



New South Wales

Industrial Relations Amendment (Industrial Court) Bill 2016

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Industrial Relations Act 1996*:
 - (i) to abolish the Industrial Court (also referred to in that Act as the Industrial Relations Commission in Court Session), and
 - (ii) to appoint the current President of the Industrial Relations Commission (in his capacity as the only remaining judicial member of the Commission) as a Judge of the Supreme Court, and
 - (iii) to reconstitute the Industrial Relations Commission so that it consists of a Chief Commissioner and Commissioners, and
- (b) to amend certain legislation:
 - (i) to transfer the functions of the Industrial Court principally to the Supreme Court and, in some cases, to the District Court and the Industrial Relations Commission, and
 - (ii) to update references consequent on the reconstitution of the Industrial Relations Commission, and
- (c) to repeal certain other Acts.

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.

Schedule 1 Amendment of Industrial Relations Act 1996 No 17

Schedule 1 amends the *Industrial Relations Act 1996*:

- (a) to abolish the Industrial Court, and
- (b) to transfer its functions under the Act in relation to the cancellation of the registration of associations of employing contractors for public vehicles and carriers to the Industrial Relations Commission, and
- (c) to transfer its other functions under the Act to the Supreme Court, and
- (d) to appoint the current President of the Industrial Relations Commission (in his capacity as the only remaining judicial member of the Commission) as a Judge of the Supreme Court and preserve his current remuneration until that of a Judge of the Supreme Court exceeds it, and
- (e) to reconstitute the Industrial Relations Commission by:
 - (i) abolishing the office of President of the Commission and replacing it with the office of Chief Commissioner, and
 - (ii) abolishing the offices of judicial member, Vice-President and Deputy President of the Commission, and
 - (iii) retaining the office of Commissioner of the Commission, and
- (f) to make other consequential amendments to the Act.

Schedule 2 Consequential amendment of other legislation

Schedule 2 makes consequential amendments to other legislation. In particular, the Schedule:

- (a) amends certain Acts and statutory rules to update references to abolished offices of the Industrial Relations Commission, and
- (b) amends the *Dangerous Goods (Road and Rail Transport) Act 2008*, *Explosives Act 2003*, *Work Health and Safety Act 2011* and *Workplace Injury Management and Workers Compensation Act 1998* to provide for the District Court to exercise functions under them instead of the Industrial Court, and
- (c) amends the *Employment Protection Act 1982* to provide for certain appeals to be heard by a Full Bench of the Industrial Relations Commission instead of the Industrial Court, and
- (d) amends certain other Acts and statutory rules to provide for the Supreme Court to exercise the functions under them instead of the Industrial Court, and
- (e) amends the *Judges' Pensions Act 1953* to ensure that former Presidents, Vice-Presidents and Deputy Presidents of the Industrial Relations Commission (and their families) will continue to have their entitlements under that Act determined by reference to current comparable offices, and
- (f) amends the *Supreme Court Act 1970* to enable certain persons (in addition to the parties to certain industrial proceedings) who can currently appeal against decisions of the Industrial Court to continue to be able to appeal to the Court of Appeal against decisions in industrial proceedings before the Supreme Court, and
- (g) amends the *Workplace Surveillance Act 2005* to provide for Judges of the Supreme Court who have agreed to be eligible Judges under the *Surveillance Devices Act 2007* to exercise certain functions concerning covert surveillance that are currently exercised by judicial members of the Industrial Relations Commission in their personal capacities.

Schedule 3 Repeals

Schedule 3 repeals each of the following amending Acts because they will not be of practical utility once the Industrial Court is abolished:

- (a) the *Courts and Crimes Legislation Amendment Act 2009*,
- (b) the *Courts and Crimes Legislation Further Amendment Act 2010*,
- (c) the *Industrial Relations Amendment (Jurisdiction of Industrial Relations Commission) Act 2009*,
- (d) the *Industrial Relations Further Amendment (Jurisdiction of Industrial Relations Commission) Act 2009*.

The Schedule also repeals the *Transport Appeal Boards Act 1980*, which conferred appellate jurisdiction on the Industrial Court, and is now spent.