

Act No. 78 of 1989

INDUSTRIAL ARBITRATION (INDUSTRIAL AND COMMERCIAL TRAINING) AMENDMENT BILL 1989

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Industrial and Commercial Training Bill 1989.

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

(a) so as—

- (i) to repeal the provisions of that Act that relate to apprenticeship conciliation committees and the conciliation commissioner for apprenticeships; and
- (ii) to enact provisions to facilitate the making of awards in connection with the Australian Traineeship System; and
- (iii) to make minor, consequential and ancillary amendments,

consequent on the enactment of the proposed Industrial and Commercial Training Act 1989; and

- (b) so as to reduce, from 6 years to 12 months, the period within which unpaid wages and other money may be recovered under sections 92 and 92B of that Act; and
- (c) so as to provide for the early retirement of the present conciliation commissioner for apprenticeships; and
- (d) so as to enact savings, transitional and other provisions.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act (clause 6 and Schedule 3 excepted) on a day or days to be appointed by proclamation. Clause 6 and Schedule 3 are to commence on the date of assent to the proposed Act.

Clause 3 defines the expression "Principal Act" for the purposes of the proposed Act.

Clause 4 gives effect to the Schedule of amendments to the Industrial Arbitration Act 1940.

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Clause 5 gives effect to the Schedule of savings, transitional and other provisions.

Clause 6 gives effect to the Schedule of provisions concerning the early retirement of the present conciliation commissioner for apprenticeships.

SCHEDULE 1—AMENDMENT OF THE PRINCIPAL ACT

The repeal of the provisions of the Principal Act that relate to apprenticeship conciliation committees and the conciliation commissioner for apprenticeships is given effect to by Schedule 1 (4), (5), (7) and (11) which repeal sections 18A, 19A, Division 1A of Part 3 and Division 3 of Part 3 of the Principal Act.

The enactment of provisions to facilitate the making of awards in connection with the Australian Traineeship System is given effect to by Schedule 1 (22) which inserts a new Part 8C into the Principal Act. The new Part contains 3 new sections:

Proposed section 91AA defines the expression "appropriate tribunal" for the purposes of the proposed Part.

Proposed section 91BB enables an appropriate tribunal to make an award containing provisions relating to the conditions of employment of trainees trained by employers under the Australian Traineeship System.

Proposed section 91CC requires an appropriate tribunal, in exercising its functions under the proposed Part, to comply with Ministerial guidelines.

The enactment of provisions to reduce the period within which unpaid wages and other money may be recovered under sections 92 and 92B of the Principal Act is given effect to by Schedule 1 (23) (b), (c) and (d) and (24).

Other amendments to be made by Schedule 1 include—

- (a) provisions excluding from the definition of "industrial matters" in section 5 of the Principal Act those matters that are within the jurisdiction of the Vocational Training Board established by the proposed Industrial and Commercial Training Act 1989 (Schedule 1 (1) (g)); and
- (b) provisions declaring that a conciliation committee does not have jurisdiction to make an award or order with respect to any such matter (Schedule 1 (6)—proposed section 20AA); and
- (c) provisions facilitating the reallocation of applications that have been made to the wrong conciliation committee (Schedule 1 (6)—proposed section 20AB); and
- (d) provisions enabling proceedings before a conciliation committee, in relation to the employment of apprentices or trainees, to be commenced by the Commissioner for Vocational Training appointed under the proposed Industrial and Commercial Training Act 1989 (Schedule 1 (16)); and
- (e) provisions extending the operation of section 88AB of the Principal Act so as to ensure that action under that section cannot be taken to prevent an apprentice or trainee from beginning, continuing or completing an apprenticeship or traineeship (Schedule 1 (19)).

The remaining amendments to the Principal Act are consequential on the amendments referred to above.

SCHEDULE 2—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Clause 1 provides for the division of apprenticeship awards. The employment-related provisions are to become part of the parent industrial award while the training-related provisions are to become a vocational training order under the proposed Industrial and Commercial Training Act 1989.

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Clause 2 provides for the continuation of certain proceedings that have been commenced before a conciliation commissioner before the repeal of the provisions of the Principal Act concerning the conciliation commissioner for apprenticeships, but that have not yet been determined, as if the proposed Act had not been enacted.

Clause 3 ensures that any wages or other money that was recoverable under section 92 or 92B of the Principal Act before the commencement of the amendments to those provisions shall continue to be recoverable under those sections as if those amendments had not been made.

Clause 4 provides for the making of savings and transitional regulations, and further provides that such regulations may be made so as to have effect from the date of assent to the proposed Act or a later date.

**SCHEDULE 3—PROVISIONS CONCERNING THE EARLY RETIREMENT OF
THE CONCILIATION COMMISSIONER FOR APPRENTICESHIPS**

Clause 1 provides that the present conciliation commissioner for apprenticeships shall be taken to have retired on the date of assent to the proposed Act. His entitlements to superannuation benefits and long service leave are to be calculated as if he had attained the age of 65 years on that date.

Clause 2 provides for the allocation to other conciliation commissioners of matters commenced before the conciliation commissioner for apprenticeships, but not yet determined, as at the date of assent to the proposed Act.
