

CONCURRENCE COPY

COMMUNITY WELFARE (AMENDMENT) BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Miscellaneous Acts (Community Welfare) Amendment Bill, 1983;

Statutory and Other Offices Remuneration (Children's Boards of Review) Amendment Bill, 1983.

The object of this Bill is to amend the Community Welfare Act, 1982 ("the Act")—

- (a) to require the concurrence of the Public Service Board in any determination, by the executive committee of the Home Care Service of New South Wales, of the conditions of employment of persons employed in that Service and to require that Board to act for that Service in proceedings before an industrial tribunal in relation to the conditions of employment of those persons (Schedule 1 (1));
- (b) to remove certain references in the Act to recommendations and proposals the subject of reports by Children's Panels established under Division 2 of Part VIII of the Act, as those reports are no longer to be made, following changes to the Act after its introduction into Parliament (Schedule 1 (2));
- (c) to afford statutory protection from legal liability that might otherwise lie against individuals acting bona fide and with reasonable care in the execution of the Act (Schedule 1 (4)); and
- (d) to enable the office of President of the Boards of Review constituted under Schedule 4 to the Act to be a full-time office and to provide for the determination of the remuneration applicable to the office (Schedule 1 (5)).

The Bill also makes other amendments of a minor, consequential or ancillary nature.

COMMUNITY WELFARE (AMENDMENT) BILL, 1983

No. , 1983.

A BILL FOR

An Act to amend the Community Welfare Act, 1982, with respect to the conditions of employment of employees of the Home Care Service of New South Wales; the protection from legal liability of persons executing the Act; the appointment of a full-time President of the Boards of Review; and for other purposes.

[MR WALKER—17 *February*, 1983.]

See also Miscellaneous Acts (Community Welfare) Amendment Bill, 1983; Statutory and Other Offices Remuneration (Children's Boards of Review) Amendment Bill, 1983.

Community Welfare (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Community Welfare (Amendment) Act, 1983".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall
10 commence on the date of assent to this Act.

(2) Section 3, in its application to a provision of Schedule 1, shall commence on the day on which that provision commences.

(3) The several provisions of Schedule 1 shall commence on such day
or days as may be appointed by the Governor in respect thereof and as may
15 be notified by proclamation published in the Gazette.

Amendment of Act No. 76, 1982.

3. The Community Welfare Act, 1982, is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 3.)

20

AMENDMENTS TO THE COMMUNITY WELFARE ACT, 1982.

(1) Section 36A—

After section 36, insert:—

Conditions of employment of employees.

25

36A. (1) Except in so far as provision is otherwise made by law, the conditions of employment (including salary, wages or remuneration) of persons employed by the corporation shall be such

Community Welfare (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE COMMUNITY WELFARE ACT, 1982—*continued.*

5 as are from time to time determined by the executive committee of the corporation after consultation with, and with the concurrence of, the Public Service Board.

10 (2) In any proceedings before a tribunal having power to deal with industrial matters within the meaning of the Industrial Arbitration Act, 1940, the Public Service Board shall act for the corporation in so far as the proceedings involve a matter in respect of which subsection (1) confers power on the executive committee of the corporation.

(2) (a) Section 133 (5)—

Omit the subsection, insert instead:—

15 (5) To assist it in making its determination as referred to in subsection (1) in respect of a child, a Children's Panel may inspect any files, records or papers kept by the Department or by the Commissioner of Police in relation to the child and copies of any documents or depositions delivered to it under section 174 (3).

20 (b) Section 133 (6) (b)—

Omit the paragraph, insert instead:—

(b) request the officer nominated under paragraph (a) to convene a conference of all the persons so nominated.

(3) Section 225 (1) (b)—

25 Omit "section 274", insert instead "section 273".

Community Welfare (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE COMMUNITY WELFARE ACT, 1982—continued.****(4) Section 295A—**

After section 295, insert:—

5 Protection from personal liability in certain cases.

295A. No matter or thing done by the Minister, an officer or any other person shall, if the matter or thing was done bona fide and with reasonable care for the purposes of executing this Act, subject the Minister or the officer or other person personally to any action,
10 liability, claim or demand whatever.

(5) (a) Schedule 4, clause 1, definition of “full-time President”—

After the definition of “Deputy President”, insert:—

“full-time President” means a person who is required by the instrument appointing him to the office of President to devote the whole of his time to the duties of his office;
15

(b) Schedule 4, clause 1, definition of “member”—

Omit “Panel.”, insert instead “Panel;”.

(c) Schedule 4, clause 1, definition of “President”—

After the definition of “member”, insert:—

20 “President” means the President of the Boards of Review.

(d) Schedule 4, clause 2—

Omit “the Minister” wherever occurring, insert instead “the Governor”.

(e) Schedule 4, clause 3 (2)—

25 Omit “A member”, insert instead “Except as provided by sub-clause (2A), a member”.

(f) Schedule 4, clause 3 (2A)—

After clause 3 (2), insert:—

Community Welfare (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE COMMUNITY WELFARE ACT, 1982—*continued.*

(2A) A full-time President is entitled to be paid—

- 5 (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act, 1975; and
- (b) such travelling and subsistence allowances as the Minister may from time to time determine in respect of him.

(g) Schedule 4, clause 3 (3)—

- 10 Omit “The Minister”, insert instead “The Governor”.

(h) Schedule 4, clause 3 (4)—

Omit “the Minister” wherever occurring, insert instead “the Governor”.

(i) Schedule 4, clause 4 (1A)—

- 15 After clause 4 (1), insert:—

(1A) The President shall, if required to do so by the instrument appointing him to the office of President or by a subsequent instrument executed by the Governor, devote the whole of his time to the duties of his office.

- 20 (j) Schedule 4, clauses 8–10—

After clause 7, insert:—

Preservation of rights of full-time President.

8. (1) In this clause—

- 25 “statutory body” means any body declared under clause 10 to be a statutory body for the purposes of this Schedule;

- 30 “superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

Community Welfare (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE COMMUNITY WELFARE ACT, 1982—*continued.*

(2) Subject to subclause (3) and to the terms of his appointment, where a full-time President was, immediately before his appointment as a full-time President—

- (a) an officer of the Public Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by an Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;

- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment as a full-time President; and

- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as a full-time President, and—

- (h) his service as a full-time President shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and

- (i) he shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this clause.

Community Welfare (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE COMMUNITY WELFARE ACT, 1982—continued.**

5 (3) If a full-time President would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme, he shall not be so entitled upon his becoming (whether upon his appointment as a full-time President or at any later time while he holds office as a full-time President) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him and the Government of New South Wales in any case where he becomes a contributor to such another superannuation scheme.

15 (4) Subclause (3) does not prevent the payment to a full-time President upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason of his resignation, to be an officer or employee for the purposes of that scheme.

20 (5) A full-time President shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

Full-time President entitled to reappointment in former employment in certain cases.

9. (1) In this clause—

25 “retiring age” means—

- (a) in relation to a person who was, immediately before his appointment as a full-time President, an officer of the Public Service—the age of 60 years; and
- 30 (b) in relation to a person who was, immediately before his appointment as a full-time President, an officer or employee of a statutory body—the age at which officers or employees (being officers or employees of the class to which that person belonged

Community Welfare (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE COMMUNITY WELFARE ACT, 1982—*continued.*

immediately before his appointment as a full-time President), as the case may be, of that statutory body are entitled to retire;

“statutory body” means any body declared under clause 10 to be a statutory body for the purposes of this Schedule.

(2) A person who ceases to be a full-time President, otherwise than pursuant to clause 3 (4) (paragraph (b) excepted), shall, if he has not attained the retiring age, be entitled to be appointed, where, immediately before his appointment as a full-time President, he was—

(a) an officer of the Public Service—to some position in the Public Service; or

(b) an officer or employee of a statutory body—to some office in the service of that body,

not lower in classification and salary than that which he held immediately before his appointment as a full-time President.

Declaration of statutory bodies.

10. The Governor may, by proclamation published in the Gazette, declare any body constituted by or under an Act to be a statutory body for the purposes of this Schedule.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

