurred in the operation of an organisation. Provision is made for persons who have been treated as members of an organisation to be admitted as members. No proceedings may be taken to challenge the validity of an organisation merely because its members are also members of an organisation registered under the *Industrial Relations Act 1988* of the Commonwealth.

Part 5 Regulation of industrial organisations (other than State organisations)

This Part makes provision for the regulation of federal organisations and separate organisations. The organisations will also be regulated by the legislation under which they are incorporated (including as appropriate the *Industrial Relations Act 1988* of the Commonwealth or the *Corporations Law*).

The Part permits the regulations to apply provisions of Part 4 to those organisations or to make separate provision for those organisations about matters dealt with in Part 4.

The Part also makes provision as to documents that must be lodged by federal organisations and separate organisation with the Industrial Registrar, and as to cancellation of registration or other penalties for contravention of the requirements of the Part by those organisations.

Part 6 Demarcation orders

This Part empowers the Commission to determine any question about the demarcation of the industrial interests of industrial organisations of employees on its own initiative or on application by an industrial organisation, an employer or a State peak council. The Part continues similar provisions in the 1991 Act.

Part 7 Entry and inspection by officers of industrial organisations

This Part deals with rights of entry and inspection by officers or employees of industrial organisations of employees who have been authorised by the Industrial Registrar for the purposes of the Part.

The rights conferred on an authorised officer by the Part cover premises where persons who are, or are eligible to be, members of the industrial organisation of employees concerned are employed. At present those rights are conferred only in respect of members.

Authorised officers may enter premises to speak with employees or to investigate suspected breaches of industrial relations legislation or awards or other industrial instruments. Authorised officers may also, for the purposes of any such investigation, inspect (and take copies of) any of the employers' records and other relevant documents kept by the employers. 24 hours' notice is required before the exercise of a power conferred by the Part (other than the power to speak to employees). At present 7 days' notice is required.

Provision is made for revocation of authorities in the event of a misuse of the powers conferred.

Part 8 Legality of trade unions

This Part continues those provisions of the 1991 Act that ensure the legality of trade unions (being either employee or employer organisations) arising under laws relating to restraint of trade.

Chapter 6 Public vehicles and carriers

Chapter 6 carries forward the provisions of the 1991 Act that apply a modified industrial relations system for drivers of public vehicles and carriers of goods by vehicle who are engaged under contracts that are not contracts of employment.

Part 1 Application and definitions

This Part provides precise definitions of a *contract of bailment* in the case of drivers of public vehicles and of a *contract of carriage* in the case of carriers of goods. The Chapter is to be extended to bicycle couriers.

Part 2 Contract determinations

This Part confers functions on the Commission relating to determinations of conditions of contracts to which the Chapter applies. The Commission's functions under the Part include the holding of inquiries into various matters arising under contracts of bailment of public vehicles and of carriage of

goods and the holding of conferences prior to the making of contract determinations. The Part carries forward and clarifies the existing provisions for ordering reinstatement where contracts are terminated unjustly.

Part 3 Contract agreements

This Part permits associations of employing contractors, bailors of public vehicles or principal contractors to enter into agreements with associations of contract drivers or associations of contract carriers relating to contract conditions and provides for such agreements to be registered.

Part 4 Dispute resolution

This Part contains provisions for compulsory conferences on disputes relating to contracts.

Part 5 Associations of employing contractors, drivers and carriers

This Part provides for the registration of associations of contractors, associations of drivers and associations of carriers and for matters related to such registration, including objections to and cancellation of registration.

Part 6 Applied provisions

This Part applies a number of provisions of the proposed Act relating to employees to drivers and carriers, including the prohibition on strike pay, the principles of association, powers of entry by officers of organisations and enforcement of entitlements.

Part 7 Compensation for termination of certain contracts of carriage

This Part continues the provisions enacted by the *Industrial Relations (Contracts of Carriage) Amendment Act 1994* for the award of compensation to carriers by a specially constituted Tribunal if their contracts are terminated after they paid money for “goodwill” to enter the industry.

Chapter 7 Enforcement

Chapter 7 deals with the enforcement of entitlements and obligations under the industrial relations legislation and industrial instruments.

Part 1 Breach of industrial instruments

This Part deals with breaches of awards and other industrial instruments. The Part provides that such breaches give rise to a civil penalty (maximum \$10,000) instead of a criminal offence (maximum \$5,000). Provisions of the 1991 Act relating to prohibitions on advertising in contravention of such instruments, requiring the exhibition of those instruments in workplaces and prohibiting union officials collecting money for any such contravention for the purpose of intimidation or other unlawful purpose.

Part 2 Recovery of remuneration and other amounts

This Part continues the provisions of the 1991 Act for the recovery of remuneration by employees before the Commission in Court Session or an Industrial Magistrate. The small claims procedure is retained and provisions in the 1940 Act relating to the use of that procedure by the Commission in arbitration proceedings is restored.

Part 3 Industrial Magistrates

This Part continues the provisions for the appointment and jurisdiction of a Chief Industrial Magistrate and other Industrial Magistrates.

Part 4 Inspectors and their powers

This Part provides for the appointment and powers of Departmental inspectors for the purposes of the enforcement of the industrial relations legislation and industrial instruments. The powers are extended so as to enable their use in routine investigations. A search warrant is required for entry into residential premises.

Part 5 Evidentiary provisions

This Part contains evidentiary provisions for the purposes of proceedings.

Part 6 Criminal and other legal proceedings

This Part enacts provisions concerning legal proceedings brought under the proposed Act. Those provisions include:

- the issue of penalty notices by inspectors,
- offences under the proposed Act may be prosecuted in a Local Court (constituted by an Industrial or other Magistrate) or the Commission in Court Session,

- any prosecution under the proposed Act cannot be instituted except with the written consent of the Minister, by an inspector or by authority conferred by the regulations,
- officers of corporations are liable for offences committed by the corporation that they permit or authorise,
- penalties payable under the proposed Act by an organisation, or an officer of an organisation, are a charge on the assets of the organisation.

Chapter 8 Miscellaneous

Chapter 8 contains miscellaneous provisions, including:

- declaring that the proposed Act binds the Crown and carrying forward special provisions relating to Crown employees,
- declaring that industrial instruments provide minimum entitlements,
- the making of regulations in aid of the proposed Act,
- the review of the proposed Act.

The Chapter also repeals the *Industrial Relations Act 1991* and regulations in force under that Act.

Schedules

Schedule 1 continues existing provisions that deem certain persons to be employees. The provisions continue similar provisions in the 1991 Act.

Schedule 2 contains provisions relating to the members of the Commission.

Schedule 3 contains provisions relating to the members of Industrial Committees.

Schedule 4 enacts certain savings, transitional and other provisions consequent on the enactment of the proposed Act, and enables further provision of a similar kind to be made by regulation. The Schedule contains provisions which appoint the existing Judges of the Industrial Court as members of the new Commission and as judicial members of the

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Commission in Court Session and appoint other members of the existing Commission as members of the new Commission. The Schedule also preserves the rights of the persons concerned.

Schedule 5 amends certain other Acts as a consequence of the enactment of the proposed Act.

Dictionary

Words and expressions used in the Act are set out in the Dictionary.