

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Industrial Relations Act 1996* to enable industrial representation of the same classes or groups of employees or of bailees or contractors by one or more industrial organisations or associations of contractors, subject to safeguards relating to demarcation disputes. The amendments made by the Bill are consistent with corresponding provisions in the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth.

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 [1] and [2] enable an organisation to be registered as an organisation of employees only if there is no other industrial organisation of employees to which members of the organisation might belong or, if there is such an organisation, it is not one to which the members could more conveniently belong or that would more effectively represent the members. An organisation may be registered even if there is such another organisation if it provides, and the Industrial Registrar accepts, an undertaking to avoid demarcation disputes arising from the overlapping registration. Currently, an organisation of employees cannot be registered if there is any other industrial organisation of employees to which the members might conveniently belong.

Schedule 1 [3] confers on the Industrial Registrar an express power to alter the rules of an organisation of employees, so as to remove the power to represent a class or group of employees that are represented by another organisation, if the organisation breaches a demarcation dispute undertaking.

Schedule 1 [4] amends the provisions about consent to alterations of rules of industrial organisations of employees relating to eligibility for membership to reflect the changes to the circumstances in which registration may be granted where representation is possible by more than one organisation. As with consent to registration, the Industrial Registrar may accept an undertaking by the organisation seeking the rule change to avoid demarcation disputes arising from the overlapping registration. The Industrial Registrar may refuse to consent to a rule alteration if the alteration would contravene an agreement or understanding to which the organisation is a party that deals with its right to represent the industrial interests of a particular class or group of employees.

Schedule 1 [5] makes a consequential amendment.

Schedule 1 [6] prevents the Industrial Relations Commission from making a determination as to the demarcation of the industrial interests of industrial organisations of employees unless it is satisfied that there is conduct or threatened conduct of an organisation, or an officer, employee or member of an organisation, that is preventing, obstructing or restricting the performance of work or is likely to have that effect. The Commission will also be required to consider other matters before making a demarcation order, including the wishes of affected employees, the effect of the order on employers, any agreement relating to industrial representation and any other demarcation orders applicable to the organisation concerned that are relevant.

Schedule 1 [7] enables an objection to registration of an association of contract carriers or contract drivers to be made on the ground that there is already an association to which the bailees or carriers concerned could more conveniently belong and that would more effectively represent those members. Currently an objection can be made if the members are already represented or there is an association to which they might conveniently belong.

Schedule 1 [8] enables the Industrial Registrar to register an association of contract drivers or contract carriers, even though an overlapping registration objection has been made out, if the applicant provides an undertaking to avoid demarcation disputes arising from the overlapping registration. The Industrial Registrar may refuse to accept an undertaking if registration would contravene an agreement or understanding to which the association is a party that deals with its right to represent the interests of a particular class or group of bailees or carriers.

Schedule 1 [9] requires the Industrial Relations Commission to have regard to any demarcation dispute undertaking, and any breach of such an undertaking, when determining any question as to the demarcation of the interests of associations in the regulation of conditions of contracts.

Schedule 1 [10] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act.