

**INDUSTRIAL ARBITRATION (MISCELLANEOUS
PROVISIONS) AMENDMENT BILL 1986**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Trade Union (Amendment) Bill 1986 is cognate with this Bill.

The object of this Bill is to make miscellaneous amendments to the Industrial Arbitration Act 1940 so as—

- (a) to require an alteration to the rules of an industrial union to be registered under that Act;
- (b) to make further provision with respect to the constitution of conciliation committees;
- (c) to enable the appointment by the Industrial Registrar of members of contract regulation tribunals;
- (d) to enable proceedings in relation to a breach of an award or industrial agreement by a corporation to be brought against a director or manager of the corporation; and
- (e) to clarify the functions of the Deputy Industrial Registrar.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 (1) (a), (c) and (d) amend certain provisions of section 8 of the Principal Act concerning registration of matters relating to industrial unions to make it clear that the provisions apply to industrial unions of employers as well as to industrial unions of employees.

Schedule 1 (1) (b) provides that an alteration to the rules of an industrial union shall have no effect until the alteration is registered under the Principal Act and enables the making and determination of applications for registration.

Schedule 1 (2) enables the Industrial Commission to determine the number of alternate members of conciliation committees and the Industrial Registrar to determine the number of deputy members of those committees.

Schedule 1 (3) provides that matters referred to the Industrial Commission under section 15A (1) of the Trade Union Act 1881 are no longer required to be heard by the Commission in court session.

Schedule 1 (4) enables the appointment by the Industrial Registrar instead of the Industrial Commission of members of contract regulation tribunals.

Schedule 1 (5) enables proceedings in relation to a breach of an award or industrial agreement by a corporation to be brought against a director or manager of the corporation where the director or manager knowingly and wilfully authorised or permitted the breach to be committed.

Schedule 1 (6) amends section 125 of the Principal Act so as to clarify the functions of the Deputy Industrial Registrar and the circumstances in which those functions may be exercised.

INDUSTRIAL ARBITRATION (MISCELLANEOUS PROVISIONS) AMENDMENT BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 2, 1940

SCHEDULE 1—AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940

INDUSTRIAL ARBITRATION (MISCELLANEOUS PROVISIONS) AMENDMENT BILL 1986

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Industrial Arbitration Act 1940 to provide for the registration of an alteration to the rules of an industrial union, for the appointment of members of Contract Regulation Tribunals, for the taking of proceedings against directors and managers of corporations, and for certain other purposes.

See also Trade Union (Amendment) Bill 1986.

Industrial Arbitration (Miscellaneous Provisions) Amendment 1986

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 "Industrial Arbitration (Miscellaneous Provisions) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 2, 1940

3. The Industrial Arbitration Act 1940 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940

20 (1) Section 8 (Registration of industrial union of employees and of other matters relating to industrial unions generally)—

(a) Section 8 (6)—

After "industrial union" where firstly occurring, insert "of employers or employees".

25 (b) Section 8 (6A)-(6D)—

After section 8 (6), insert:

(6A) An alteration to the rules of an industrial union shall have no effect until the alteration is registered under this Act.

*Industrial Arbitration (Miscellaneous Provisions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940—
continued

(6B) The regulations under this Act may make provision for or with respect to the making of applications for the registration of an alteration to the rules of an industrial union, including—

- (a) the form in which applications may be made;
- 5 (b) the making of composite applications for the registration of an alteration to rules and for the purposes of subsection (6);
- (c) the manner of making applications;
- (d) the particulars required to accompany applications;
- 10 (e) application fees; and
- (f) the dealing with and determination (by grant or refusal) of applications.

15 (6C) If an alteration to the rules of an industrial union is registered under this Act in respect of an industrial union that is registered as a trade union under the Trade Union Act 1881, the registrar shall also register the alteration under that Act.

20 (6D) The registrar may refer the determination of any application under this section or any matter arising from an application to the commission, which may determine the application or matter accordingly.

(c) Section 8 (8)—

After “industrial union” where firstly occurring, insert “of employers or employees”.

(d) Section 8 (9)—

25 After “industrial union”, insert “of employers or employees”.

Industrial Arbitration (Miscellaneous Provisions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940—
continued

(2) Section 18 (**Conciliation committees**)—

Section 18 (2)—

Omit “Deputy or alternate members”, insert instead “Alternate members of such number as may be determined by the commission and deputy members of such number as may be determined by the registrar”.

(3) Section 30B (**Jurisdiction of the commission**)—

Section 30B (1) (c)—

After “this Act”, insert “, section 15A (1) of the Trade Union Act 1881”.

(4) Section 91J (**Establishment of tribunals**)—

(a) Section 91J (2)—

Omit “appointed by the commission”.

(b) Section 91J (2A)—

After section 91J (2), insert:

(2A) The members referred to in subsection (2) (b) and (c) shall be appointed by the registrar.

(c) Section 91J (3)—

After “member” where firstly occurring, insert “referred to in subsection (2) (b) or (c)”.

(d) Section 91J (3), (4), (5), (12), (14)—

Omit “commission” wherever occurring, insert instead “registrar”.

(e) Section 91J (4)—

After “tribunal” where firstly occurring, insert “in the case of regular members other than the chairman”.

*Industrial Arbitration (Miscellaneous Provisions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940—
continued

(f) Section 91J (4A)—

After section 91J (4), insert:

5 (4A) The number of alternate members of a tribunal shall be determined by the commission and the number of deputy members of a tribunal shall be determined by the registrar.

(g) Section 91J (12)—

After “tribunal,” insert “other than in the position of chairman,”.

(5) Section 93 (**Penalty for breach of award, etc.**)—

(a) Section 93 (1A), (1B)—

10 After section 93 (1), insert:

15 (1A) If the person who commits a breach referred to in subsection (1) is a corporation, every person who, at the time the breach was committed, was a director of the corporation or was concerned in the management of the corporation shall be deemed to have committed a breach referred to in that subsection and be liable to the same penalty if the person knowingly and wilfully authorised or permitted the breach to be committed.

20 (1B) A person may be proceeded against and convicted of an offence under subsection (1A) whether or not the corporation has been proceeded against or been convicted under that subsection.

(b) Section 93 (2)—

Omit “such” where firstly occurring.

*Industrial Arbitration (Miscellaneous Provisions) Amendment 1986*SCHEDULE 1—*continued*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940—
continued(6) Section 125 (**Registrar**)—

Section 125 (2A)–(2C)—

From section 125 (2), omit:

5 The deputy industrial registrar shall exercise such powers and perform such duties of the registrar as the registrar shall from time to time direct, and whilst exercising such powers or performing such duties and during the temporary absence of the registrar, or during any vacancy in the position of registrar, the deputy industrial registrar shall have the same jurisdiction and powers as if he were registrar.

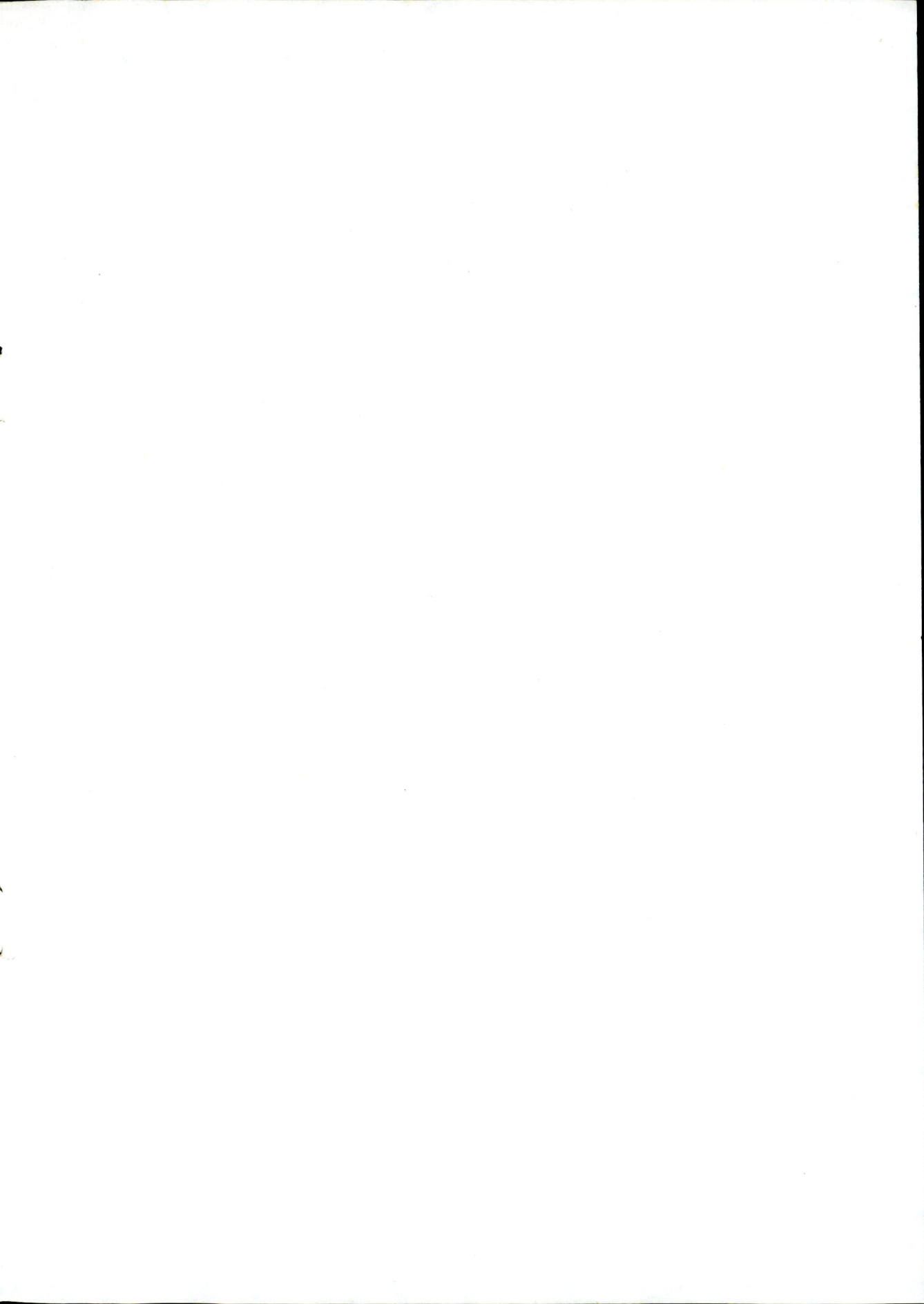
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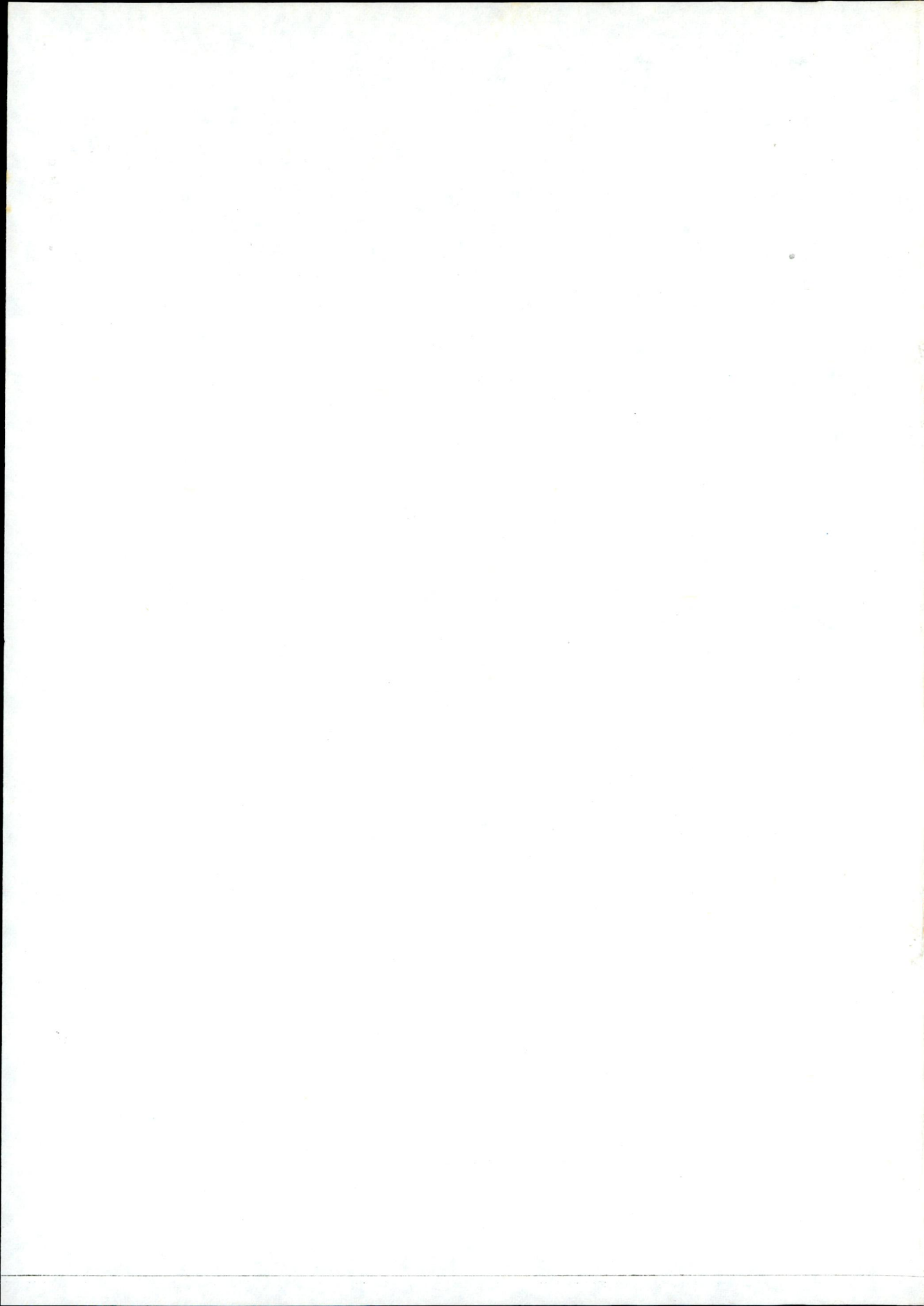
Insert instead:

(2A) The deputy industrial registrar shall exercise such powers and perform such duties of the registrar as the registrar shall from time to time direct.

15 (2B) The deputy industrial registrar shall have the jurisdiction of the registrar and shall have the powers and perform the duties of the registrar during any vacancy in the position of registrar or during the absence of the registrar through illness or any other cause.

20 (2C) All things done or omitted by the deputy industrial registrar shall be as valid and effectual and shall have the same consequences as if those things had been done or omitted by the registrar.





**INDUSTRIAL ARBITRATION (MISCELLANEOUS
PROVISIONS) AMENDMENT ACT 1986 No. 127**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 2, 1940

SCHEDULE 1—AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940

**INDUSTRIAL ARBITRATION (MISCELLANEOUS
PROVISIONS) AMENDMENT ACT 1986 No. 127**

NEW SOUTH WALES



Act No. 127, 1986

An Act to amend the Industrial Arbitration Act 1940 to provide for the registration of an alteration to the rules of an industrial union, for the appointment of members of Contract Regulation Tribunals, for the taking of proceedings against directors and managers of corporations, and for certain other purposes. [Assented to, 4 December 1986]

See also Trade Union (Amendment) Act 1986.

Industrial Arbitration (Miscellaneous Provisions) Amendment 1986

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:

Short title

1. This Act may be cited as the "Industrial Arbitration (Miscellaneous Provisions) Amendment Act 1986".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 2, 1940

3. The Industrial Arbitration Act 1940 is amended in the manner set forth in Schedule 1.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940

(1) Section 8 (**Registration of industrial union of employees and of other matters relating to industrial unions generally**)—

(a) Section 8 (6)—

After "industrial union" where firstly occurring, insert "of employers or employees".

(b) Section 8 (6A)–(6D)—

After section 8 (6), insert:

(6A) An alteration to the rules of an industrial union shall have no effect until the alteration is registered under this Act.

Industrial Arbitration (Miscellaneous Provisions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940—
continued

(6B) The regulations under this Act may make provision for or with respect to the making of applications for the registration of an alteration to the rules of an industrial union, including—

- (a) the form in which applications may be made;
- (b) the making of composite applications for the registration of an alteration to rules and for the purposes of subsection (6);
- (c) the manner of making applications;
- (d) the particulars required to accompany applications;
- (e) application fees; and
- (f) the dealing with and determination (by grant or refusal) of applications.

(6C) If an alteration to the rules of an industrial union is registered under this Act in respect of an industrial union that is registered as a trade union under the Trade Union Act 1881, the registrar shall also register the alteration under that Act.

(6D) The registrar may refer the determination of any application under this section or any matter arising from an application to the commission, which may determine the application or matter accordingly.

(c) Section 8 (8)—

After “industrial union” where firstly occurring, insert “of employers or employees”.

(d) Section 8 (9)—

After “industrial union”, insert “of employers or employees”.

Industrial Arbitration (Miscellaneous Provisions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940—
continued

(2) Section 18 (**Conciliation committees**)—

Section 18 (2)—

Omit “Deputy or alternate members”, insert instead “Alternate members of such number as may be determined by the commission and deputy members of such number as may be determined by the registrar”.

(3) Section 30B (**Jurisdiction of the commission**)—

Section 30B (1) (c)—

After “this Act”, insert “, section 15A (1) of the Trade Union Act 1881”.

(4) Section 91J (**Establishment of tribunals**)—

(a) Section 91J (2)—

Omit “appointed by the commission”.

(b) Section 91J (2A)—

After section 91J (2), insert:

(2A) The members referred to in subsection (2) (b) and (c) shall be appointed by the registrar.

(c) Section 91J (3)—

After “member” where firstly occurring, insert “referred to in subsection (2) (b) or (c)”.

(d) Section 91J (3), (4), (5), (12), (14)—

Omit “commission” wherever occurring, insert instead “registrar”.

(e) Section 91J (4)—

After “tribunal” where firstly occurring, insert “in the case of regular members other than the chairman”.

Industrial Arbitration (Miscellaneous Provisions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940—
continued

(f) Section 91J (4A)—

After section 91J (4), insert:

(4A) The number of alternate members of a tribunal shall be determined by the commission and the number of deputy members of a tribunal shall be determined by the registrar.

(g) Section 91J (12)—

After “tribunal,” insert “other than in the position of chairman.”.

(5) Section 93 (**Penalty for breach of award, etc.**)—

(a) Section 93 (1A), (1B)—

After section 93 (1), insert:

(1A) If the person who commits a breach referred to in subsection (1) is a corporation, every person who, at the time the breach was committed, was a director of the corporation or was concerned in the management of the corporation shall be deemed to have committed a breach referred to in that subsection and be liable to the same penalty if the person knowingly and wilfully authorised or permitted the breach to be committed.

(1B) A person may be proceeded against and convicted of an offence under subsection (1A) whether or not the corporation has been proceeded against or been convicted under that subsection.

(b) Section 93 (2)—

Omit “such” where firstly occurring.

Industrial Arbitration (Miscellaneous Provisions) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940—
continued

(6) Section 125 (**Registrar**)—

Section 125 (2A)–(2C)—

From section 125 (2), omit:

The deputy industrial registrar shall exercise such powers and perform such duties of the registrar as the registrar shall from time to time direct, and whilst exercising such powers or performing such duties and during the temporary absence of the registrar, or during any vacancy in the position of registrar, the deputy industrial registrar shall have the same jurisdiction and powers as if he were registrar.

Insert instead:

(2A) The deputy industrial registrar shall exercise such powers and perform such duties of the registrar as the registrar shall from time to time direct.

(2B) The deputy industrial registrar shall have the jurisdiction of the registrar and shall have the powers and perform the duties of the registrar during any vacancy in the position of registrar or during the absence of the registrar through illness or any other cause.

(2C) All things done or omitted by the deputy industrial registrar shall be as valid and effectual and shall have the same consequences as if those things had been done or omitted by the registrar.