

# Industrial Relations Amendment (Industrial Organisations) Bill 2012

## 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**

### **Actions in cases of dysfunction, misconduct or vacancy in offices**

**Schedule 1 [3]** inserts proposed Division 11 of Part 4 of Chapter 5.

Proposed section 290B enables the Minister, by order, to appoint an administrator for a State industrial organisation if the Minister has reason to believe that there is an ongoing investigation into alleged gross misconduct by officers of the organisation, or an investigation has found evidence of such gross misconduct, and that the appointment will enable proper administrative arrangements to be put in place. The administrator will have (subject to the order of appointment) the function of the conduct and management of the affairs of the organisation for a period of up to 6 months. Proposed section 290C confers jurisdiction on the Supreme Court to review an order made by the Minister appointing an administrator.

Proposed section 290D enables the Commission, on the application of the Minister, a State industrial organisation or any person having a sufficient interest, to make declarations that an organisation has ceased to exist or function effectively, has officers who are alleged to or have engaged in gross misconduct, or that an office in the organisation is vacant and cannot be effectively filled. On making such a declaration, the Commission may approve a scheme for the organisation (which may include the appointment of an administrator) to enable those matters to be remedied. Proposed section 290E enables an administrator to require officers or employees, or former officers or employees, of State industrial organisations to provide relevant documents to an administrator and to provide other information or assistance that an administrator reasonably requires. It will be an offence to fail, without reasonable excuse, to comply with such a requirement.

Proposed section 290F excludes an administrator, the State and the Minister from liability for acts or omissions of an administrator appointed for a State industrial organisation.

Explanatory note page 3

Industrial Relations Amendment (Industrial Organisations) Bill 2012

Explanatory note

Proposed section 290G confers power on the Industrial Registrar, on application by the Minister or a person having a sufficient interest, to make arrangements for the election of officers of a State industrial organisation where the officers held office by virtue of appointment as officers of an affiliated federal industrial organisation and those officers' positions are vacant and the State industrial organisation's rules do not provide an effective means to fill them.

Proposed section 290H makes it clear that the provisions of the proposed Division will apply to certain State industrial organisations with federal links. It also makes it clear that an administrator appointed under the proposed Division may be an administrator appointed to an associated organisation under Commonwealth legislation.

Proposed section 290I validates elections of officers held under the proposed Division that may contravene the rules of the State industrial organisation concerned.

**Schedule 1 [1]** makes an amendment consequential on the insertion of proposed

sections 290B, 290D and 290G.

**Schedule 1 [2]** imposes a duty on the Industrial Registrar to notify the Director-General of the Department of Finance and Services of any matter that the Industrial Registrar reasonably suspects concerns conduct that constitutes or may constitute a misconduct offence by an officer of a State industrial organisation.

### **Investigation and prosecution of offences**

**Schedule 1 [4]** enables an inspector who enters premises to investigate possible contraventions of the industrial relations legislation or an industrial instrument by an employer to seize anything that the inspector reasonably considers to be evidence of a contravention.

**Schedule 1 [5]** confers powers on inspectors to enter and inspect premises of State industrial organisations, to require records to be produced and information to be provided and to question officers or employees or former officers or employees of industrial organisations in relation to contraventions of the provisions relating to misconduct by officers of such organisations. Inspectors may also seize anything that is reasonably considered to be evidence of a contravention.

**Schedule 1 [6]** enables an inspector who enters premises under a search warrant to seize anything that the inspector reasonably considers to be evidence of a contravention of the industrial relations legislation or an industrial instrument.

**Schedule 1 [8]** extends the limitation period for prosecution of misconduct offences by officers of State industrial organisations to 5 years. **Schedule 1 [7]** makes a consequential amendment.

### **Savings and transitional provisions**

**Schedule 1 [9]** enables regulations containing savings and transitional provisions to be made consequent on the enactment of the proposed Act.

**Schedule 1 [10]** inserts provisions enabling actions to be taken under provisions inserted by the proposed Act in relation to matters that occurred before its

Explanatory note page 4

Industrial Relations Amendment (Industrial Organisations) Bill 2012

Explanatory note

commencement and applying the new limitation period for offences, and the additional investigation powers of inspectors, to offences committed before the commencement of the proposed Act.