



New South Wales

# Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011

## 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 require the Industrial Relations Commission to give effect to aspects of government policy declared by the regulations relating to NSW public sector conditions of employment.

## 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**

**Schedule 1 [2]** inserts proposed section 146C into the Act to give effect to the object of the proposed Act. The proposed section requires the Industrial Relations

Commission (*the Commission*) when making or varying an award or order to give effect to any policy on conditions of employment of public sector employees:

- (a) that is declared by the regulations to be an aspect of government policy that is required to be given effect to by the Commission, and
- (b) that applies to the matter to which the award or order relates.

The proposed section will not apply to proceedings before the Commission in Court Session (known as the Industrial Court).

The proposed section extends to proceedings on appeal to the Full Bench of the Commission and to proceedings pending on the commencement of the proposed section. *Public sector employees* are defined to cover the Government Service, the Teaching Service, the NSW Police Force, the NSW Health Service, the service of Parliament and other public sector employees.

**Schedule 1 [1]** makes a related amendment to the unfair contracts jurisdiction of the Commission to provide that a contract is not unfair merely because it gives effect to the declared government policies referred to in proposed section 146C.

**Schedule 1 [3]** authorises the making of savings and transitional regulations consequent on the enactment of the proposed Act.

First print



New South Wales

# Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011

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New South Wales

# Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011

No. , 2011

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## A Bill for

An Act to amend the *Industrial Relations Act 1996* to require the Industrial Relations Commission to give effect to certain government policies on public sector conditions of employment; and for related purposes.

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

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<b>Schedule 1</b>	<b>Amendment of Industrial Relations Act 1996 No 17</b>	1 2
<b>[1] Section 105 Definitions</b>		3
Insert at the end of the section:		4
(2)	A contract is not an unfair contract for the purposes of this Part merely because of any provision in the contract that gives effect to a policy that is declared under section 146C.	5 6 7
<b>[2] Section 146C</b>		8
Insert after section 146B:		9
<b>146C</b>	<b>Commission to give effect to certain aspects of government policy on public sector employment</b>	10 11
(1)	The Commission must, when making or varying any award or order, give effect to any policy on conditions of employment of public sector employees:	12 13 14
(a)	that is declared by the regulations to be an aspect of government policy that is required to be given effect to by the Commission, and	15 16 17
(b)	that applies to the matter to which the award or order relates.	18 19
(2)	Any such regulation may declare a policy by setting out the policy in the regulation or by adopting a policy set out in a relevant document referred to in the regulation.	20 21 22
(3)	An award or order of the Commission does not have effect to the extent that it is inconsistent with the obligation of the Commission under this section.	23 24 25
(4)	This section extends to appeals or references to the Full Bench of the Commission.	26 27
(5)	This section does not apply to the Commission in Court Session.	28
(6)	This section extends to proceedings that are pending in the Commission on the commencement of this section. A regulation made under this section extends to proceedings that are pending in the Commission on the commencement of the regulation, unless the regulation otherwise provides.	29 30 31 32 33
(7)	This section has effect despite section 10 or 146 or any other provision of this or any other Act.	34 35

(8) In this section:	1
<i>award or order</i> includes:	2
(a) an award (as defined in the Dictionary) or an exemption from an award, and	3
	4
(b) a decision to approve an enterprise agreement under Part 2 of Chapter 2, and	5
	6
(c) the adoption under section 50 of the principles or provisions of a National decision or the making of a State decision under section 51, and	7
	8
	9
(d) anything done in arbitration proceedings or proceedings for a dispute order under Chapter 3.	10
	11
<i>conditions of employment</i> —see Dictionary.	12
<i>public sector employee</i> means a person who is employed in any capacity in:	13
	14
(a) the Government Service, the Teaching Service, the NSW Police Force, the NSW Health Service, the service of Parliament or any other service of the Crown, or	15
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	17
(b) the service of any body that is constituted by an Act and that is prescribed by the regulations for the purposes of this section.	18
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	20
<b>[3] Schedule 4 Savings, transitional and other provisions</b>	21
Insert at the end of clause 2 (1) of Part 1:	22
<i>Industrial Relations Amendment (Public Sector Conditions of Employment) Act 2011</i>	23
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