

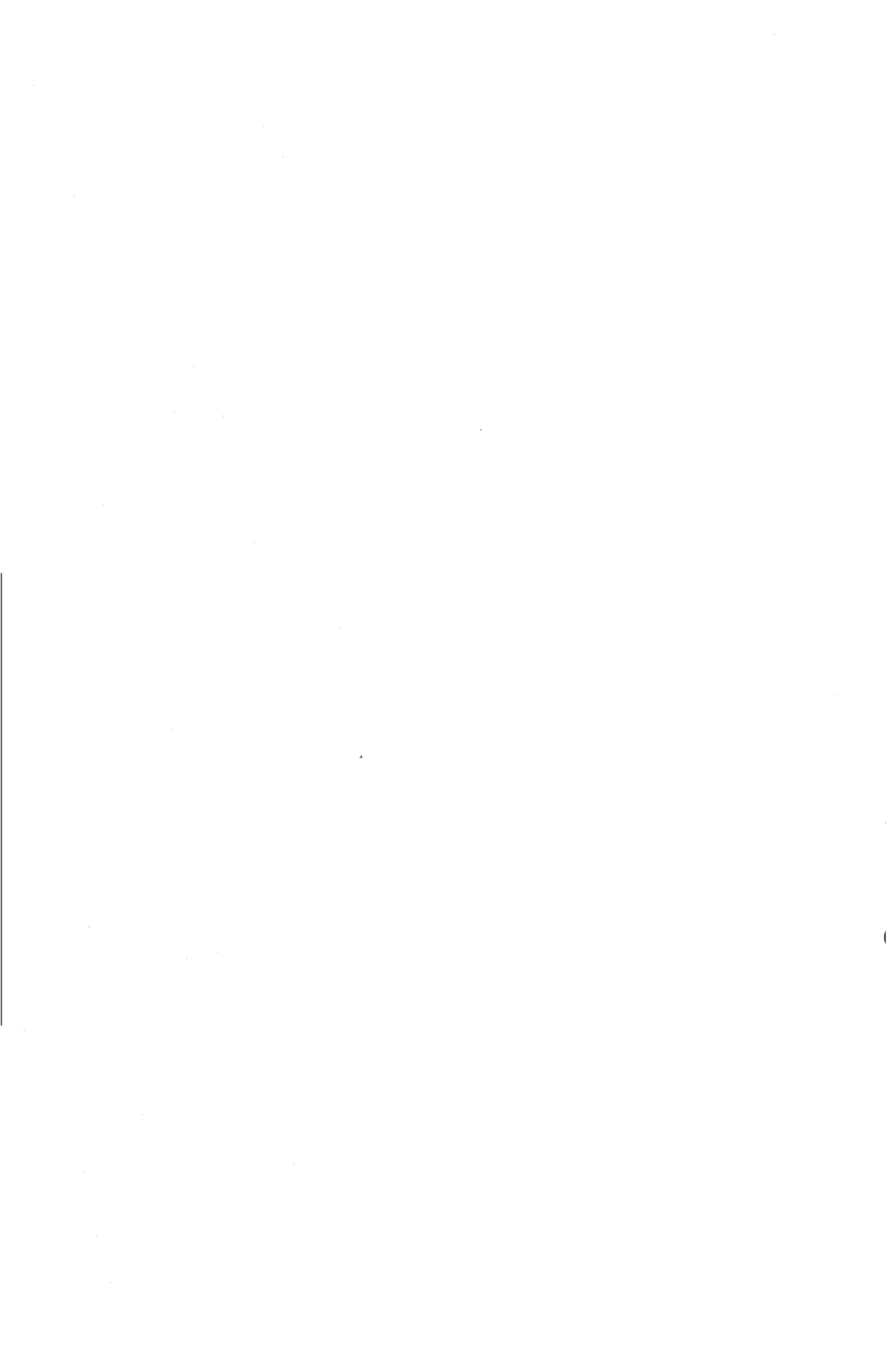
THE PARLIAMENT OF THE COMMONWEALTH  
OF AUSTRALIA

HOUSE OF REPRESENTATIVES

BUILDERS LABOURERS' FEDERATION  
(CANCELLATION OF REGISTRATION - CONSEQUENTIAL PROVISIONS)  
BILL 1986

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister  
for Employment and Industrial Relations,  
the Hon Ralph Willis MP).



## OUTLINE

(1) The purpose of the Bill is to provide for:

- . the consequences of the cancellation under the Builders Labourers' Federation (Cancellation of Registration) Bill 1986 of the registration as an organization of employees under the Conciliation and Arbitration Act 1904 of the Australian Building Construction Employees' and Builders Labourers' Federation ("the Federation");
- . the conditions for the re-registration of the Federation, or any other association formed by members or former members of the Federation, as an organization of employees under the Conciliation and Arbitration Act;
- . the making of regulations to give other unions registered under the Conciliation and Arbitration Act, where they consent, coverage of work in an industry in respect of which the Federation was registered.

(2) Under the Bill, after the Federation's registration has been cancelled, consequences will ensue similar to those under the Conciliation and Arbitration Act where an organization's registration is cancelled. This will include the cessation of the force and effect of any awards in relation to the Federation and its members. Provision is also made for the exclusion from the processes of conciliation and arbitration before the Australian Conciliation and Arbitration Commission ("the Commission") of the Federation or any other association formed by members or former members of the Federation.

(3) The Federation or any other association formed by members or ex-members of the Federation will not be able, by virtue of the Bill, to be registered under the Conciliation and Arbitration Act for a period of 3 years

after the cancellation of its registration. Any application for registration will be dealt with by a Full Bench of the Commission which will have to be satisfied that registration would not be contrary to the objects of the Conciliation and Arbitration Act and that the applicant's future conduct would not be harmful to the federal system of settlement of industrial disputes. These criteria are in addition to any other requirements under the Conciliation and Arbitration Act as to registration.

- (4) The Bill provides for the making of regulations to make employees in an industry in respect of which the Federation was registered under the Conciliation and Arbitration Act eligible for membership of other federally registered unions, with the consent of those unions. Such regulations may relate to all or part of the work in the industry and in Australia generally or in a specified part or specified parts of Australia.

#### FINANCIAL IMPACT STATEMENT

No costs to the Government arise directly from the legislation.

There may be costs to the building industry if the Federation causes industrial disruption after the cancellation of its registration. The Government aims to achieve a significant improvement in industrial relations in the building industry in the longer term resulting in greater efficiency and overall savings.

NOTES ON CLAUSES

CLAUSE 1

This clause gives the short title of the Bill.

CLAUSE 2: COMMENCEMENT

The legislation comes into operation upon the Builders Labourers' Federation (Cancellation of Registration) Bill 1986 coming into operation.

CLAUSE 3: INTERPRETATION

Significant terms used in the Bill are defined in this clause. The definitions of "Federation" and "non-registered association" in this provision relate to terms which are especially significant for the operation of the substantive provisions of the Bill.

"Federation" refers to the association that was registered as the Australian Building Construction Employees' and Builders Labourers' Federation ("the Federation") under the Conciliation and Arbitration Act 1904, whether it retains that name or changes its name.

"Non-registered association" means the Federation as defined or an association, which is not registered under the Conciliation and Arbitration Act, all or a majority of the members of which are persons who are or were members of the Federation, and which was formed in or in connection with the industry or a part of the industry in or in connection with which the Federation was so registered.

CLAUSE 4: EFFECT OF CANCELLATION OF FEDERATION'S REGISTRATION

Clause 4 provides for the consequences of the cancellation of the registration as an organization of employees under the Conciliation and Arbitration Act 1904 of the Australian Building Construction Employees' and Builders Labourers' Federation ("the Federation") which will occur upon the coming into effect of the Builders Labourers' Federation (Cancellation of Registration) Act 1986.

Under sub-clause 4(1) - which adopts certain provisions of section 143 of the Conciliation and Arbitration Act as to the cancellation of an organization's registration under that Act - the Federation or its members would not be relieved from any penalty or liability incurred prior to such cancellation; the Federation would not cease to be an association; and its property would be capable of being held and applied for the purposes of the association in accordance with the constitution and rules of the Federation.

Sub-clause 4(2) provides that any award applying to the Federation or its members will not have any force or effect in relation to them.

Under sub-clause 4(3), a non-registered association as defined in clause 3 will not be capable of being a party to or an intervener in a proceeding before the Australian Conciliation and Arbitration Commission ("the Commission") or a party to an award made by the Commission.

Paragraph 4(4)(a) provides that the Commission will not have any powers under the Conciliation and Arbitration Act in relation to an industrial dispute in so far as that dispute resulted either from an act done by a non-registered association as defined in clause 3 or by the members of such a

body or an act done by an employer in relation to a non-registered association or its members.

By virtue of paragraph 4(4)(b), the Commission does not have any powers in relation to an industrial matter as defined in section 70A of the Conciliation and Arbitration Act to the extent that it relates to a claim by a non-registered association as defined in clause 3 or its members. An "industrial matter" as defined in section 70A is one relating to the salaries, wages rates of pay or other terms or conditions of employment of employees of the Commonwealth, the Northern Territory, a Commonwealth authority or a Northern Territory authority.

Sub-section 4(5) enables the Commission to deal with an industrial dispute involving members of an organisation of employees registered under the Conciliation and Arbitration Act who are also members of a non-registered association as defined in clause 3.

Under sub-clause 4(6) a person or an organization or association of employees will not be entitled to be represented by an officer or agent or member of a non-registered association as defined in clause 3 in proceedings before the Commission or the Industrial Registrar except for the purposes of applying for registration under the Conciliation and Arbitration Act.

CLAUSE 5: REGISTRATION

Sub-clause 5(1) provides that a non-registered association as defined in clause 3 will only be able to be registered under section 132 of the Conciliation and Arbitration Act where:

- a period of 3 years has elapsed from the day of commencement of the Builders Labourers' Federation (Cancellation of Registration) Act 1986, i.e, the day

on which the Federation's registration under the Conciliation and Arbitration Act is cancelled by force of that Act - paragraph 5(1)(a);

- . the Commission, on application by the non-registered association, has declared that it is satisfied that if the non-registered association were registered, it would not engage in conduct inimical to the prevention and settlement of industrial disputes by means of conciliation and arbitration, and such registration would not prevent or seriously hinder the achievement of an object of the Conciliation and Arbitration Act - paragraph 5(1)(b);
- . the requirements of the Conciliation and Arbitration Act and Regulations as to registration are otherwise complied with - paragraph 5(1)(c).

Under sub-clause 5(2), the Commission is to hear and determine any application for registration by such an association.

CLAUSE 6: POWERS AND PROCEDURE OF THE CONCILIATION AND ARBITRATION COMMISSION

Sub-clause 6(1) provides that the powers of the Commission under or by virtue of the Bill may only be exercised by a Full Bench.

By sub-clause 6(2), the provisions of the Conciliation and Arbitration Act and Regulations as to the procedure and powers of the Commission in relation to proceedings before it apply, so far as that is possible, for the purpose of proceedings before the Commission under the Bill, ie, in relation to an application for registration by a non-registered association as defined in clause 3.



Sub-clause 6(3) provides that where the Commission is dealing with an application by such a non-registered association for a declaration under paragraph 5(1)(b) as part of an application for registration, the Minister, the applicant or an intervener may be represented by counsel or solicitor.

CLAUSE 7: ELIGIBILITY OF CERTAIN BUILDING INDUSTRY EMPLOYEES  
FOR MEMBERSHIP OF CERTAIN ORGANIZATIONS

Under sub-clause 7(1), a reference to a "relevant industry" in clause 7 refers to an industry in or in connection with which the Federation was registered prior to the cancellation of its registration as an organization of employees under the Conciliation and Arbitration Act.

Sub-clause 7(2) provides that regulations may declare certain persons to be eligible for membership of an organization of employees which is registered under the Conciliation and Arbitration Act. Such regulations operate notwithstanding anything in the rules of the organization at the time when the regulation were made. Under the sub-clause, the persons in respect of whom the regulations may be made are those who are employed or are usually employed in work of a specified kind or class, in Australia or a specified part or specified parts of Australia, in a "relevant industry" as defined in sub-clause 7(1).

It is also provided in sub-clause 7(2) that the secretary or another executive officer of the organization of employees concerned must consent in writing before the regulations may make such persons eligible for membership of that organization.

Under sub-clause 7(3), the making of such regulations to make persons eligible for membership of a registered organization of

employees does not prevent that or any other registered organization from applying to the Industrial Registrar under the Conciliation and Arbitration Act and Regulations for consent to alter its rules to cover the work of persons in respect of whom the regulations were made. In the event of any inconsistency between the regulations and the rules, where the latter are so altered, the rules prevail.

Sub-clause 7(4) provides that any regulations made for the purposes of clause 7 continue in force where a non-registered association as defined in clause 3 is registered under the Conciliation and Arbitration Act.

CLAUSE 8: REGULATIONS

This clause gives the Governor-General a regulation making power for the purposes of the Bill.

