

1994

THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA

HOUSE OF REPRESENTATIVES

INDUSTRIAL RELATIONS LEGISLATION AMENDMENT BILL (No.2) 1994

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by authority of the  
Minister for Industrial Relations,  
the Honourable Laurie Brereton MP)



# **INDUSTRIAL RELATIONS LEGISLATION AMENDMENT BILL (No.2) 1994**

## **GOVERNMENT AMENDMENTS**

### **OUTLINE**

These are amendments to Schedule 1. The purpose of Schedule 1 is to reform the arrangements for the prevention and settlement of industrial disputes in the coal mining industry. The bill, as originally introduced, provided for that reform to take place in two stages. These amendments will omit the first stage, so there will be no short term legislative arrangements preceding the introduction of what would have been the second stage (i.e., the long term arrangements).

This second stage involves the abolition of the Coal Industry Tribunal and Local Coal Authorities, with the Australian Industrial Relations Commission (AIRC) performing functions and exercising powers in respect of industrial matters in the coal mining industry instead of those bodies.

The amendments also expressly require the AIRC to have regard to decisions of the Tribunal that are relevant to the matters before the AIRC. This requirement will apply when the AIRC is performing its functions in relation to the coal mining industry, and is subject to other provisions of the *Industrial Relations Act 1988*, eg, the Act's objects and other general requirements.

Another provision which would be included by the amendments will allow the AIRC to perform functions or exercise powers under a complementary State law with respect to industrial matters in the coal mining industry in New South Wales or Queensland.

The other amendments are formal changes made necessary by the removal of the first stage of the original two-stage process.

### **Amendment 1**

This amendment omits 2 subitems which will be made superfluous by Amendment 4 (ie, by the omission of stage one of the original two-stage reform).

The amendment also clarifies that the formal provisions of Schedule 1 commence on Royal Assent.

### **Amendments 2 & 3**

These are formal amendments consequential on Amendment 4.

### **Amendment 4**

This omits Part 2 of the Schedule which provided for the "Short Term Arrangements", ie, stage one of the original two-stage reform.

### **Amendment 5**

This is a formal amendment which changes the title of Part 3 from "Long Term Arrangements" to "Arrangements for the prevention and settlement of disputes in the coal mining industry". This reflects the fact that there will be no interim, short term stage.

### **Amendment 6**

This will amend item 25. That item proposes to insert a new subsection (6) to section 5 of the *Industrial Relations Act*.

The proposed subsection would allow the AIRC to exercise powers or perform functions under a New South Wales law in respect of matters between coal mining industry employers in that State and their employees.

The replacement subsection (6) would extend this arrangement to Queensland.

The provision would allow the AIRC to exercise jurisdiction under a law of New South Wales or Queensland which applied the *Industrial Relations Act* as a State law for the purpose of the AIRC's dealing with such industrial matters. The State law could make appropriate modifications, eg, to ensure that the AIRC could deal more effectively with a local dispute without the requirement for a preceding interstate dispute.

To reflect the co-operative nature of such a complementary scheme, provision is made so that if the relevant State law requires it, a Full Bench of the AIRC which is exercising powers or performing functions under that law is, if practicable, to

include a member who has been cross-appointed from the Industrial Relations Commission in the State concerned.<sup>1</sup>

#### **Amendment 7**

This amendment inserts into Schedule 1 a new item, which will add a new section 92A to the *Industrial Relations Act*.

The new section will provide for the Australian Industrial Relations Commission, when performing functions in relation to the coal mining industry, to have regard to any relevant decisions of the Coal Industry Tribunal.

This new section 92A is expressed as being "subject to this Act" (ie, the *Industrial Relations Act*). This will make clear that the additional express obligation, placed on the Commission for coal mining industry matters, does not detract from the general provisions of the Act about the Commission's performance of its functions.

#### **Amendment 8**

This omits an item that would have made a consequential amendment to the *Industrial Relations Act*. That amendment is not necessary.

#### **Amendments 9 & 10**

These are formal amendments consequential on Amendment 4.

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<sup>1</sup> Under existing provisions of the *Industrial Relations Act* and equivalent State legislation, there are already cross-appointed members of the Federal and State tribunals.