

# INDUSTRIAL ARBITRATION (RETAIL TRADE) AMENDMENT BILL 1988

NEW SOUTH WALES



## EXPLANATORY NOTE

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

The objects of this Bill are—

- (a) to abolish the Retail Trade Industrial Tribunal so that its exclusive jurisdiction under the Industrial Arbitration Act 1940 concerning retail trade industrial matters will revert to the Industrial Commission; and
- (b) to provide for the hearing and determination by that Commission of certain appeals relating to retail shops that may presently be made under the Factories, Shops and Industries Act 1962 to that Tribunal; and
- (c) to make certain transitional and savings provisions as a consequence of the proposed abolition of that Tribunal.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides that the proposed Act is to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the Schedule of amendments to the Industrial Arbitration Act 1940.

**Clause 4** is a formal provision that gives effect to the Schedule of consequential amendments to the Factories, Shops and Industries Act 1962.

### SCHEDULE 1—AMENDMENT OF INDUSTRIAL ARBITRATION ACT 1940

#### Abolition of the Retail Trade Industrial Tribunal

The Bill repeals the provisions of the Act (sections 38N–38V and Schedule 5) that constitute the Retail Trade Industrial Tribunal, that specify its jurisdiction in dealing with retail trade matters under the Act and that make detailed arrangements for its members (Schedule 1 (2) and (3)).

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**Expansion of Commission's jurisdiction and powers**

The effect of repealing those provisions will be to return to the Commission its jurisdiction and powers relating to retail trade industrial matters.

The Bill also amends section 30 (jurisdiction) of the Act because, as explained below, certain appeals relating to retail shops will be made to the Commission instead of the Tribunal (Schedule 1 (1)).

**Transitional and savings provisions**

The Bill inserts proposed clauses 2–4 into Schedule 6 to the Act. These clauses formally abolish the Tribunal and save orders, awards, rulings and decisions of the Tribunal. Provision is also made for matters that have been commenced before or been partly heard by the Tribunal before its abolition to be dealt with or continued before the Commission (Schedule 1 (4)).

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF FACTORIES, SHOPS  
AND INDUSTRIES ACT 1962**

**Abolition of Tribunal's functions**

The Bill repeals or appropriately amends all provisions of Part 4 of the Act (relating to the hours of trade or work in certain industries) conferring functions on or relating to the Tribunal (Schedule 2 (1)–(3)).

**Appeals relating to retail shops**

The Bill amends section 91D of the Act so as to provide that appeals presently available against decisions of the Secretary of the Department of Industrial Relations and Employment about—

- \* the classification of retail shops; and
- \* the registration or deregistration of retail shops as small shops; and
- \* exemptions from the provisions of Division 3 of that Part that relate to the opening and closing hours of retail shops.

are to be made to the Commission (constituted by a single member) instead of the Tribunal.

To the limited extent provided by section 14 of the Industrial Arbitration Act 1940, an appeal lies to the Commission in court session from the decision of such a single member (Schedule 2 (4)).

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