

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

INDUSTRIAL RELATIONS BILL 1988

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be moved on behalf of the Government

(Circulated by the Authority of the Minister for
Industrial Relations, the Hon Ralph Willis MP)

OUTLINE

The proposed amendments are intended to:

- . clarify the intention of certain provisions of the Industrial Relations Bill 1988;
- . ensure that the terms of certain provisions do not result in their having an unintended narrow operation;
- . create a new offence relating to interfering with membership of a registered organisation, to complement other provisions prohibiting discrimination.

FINANCIAL IMPACT

The amendments will have no significant financial impact.

NOTES ON CLAUSES

Amendment 1

By force of sub-clause 121(1), the Industrial Relations Commission is able to make an award in relation to an industrial dispute involving "public sector employment" as defined in sub-clause 4(1) where the award is not, or may not be, consistent with certain laws. Certain employment may be excluded by regulation from the scope of that definition, thereby removing it from the Commission's wider jurisdiction under clause 5.

The purpose of the amendment is to enable the Commission to exercise its powers under clause 121 in relation to employment so excluded.

Amendment 2

Clause 121 (described in the notes on Amendment 1) is to be amended to ensure that it applies in relation to orders made by the Industrial Relations Commission as well as to its awards.

Amendment 3

Since the introduction of the Bill, the Compensation (Commonwealth Government Employees) Act 1971 has been repealed and replaced by the Commonwealth Employees Rehabilitation and Compensation Act 1988. The amendment reflects that change.

Amendment 4

Under clause 133, members of the Industrial Relations Commission may be authorised by the President to be involved in consultative councils in an industry. The President is required to be satisfied about the representative nature of such a council before consenting to a member's involvement.

The amendment is designed to broaden the criteria of what constitutes a properly representative council.

Amendment 5

Clause 197 is to be amended to omit the word "technically" which, in the light of a recent decision of the Federal Court of Australia in relation to the equivalent provision in the Conciliation and Arbitration Act 1904 (the Act), may be inappropriate.

Amendment 6

Clause 261 relates to a person's entitlement to membership of an organisation registered under the Bill and is intended, in its application to persons who wish to become members of an organisation of employees, to provide a similar entitlement to that under section 144 of the Conciliation and Arbitration Act 1904.

The amendments are designed to make that intention clearer.

Amendment 7

Sub-clause 333(4A) is to be inserted.

The proposed amendment makes it an offence for an organisation registered under the Bill to take, or threaten to take, industrial action against an employer because the employer is an officer, delegate or member or an organisation or an association that has applied for registration.

Amendment 8

The amendment is of a technical nature and is consequential upon amendments 7 and 9.

Amendment 9

Sub-clause 333(6A) is to be inserted. It is a deeming provision relating to conduct constituting the offence to be created by amendment 7.

Amendment 10

Clause 344, relating to financial assistance in certain proceedings under the Bill, is to be amended.

The amendment is intended to ensure that financial assistance will be available for the fees of two counsel in appropriate circumstances.

