Bill introduced, by leave, and read a first time and ordered to be printed on motion by the Hon. Greg Pearce.

Second Reading

The Hon. GREG PEARCE (Minister for Finance and Services, and Minister for the Illawarra) [3.31 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Industrial Relations Amendment (Non-operative Awards) Bill 2011. This bill seeks to ensure that New South Wales private sector State awards that no longer have any application to any employer or employee are rescinded. The New South Wales Government is committed to establishing New South Wales as the number one place to do business, supporting businesses to grow without having the burden of superfluous regulation acting as a millstone around its neck. On 21 January 2010, New South Wales, under the former Labor Government, sensibly referred its industrial relations powers to the Commonwealth, establishing a national workplace relations system for the private sector. We supported that action as it was in the best interests of businesses and employees in New South Wales.

The New South Wales Liberals and Nationals were supportive at the time of the referral and the Government continues to support a national system that operates across State borders to ensure that all private sector workplaces are covered by the same rules and that the system is fair to both employers and employees. The referral meant that only those awards that apply to public sector and local government employers and employees, as well as workers deemed to be employees pursuant to schedule 1 to the Industrial Relations Act, continued to have practical application in the New South Wales industrial relations jurisdiction. Despite this fact and for no apparent good reason that I could establish, the former Labor Government set about preserving awards that no longer had any application to any private sector employer or employee.

The Hon. Dr Peter Phelps: Outrageous.

The Hon. GREG PEARCE: It was outrageous. In November 2010 the Industrial Relations Amendment (Non-operative Awards) Bill 2010 amended the Industrial Relations Act. One could be excused for thinking it was an episode of *Yes Minister* but that is what the former Labor Government was intent on doing. For 16 years it ignored the people of New South Wales, allowed infrastructure to crumble, allowed the economy to go backwards and financially mismanaged this State.

The Hon. Lynda Voltz: You put the budget in deficit in one fell swoop, didn't you?

The Hon. GREG PEARCE: Members opposite, who were members of the former Labor Government, are now claiming credit for sending this State down the drain over the past 16 years. Did they not notice in March that the people of New South Wales made a decision about the former Labor Government? The people of New South Wales threw out the former Labor Government in an unprecedented defeat for the Labor Party and that was just the beginning. People around Australia recognised that members opposite are hopeless. The

Labor Party, in government or in opposition anywhere in this country, cannot conjure up more than 20 per cent of the vote, which is pathetic. Bring on the Federal election. Why did they not get Julia Gillard to test her minority?

The Hon. Lynda Voltz: Point of order: The Minister has moved away from the long title of the bill and should be asked to return to it.

The Hon. John Ajaka: To the point of order: The Minister is responding to interjections from members opposite. If they cease interjecting the Minister will be able to continue reading his speech.

The Hon. Lynda Voltz: Further to the point of order: At no point was any objection taken to the Minister's reference to the Federal election. The Minister, of his own accord, decided to stray from the leave of the bill and he should be asked to return to it.

The PRESIDENT: Order! While latitude is extended during a second reading speech I encourage the Minister not to respond to interjections.

The Hon. GREG PEARCE: It must be the joy of being back in the Chamber after having been away for three weeks. What we had was a farcical waste of time and money. Members opposite continually claim that they support the Industrial Relations Commission but what did they do? They sent barristers and other lawyers, paid for by New South Wales taxpayers, to the commission to waste the time of the judges and staff of the commission on a farcical piece of legislation that required the Industrial Relations Commission to keep in force awards that have no operation and that apply to no one and to nothing. That is the farcical route that was taken by the former Government, so it is no wonder that the people of New South Wales threw it out with such gusto.

Dr John Kaye: I think it was a key issue when they did it, Greg.

The Hon. GREG PEARCE: Dr John Kaye recognises that it was a key issue in the throwing out of the mob opposite. As I was wandering around the State, as did Dr John Kaye, people constantly came up to me and said, "What is this mob doing to the Industrial Relations Commission?" It wasted the time and resources of the Industrial Relations Commission by forcing it to deal with non-operative awards. I do not know where Dr John Kaye heard this, but everywhere I went people referred to this piece of legislation and they used it as an example of the farce that the Labor Party had become in government. Let me dwell for a moment on that legislation. Some of the elements of the Industrial Relations Amendment (Non-operative Awards) Act 2010 were to require the Industrial Relations Commission to determine whether or not an award had any current application to any employer or employee.

This task was to be completed during the three-yearly review of awards, which is required to be undertaken under section 19 of the Industrial Relations Act. This meant that these awards would go before the Industrial Relations Commission and submissions, affidavits and evidence would be put to the commission to show that the number of employees and employers covered by an award was zero. No doubt, the judge would wonder whether a typographical error had been made and ask the union representative to explain why the number of employees and employees covered was zero. This was the farce that the Labor mob put the Industrial Relations Commission through.

The Hon. Dr Peter Phelps: No respect.

The Hon. GREG PEARCE: They showed no respect for the Industrial Relations Commission and had no concern for the State's resources that were wasted in this futile exercise. The amending Act provided the commission with the power to declare an award non-operative if the commission was satisfied that an award did not have any current application to any employer or employee. It was a nonsensical farce. They gave power to the commission to declare that no-one was covered by an award that covered no-one. It is the most extraordinary piece of legislation. This was Labor's commitment to industrial relations. This was the way it approached industrial relations when it was in government.

The Act required the commission to update non-operative awards to give effect to any flow-on of a national decision or the making of a State decision. So the union barrister would refer the Industrial Relations Commission judge to the filed documents which showed that the award covered nil employers and nil employees and would ask the judge to declare that the award which covered no-one covered no-one. The judge would make an order that the award covered no-one because it covered no-one. The union barrister, I am sure, would be highly paid. The unions probably use silk, senior counsel, because unions seem to have a flood of money that they like to spend on all sorts of interesting things. However, barristers generally will not accept credit cards so the unions must have paid with the old-fashioned brown paper bag full of cash.

The Industrial Relations Commission judge, having declared that the award was non-operative because it covers no-one would ask the union barrister how the award should be updated. The barrister would then hand up another 30 or 100 pages that had been worked on assiduously by a bunch of lawyers. The barrister would go through the award that applied to no-one page by page, line by line, pointing to the paragraphs that needed to be updated as a result of a State award or a Federal award. If it were a Federal award it would be a different system but they would still go through the process. The outcome was that the Industrial Relations Commission would declare the award that applied to no-one was non-operative because it applied to no-one but then would have to make an order to amend the award in accordance with submissions put by the union barrister, who was not paid by credit card.

The Hon. Dr Peter Phelps: It is a farce.

The Hon. GREG PEARCE: It is a complete farce. The amendments significantly altered the purpose of the section 19 review of awards that had previously taken place. Prior to the 2010 non-operative award amendments the purpose of a review was to "modernise awards, to consolidate awards relating to the same industry and to rescind obsolete awards" at least once in every three years. That was the system before Labor changed it. The previous system made sense: update awards and rescind them if they have no further application. That was the process before that mob changed it. The review process served as a useful mechanism to ensure that all awards are kept up to date and consistent with the statutory framework. As I said, where awards were found to be obsolete they were rescinded.

By virtue of the previous Labor Government amendments, the commission could not rescind awards that no longer had any use. It defies belief. According to the previous Labor Government, this was done because the redundant awards continue to play an important benchmarking role. However, in the 22 months since referral of powers to the Commonwealth system, this role—if there is one—has been limited or is non-existent. In February this year the commission commenced proceedings pursuant to the new instructions under section 19 of the Act. Earlier I described what I suspect occurs in hearings before the commission in relation to these matters. I will not repeat the scenario. Following directions from the commission, the process to date has involved the parties taking part in extensive

consultations. This has resulted in a comprehensive list of non-operative awards being agreed upon. Is that not Kafkaesque?

The Hon. Dr Peter Phelps: Very much so.

The Hon. GREG PEARCE: Let us agree on awards that do not apply to anyone, after we consult widely and in detail. It is of no great surprise that the vast majority of private sector State awards were found to have no application to any employer or employee. However, courtesy of the previous Government's bizarre amendments, the commission now has made orders declaring the extensive list of awards which cover no-one as non-operative. The commission was given the power to declare that the awards were non-operative rather than to rescind and terminate them.

I now turn to the elements of the bill. Broadly speaking, the bill is intended to reverse the effects of the earlier Industrial Relations Amendment (Non-operative Awards) Act 2010 and fully restore the powers of the New South Wales Industrial Relations Commission to rescind awards that have no application. That mob opposite continually says that I do not respect the Industrial Relations Commission and that I want to limit the commission's powers. They say that I, in some way, have attacked the Industrial Relations Commission. Yet today I have introduced a bill to reverse this stupid, idiotic system that they put in place as one of their parting gifts to the people of New South Wales.

The bill removes the definition in the dictionary in schedule 4 to the Act which was, as I explained earlier, that a non-operative award is an award that is declared to be an award that does not have any current application to any employer or employee. That is clear! The bill then removes the requirement of the commission to determine whether an award is non-operative during a section 19 review of awards or in connection with the consolidation of awards under section 20 of the Act. The 2010 non-operative awards amendment Act also inserted a new section 20A into the Act to provide the commission with a broad power to declare an award to be non-operative. Under the bill this provision will be omitted. This will see the removal of the current requirement under section 20A for the Industrial Registrar to keep a register and publish a copy of the register of non-operative awards on the industrial relations website. The bill also removes the requirement under section 52 for the commission to vary non-operative awards to give effect to any flow-on of a national decision or when making a State decision.

In summary, the amendments will omit any reference to non-operative awards in the Industrial Relations Act, and in doing so restore the Act to the wording it contained prior to the Industrial Relations (Non-operative Awards) Amendment Act 2010. In addition, and importantly, the bill contains transitional arrangements to provide that all awards already declared non-operative by the commission are to be rescinded from the commencement of the Act, thus ensuring that awards with no application are not needlessly preserved. I commend the bill to the House.

Debate adjourned on motion by the Hon. Sophie Cotsis and set down as an order of the day for a future day.