

Industrial Relations Amendment (Federal Award Employees) Bill 1998

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* (the **State Act**) to enable the Australian Industrial Relations Commission, and the Federal Court of Australia, to exercise functions relating to the unfair dismissal of certain Federal award employees.

A "Federal award employee" is defined in the *Workplace Relations Act 1996* of the Commonwealth (the **Federal Act**) as an employee any of whose terms and conditions of employment are governed by a (federal) award, certified agreement or Australian workplace agreement.

The employees affected by the Bill are those who are covered by federal awards or agreements but who are not employed by corporations (and are therefore outside the constitutional reach of the relevant provisions of the Federal Act). The Industrial Relations Commission of New South Wales has decided that these employees are not covered by the current provisions of the State Act: *Moore v Newcastle Council; Re The Civic Theatre Newcastle* (1997) 77 IR 210.

The Bill:

- (a) inserts a section 90A that applies provisions of the Federal Act to such Federal award employees (this amounts to a conferral of power on the federal Commission and Court), and
- (b) inserts a section 90B to enable the conferral of power to be terminated by proclamation, and
- (c) contains other ancillary or consequential provisions.

The application of provisions of the Federal Act in this manner is contemplated by section 5 (8) and (9) of the Federal Act. The provisions of the Federal Act will be applied as in force for the time being (section 68 of the *Interpretation Act 1987*).

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Industrial Relations Act 1996* set out in Schedule 1.

Schedule 1 contains the amendments to the *Industrial Relations Act 1996* described above.