



New South Wales

Industrial Relations Amendment (Non-operative Awards) Bill 2011

Explanatory note

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

Overview of Bill

The objects of this Bill are to amend the *Industrial Relations Act 1996*:

- (a) to enable the Industrial Relations Commission (the **Commission**) to rescind awards that have no current application to any employer or employee, and
- (b) to provide that all awards declared to be non-operative awards under that Act are taken to have been rescinded by the Commission.

Outline of provisions

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.

Schedule 1 Amendment of Industrial Relations Act 1996 No 17

Schedule 1 [6] enables the Commission to rescind an obsolete award or an obsolete part of an award.

Schedule 1 [1]–[5], [7]–[9] and [13] repeal the provisions of the Act that protect certain awards that have no current application to any employer or employee from being rescinded by the Commission and require the Commission to review and keep a register of such awards.

Schedule 1 [10] enables savings and transitional regulations to be made as a consequence of the proposed Act. **Schedule 1 [11] and [12]** contain specific transitional provisions that provide that all awards declared to be non-operative awards under the Act before the commencement of the proposed Act are taken to have been rescinded by the Commission.

First print



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New South Wales

Industrial Relations Amendment (Non-operative Awards) Bill 2011

No. , 2011

A Bill for

An Act to amend the *Industrial Relations Act 1996* to enable the rescission of awards that have no current application to any employer or employee; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Industrial Relations Amendment (Non-operative Awards) Act 2011</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Industrial Relations Act	1
	1996 No 17	2
[1]	Section 17 Variation or rescission of award	3
	Omit “(other than a non-operative award) under this section” from section 17 (1).	4 5
[2]	Section 17 (1), note	6
	Omit the note.	7
[3]	Section 17 (3) and (4)	8
	Omit “(other than a non-operative award)” wherever occurring.	9
[4]	Section 19 Review of awards	10
	Omit “determine whether or not an award has any current application to any employer or employee” from section 19 (2).	11 12
	Insert instead “rescind obsolete awards”.	13
[5]	Section 19 (6)	14
	Omit the subsection. Insert instead:	15
	(6) The Commission is to make such changes to awards as it considers necessary as a result of a review.	16 17
[6]	Section 20 Consolidation of awards and rescission of obsolete awards	18
	Omit section 20 (2). Insert instead:	19
	(2) The Commission may rescind an obsolete award or an obsolete part of an award, whether or not in connection with the consolidation of awards.	20 21 22
[7]	Section 20A Non-operative awards	23
	Omit the section.	24
[8]	Section 52 Variation of awards and other orders on adoption of National decisions or making of State decisions	25 26
	Omit “(other than non-operative awards)” from section 52 (1).	27
[9]	Section 52 (2)	28
	Omit the subsection. Insert instead:	29
	Note. The adoption of a National decision or the making of a State decision enables the variation of an award to give effect to the decision without the concurrence of the parties to the award (see section 17).	30 31 32

[10] Schedule 4 Savings, transitional and other provisions	1
Insert at the end of clause 2 (1):	2
<i>Industrial Relations Amendment (Non-operative Awards) Act 2011</i>	3
	4
[11] Schedule 4, clause 54 (2)	5
Insert “but before the commencement of the <i>Industrial Relations Amendment (Non-operative Awards) Act 2011</i> ” after “amending Act”.	6
	7
[12] Schedule 4	8
Insert at the end of the Schedule with appropriate Part and clause numbers:	9
Part Provisions consequent on enactment of Industrial Relations Amendment (Non-operative Awards) Act 2011	10
	11
	12
Certain awards taken to have been rescinded	13
(1) All awards that were declared to be non-operative awards under this Act before the commencement of the <i>Industrial Relations Amendment (Non-operative Awards) Act 2011</i> are taken to have been rescinded on the commencement of this clause by the Commission in accordance with section 20 (2).	14
	15
	16
	17
	18
(2) Subclause (1) extends to awards referred to in clause 54 (3).	19
[13] Dictionary	20
Omit the definition of <i>non-operative award</i> .	21