

Received by: SJ
Date: 11/10/16
Time: 5:34 pm

LEGISLATIVE COUNCIL

c2016-092D
OPP--OPPOSITION

LEGISLATIVE COUNCIL

Industrial Relations Amendment (Industrial Court) Bill 2016

First print

Proposed amendments

-
- No. 1 **Jurisdiction and membership of Commission**
Page 2, clause 2 (2), line 7. Omit “[117]”. Insert instead “[118]”.
- No. 2 **Jurisdiction and membership of Commission**
Page 3, Schedule 1, lines 3–13. Omit all words on those lines.
- No. 3 **Conciliation by Commission of unfair contracts matters**
Page 3, Schedule 1 [5], lines 14–28. Omit all words on those lines.
- No. 4 **Jurisdiction and membership of Commission**
Page 3, Schedule 1, lines 29–33. Omit all words on those lines.
- No. 5 **Jurisdiction and membership of Commission**
Page 3, Schedule 1 [7] and [8], lines 34–37. Omit all words on those lines.
- No. 6 **Jurisdiction and membership of Commission**
Page 4, Schedule 1 [12] and [13], lines 9–21. Omit all words on those lines. Insert instead:
 [12] Section 147 Membership of Commission
 Insert after section 147 (2):
 (3) There are to be at least 5 full-time equivalent members of the Commission.
 (4) There are to be at least 3 full-time equivalent members of the Commission who are Australian lawyers.
- No. 7 **Jurisdiction and membership of Commission**
Page 4, Schedule 1 [16], lines 26 and 27. Omit all words on those lines. Insert instead:
 [16] Chapter 4, Part 3
 Omit the Part. Insert instead:

Part 3 Additional function of Commission

151 Commission may hear and determine certain industrial proceedings

- (1) The Commission has the function of hearing and determining the following proceedings:
 - (a) proceedings under section 139 (Contravention of dispute order),
 - (b) proceedings under Parts 3, 4 and 5 of Chapter 5 (Registration and regulation of industrial organisations), other than Division 2 of Part 3 (Cancellation of registration) and Division 3 of Part 4 (Election of officers),
 - (c) proceedings under Part 1 of Chapter 7 (Breach of industrial instruments),
 - (d) proceedings for the recovery of money under Part 2 of Chapter 7 (other than small claims under section 380),
 - (e) proceedings on a superannuation appeal under section 88 of the *Superannuation Administration Act 1996*,
 - (f) any other proceedings that are, by this Act or any other Act, required to be taken before the Commission.
- (2) The Commission may exercise a function conferred on it by this section only if it is constituted by one or more members who are Australian lawyers.

- No. 8 **Jurisdiction and membership of Commission**
Page 5, Schedule 1 [21]–[29], lines 1–26. Omit all words on those lines.
- No. 9 **Jurisdiction and membership of Commission**
Page 6, Schedule 1 [32], lines 5–7. Omit all words on those lines.
- No. 10 **Jurisdiction and membership of Commission**
Page 6, Schedule 1 [40], lines 25–27. Omit all words on those lines.
- No. 11 **Jurisdiction and membership of Commission**
Pages 6 and 7, Schedule 1 [43], line 32 on page 6 to line 2 on page 7. Omit all words on those lines.
- No. 12 **Jurisdiction and membership of Commission**
Page 8, Schedule 1 [51], lines 7 and 8. Omit all words on those lines.
- No. 13 **Jurisdiction and membership of Commission**
Page 8, Schedule 1 [53]–[55], lines 11–18. Omit all words on those lines.
- No. 14 **Jurisdiction and membership of Commission**
Page 8, Schedule 1 [57]–[60], lines 21–34. Omit all words on those lines.
- No. 15 **Jurisdiction and membership of Commission**
Page 9, Schedule 1 [62], lines 3 and 4. Omit all words on those lines.
- No. 16 **Jurisdiction and membership of Commission**
Page 9, Schedule 1 [66] and [67], lines 16–21. Omit all words on those lines.
- No. 17 **Jurisdiction and membership of Commission**
Page 9, Schedule 1 [69] and [70], lines 24–29. Omit all words on those lines.

-
- No. 18 **Jurisdiction and membership of Commission**
Page 10, Schedule 1 [73] and [74], lines 1–13. Omit all words on those lines.
- No. 19 **Jurisdiction and membership of Commission**
Page 10, Schedule 1 [76], lines 16–19. Omit all words on those lines.
- No. 20 **Jurisdiction and membership of Commission**
Pages 10 and 11, Schedule 1 [79]–[82], line 26 on page 10 to line 2 on page 11. Omit all words on those lines.
- No. 21 **Jurisdiction and membership of Commission**
Page 11, Schedule 1 [84] and [85], lines 5–10. Omit all words on those lines.
- No. 22 **Work health and safety matters - Supreme Court to have jurisdiction**
Page 11, Schedule 1 [86], proposed section 355A, definition of *industrial legislation*. Insert after line 29:
- (l) the *Dangerous Goods (Road and Rail Transport) Act 2008*,
 - (m) the *Explosives Act 2003*,
 - (n) the *Work Health and Safety Act 2011*,
 - (o) the *Workplace Injury Management and Workers Compensation Act 1998*,
- No. 23 **Jurisdiction and membership of Commission**
Page 11, Schedule 1 [86], proposed section 355B (c), line 38. Omit all words on that line.
- No. 24 **Jurisdiction and membership of Commission**
Page 12, Schedule 1 [86], proposed section 355B (e), lines 3–5. Omit all words on those lines.
- No. 25 **Jurisdiction and membership of Commission**
Page 12, Schedule 1 [86], proposed section 355B (g)–(i), lines 8–13. Omit all words on those lines.
- No. 26 **Industrial proceedings in Supreme Court**
Page 12, Schedule 1 [86], proposed section 355E (1). Insert after line 43:
- (a) section 166 (Representation of parties),
- No. 27 **Industrial proceedings in Supreme Court**
Page 12, Schedule 1 [86], proposed section 355E (1). Insert after line 45:
- (c) section 181 (Costs),
- No. 28 **Industrial proceedings in Supreme Court**
Page 13, Schedule 1 [86], proposed section 355E (3) and (4), lines 8–13. Omit all words on those lines.
- No. 29 **Jurisdiction and membership of Commission**
Page 13, Schedule 1 [87], lines 26–28. Omit all words on those lines. Insert instead:
- Omit paragraph (a) from the definition of *industrial court*. Insert instead:
- (a) the Supreme Court, or
 - (a1) the Commission where exercising jurisdiction under section 151.
-

-
- No. 30 **Jurisdiction and membership of Commission**
Page 13, Schedule 1 [89] and [90], lines 33–38. Omit all words on those lines. Insert instead:
- [89] Section 364 Definitions**
 Omit paragraph (a) of the definition of *industrial court*. Insert instead:
 (a) the Supreme Court, or
 (a1) in the case of proceedings referred to in section 151—the Commission, or
- No. 31 **Jurisdiction and membership of Commission**
Page 14, Schedule 1 [96], lines 32 and 33. Omit all words on that line. Insert instead:
- [96] Section 403A Appeals from decisions of Commission exercising judicial functions**
 Omit “in Court Session” from section 403A (1).
 Insert instead “exercising a function under section 151.”
- [97] Section 403A (2) (and note) and 403E (1) and (2)**
 Omit “in Court Session” wherever occurring.
- No. 32 **Jurisdiction and membership of Commission**
Pages 14 and 15, Schedule 1 [97] and [98], line 34 on page 14 to line 30 on page 15. Omit all words on those lines.
- No. 33 **Jurisdiction and membership of Commission**
Page 16, Schedule 1 [111] and [112], lines 18–22. Omit all words on those lines.
- No. 34 **Jurisdiction and membership of Commission**
Page 16, Schedule 1. Insert after line 31:
- [117] Schedule 4, clause 2 (4) and (5)**
 Insert after clause 2 (3):
 (4) Any such provision has effect despite anything to the contrary in this Schedule.
 (5) The regulations may make separate savings and transitional provisions or amend this Schedule to consolidate the savings and transitional provisions.
- No. 35 **Jurisdiction and membership of Commission**
Page 18, Schedule 1 [117], proposed clause 63 (1)–(3), lines 26–37. Omit all words on those lines. Insert instead:
- (1) On the abolition day, the office of judicial member is abolished.
- No. 36 **Jurisdiction and membership of Commission**
Page 23, Schedule 1 [118], lines 1–6. Omit all words on those lines.
- No. 37 **Jurisdiction and membership of Commission**
Page 24, Schedule 2.2, lines 13–15. Omit all words on those lines.
- No. 38 **Work health and safety matters - Supreme Court to have jurisdiction**
Page 27, Schedule 2.14 [1], line 25. Omit “District Court”. Insert instead “Supreme Court”.
-

-
- No. 39 **Jurisdiction and membership of Commission**
Page 28, Schedule 2.16 [1]–[3], lines 2–11. Omit all words on those lines.
- No. 40 **Jurisdiction and membership of Commission**
Page 28, Schedule 2.17 [1], lines 18 and 19. Omit all words on those lines.
- No. 41 **Work health and safety matters - Supreme Court to have jurisdiction**
Page 29, Schedule 2.19, line 15. Omit “District Court”. Insert instead “Supreme Court”.
- No. 42 **Jurisdiction and membership of Commission**
Page 31, Schedule 2.23 [2], line 4. Insert “the Industrial Court,” after “the abolition of”.
- No. 43 **Jurisdiction and membership of Commission**
Page 31, Schedule 2.24 [3] and [4], lines 44–47. Omit all words on those lines.
- No. 44 **Jurisdiction and membership of Commission**
Page 32, Schedule 2.28 [1] and [2], lines 26–31. Omit all words on those lines.
- No. 45 **Work health and safety matters - Supreme Court to have jurisdiction**
Page 34, Schedule 2.31, line 19. Omit “District Court”. Insert instead “Supreme Court”.
- No. 46 **Jurisdiction and membership of Commission**
Page 34, Schedule 2.32, lines 20–30. Omit all words on those lines.
- No. 47 **Work health and safety matters - Supreme Court to have jurisdiction**
Page 36, Schedule 2.37 [2], lines 17 and 18. Omit all words on those lines. Insert instead:
 [2] Section 229B Procedure for offences
 Omit section 229B (1) and (2). Insert instead:
 (1) Except as provided by this section, proceedings for an offence against this Act or the regulations are to be dealt with summarily:
 (a) before the Local Court, or
 (b) before the Supreme Court in its summary jurisdiction.
- [3] Section 229B (6)**
 Omit the subsection (including the note).
- No. 48 **Work health and safety matters - Supreme Court to have jurisdiction**
Page 36, Schedule 2.37 [3], line 20. Omit “District Court”. Insert instead “Supreme Court”.
- No. 49 **Work health and safety matters - Supreme Court to have jurisdiction**
Page 36, Schedule 2.38 [1], line 26. Omit “District Court”. Insert instead “Supreme Court”.
- No. 50 **Work health and safety matters - Supreme Court to have jurisdiction**
Page 36, Schedule 2.38 [3], lines 29 and 30. Omit all words on those lines.

