

# CONCURRENCE COPY

## EMPLOYMENT PROTECTION (AMENDMENT) BILL, 1983

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### EXPLANATORY NOTE

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

The objects of this Bill are—

- (a) to make it clear that the Employment Protection Act, 1982, does not affect the Industrial Arbitration Act, 1940 (Schedule 1 (1));
  - (b) to empower employers to notify the Industrial Commission of the matters they wish taken into consideration relating to the financial and other resources of employers (Schedule 1 (2), (4));
  - (c) to require the Industrial Commission to proceed to exercise its jurisdiction under the Employment Protection Act, 1982, within certain periods (Schedule 1 (3));
  - (d) to clarify the application of certain provisions of the Industrial Arbitration Act, 1940, to proceedings under the Employment Protection Act, 1982, and to make it clear that the Labor Council may intervene in any such proceedings, as it is empowered to do so under section 78 of the Industrial Arbitration Act, 1940 (Schedule 1 (5));
  - (e) to provide for the continuance of certain pending proceedings (Schedule 2, clause 3); and
  - (f) to make other provisions of a minor, consequential or ancillary nature.
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# MEMORANDUM FOR THE RECORD

DATE: 10/15/54

TO: SAC, NEW YORK

FROM: SA [Name], NEW YORK

RE: [Name], [Address], [City], [State]

[Name], [Address], [City], [State]

[Name], [Address], [City], [State]

[Name], [Address], [City], [State]

[Name], [Address], [City], [State]

**EMPLOYMENT PROTECTION (AMENDMENT) BILL, 1983**

No.           , 1983.

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**A BILL FOR**

An Act to amend the Employment Protection Act, 1982, with respect to the powers and duties of the Industrial Commission of New South Wales under that Act, and for other purposes.

[MR HILLS—29 *March*, 1983.]

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*Employment Protection (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 "Employment Protection (Amendment) Act, 1983".

**Commencement.**

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

**(2)** Section 4 shall, in its application to a provision of Schedule 1, commence or be deemed to have commenced, as the case may require, on the day on which that provision commences or is deemed to have commenced.

**(3)** Schedule 1 (1) and (5) shall be deemed to have commenced 15 on 8th December, 1982.

**(4)** The several provisions of Schedule 1 (other than items (1) and (5)) shall commence on such day or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

**20 Schedules.**

**3.** This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE EMPLOYMENT PROTECTION ACT, 1982.

SCHEDULE 2.—TRANSITIONAL PROVISIONS.

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*Employment Protection (Amendment).*

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**Amendment of Act No. 122, 1982.**

4. The Employment Protection Act, 1982, is amended in the manner set forth in Schedule 1.

**Transitional provisions.**

5 5. Schedule 2 has effect.

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SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE EMPLOYMENT PROTECTION ACT, 1982.

(1) Section 6 (1)—

10 Omit the subsection, insert instead:—

(1) Nothing in this Act affects or impliedly repeals any of the provisions of the Principal Act, or limits or affects in any way the jurisdiction of a person or body under the Principal Act in relation to any matter to which this Act applies or may apply.

15 (2) Section 7(2A)—

After section 7 (2), insert:—

20 (2A) A notice under this section may also contain particulars of the financial and other resources of the employer concerned to which the employer would desire the Commission to have regard before making an order under this Act.

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*Employment Protection (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE EMPLOYMENT PROTECTION ACT, 1982—*continued.*

## (3) Section 12 (1A)–(1C)—

After section 12 (1), insert:—

5 (1A) Where, in relation to a report referred to in subsection (1),  
the Commission receives a request in or to the effect of the prescribed  
form from a union or from an employer to whom the report relates for  
the Commission to exercise its jurisdiction under this Act, the Com-  
mission shall forthwith proceed to exercise its jurisdiction under this  
10 Act in relation to that report.

(1B) Where, in relation to a report referred to in subsection (1),  
no such request is made to the Commission by—

15 (a) an industrial union of employers or an employer to whom the  
report relates—within the period of 21 days after the date on  
which the Registrar received the relevant notice under this  
Act; or

(b) an industrial union of employees—within the period of 21  
days after the date on which the Registrar first sent such a  
union a copy of the notice for the purposes of section 10,

20 the Commission shall forthwith proceed to exercise its jurisdiction  
under this Act in relation to that report.

25 (1C) The regulations may, in any case or class of cases, vary any  
period referred to in subsection (1A) or (1B), and those subsections  
shall, in any such case or class of cases, have effect subject to and  
in accordance with any such variation.

## (4) Section 14 (5)—

30 Omit “the financial and other resources of the employer concerned”,  
insert instead “such financial and other resources of the employer  
concerned as the employer desires the Commission to take into con-  
sideration and discloses (whether in the notice in consequence of  
which such an order may be made or otherwise) and as the Com-  
mission thinks relevant”.

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*Employment Protection (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE EMPLOYMENT PROTECTION ACT, 1982—*continued.*

(5) (a) Section 16 (1)—

Omit the subsection, insert instead:—

5           (1) Without limiting section 6 (2) of this Act but subject  
to section 15 of this Act, except in so far as a regulation made  
as referred to in subsection (2) so provides, the provisions of  
the Principal Act, and the regulations made under that Act,  
10 relating to proceedings before a member, a conciliation com-  
missioner or the Commission and to appeals from an order of  
a member or a conciliation commissioner apply to and in  
respect of proceedings under this Act in the same way as they  
apply to and in respect of proceedings under that Act.

(b) Section 16 (3)—

15           After section 16 (2), insert:—

20           (3) Without limiting any other provision of this Act or  
section 78 (2) of the Principal Act, the Labor Council of New  
South Wales may, subject to establishing a sufficient interest  
in any proceedings under this Act, intervene in those proceed-  
ings and make such representations as it thinks necessary to  
safeguard the interests of any or all of the trade unions affiliated  
to it.

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*Employment Protection (Amendment).*

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SCHEDULE 2.

(Sec. 5.)

TRANSITIONAL PROVISIONS.

**Furnishing of particulars of resources.**

5 1. (1) Where a notice has been given by an employer to the Registrar pursuant to  
section 7 of the Employment Protection Act, 1982, before the commencement of  
Schedule 1 (2) to this Act, the employer may, within 21 days after that commencement  
or such further period as the Registrar allows, furnish the Registrar with particulars  
of the financial and other resources of the employer to which the employer would  
10 desire the Commission to have regard before making an order under that Act.

(2) Any particulars so furnished shall be deemed to form part of, and to have  
been furnished as part of, the notice referred to in subclause (1).

**Request to exercise jurisdiction.**

15 2. (1) The reference in section 12 (1A) of the Employment Protection Act, 1982,  
as amended by this Act, to a request does not include a reference to a request  
furnished before the commencement of that subsection.

20 (2) Where a notice referred to in section 12 (1B) of the Employment Protection  
Act, 1982, as amended by this Act, was received before the commencement of that  
subsection, the period of 21 days referred to therein (or that period as varied pursuant  
to section 12 (1C) of that Act, as so amended) commences on the date on which it  
would have commenced but for this subclause or the date of commencement of the  
firstmentioned subsection, whichever is the later.

**Certain pending proceedings.**

25 3. (1) Any proceedings pending at the date of assent to this Act and prescribed  
for the purposes of this clause by regulations under the Employment Protection Act,  
1982, shall be deemed to be proceedings properly instituted under that Act, and may  
be heard and disposed of without any request needing to be furnished under section  
12 (1A) or (1B) of that Act, as amended by this Act.

30 (2) If the Labor Council of New South Wales has intervened in or is a party  
to any proceedings prescribed pursuant to subclause (1), that Council shall be deemed  
to have properly intervened in those proceedings.

(3) It is immaterial that any proceedings prescribed pursuant to subclause (1)  
relate to matters which could be the subject of 2 or more proceedings.



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*Employment Protection (Amendment).*

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SCHEDULE 2—*continued.*

TRANSITIONAL PROVISIONS—*continued.*

- 5 (4) Regulations may be made under the Employment Protection Act, 1982, for or with respect to any matter that by this clause is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this clause.

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BY AUTHORITY

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

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