

1990

THE PARLIAMENT OF THE COMMONWEALTH OF  
AUSTRALIA

HOUSE OF REPRESENTATIVES

BUILDERS LABOURERS' FEDERATION LEGISLATION  
AMENDMENT BILL 1990

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments to be Moved on Behalf  
of the Government

(Circulated by authority of the  
Minister for Industrial Relations  
Senator the Hon Peter Cook)

Amendment (1): proposed amendment to clause 2

Clause 2 provides for the commencement of all provisions of the Bill upon its receiving the Royal Assent.

The proposed amendment which inserts a revised clause 2 would have the result that clauses 1, 2 and 5 of the Bill would commence when the Bill receives the Royal Assent. Clause 1 relates to the title of the Act. Clause 5 extends under the Builders Labourers' Federation (Cancellation of Registration - Consequential Provisions) Act 1986 (the Principal Act) the period of deregistration of the Builders Labourers' Federation in its various forms.

On the other hand, the provisions of clauses 3, 4 and 6 would commence on a day or days fixed by Proclamation.

This change is being made because there are certain proceedings currently before the Australian Industrial Relations Commission which would be affected by clauses 3, 4 and 6.

Those proceedings, which involve in various ways the Building Workers' Industrial Union of Australia, the Federated Engine Drivers and Firemen's Association of Australasia and the Australian Builders Labourers' Federated Union of Workers (Western Australian Branch), are to be adjourned until January 1991 to give the parties an opportunity to resolve the underlying issues by agreement.

The commencement of clauses 3, 4 and 6 on Royal Assent could undermine that process and thereby contribute indirectly to possible industrial friction.

Clause 3 amends the definition section of the Principal Act (section 3) to make its operation more effective by widening the criteria for determining whether an association of employees is a "non-registered association", that is, an association which is the deregistered Federation or one closely connected with it.

Clause 4 will:

- (i) permit a State association as defined in revised section 3 (ie, a State registered association of builders labourers), other than the NSW registered union, to appear before the Australian Industrial Relations Commission for certain purposes but not in relation to proceedings commenced prior to the Bill's taking effect; and
- (ii) make it clear that the Commission is able to participate in joint proceedings in which a State association is involved.

Clause 6 applies the Bill's provisions to any application or proceedings made or commenced before the Bill's taking effect.

Under subclause (3) of revised subclause 2, any provision of the Bill which is not proclaimed within 6 months of the Bill's commencement, is repealed.

Subclause (4) of revised clause 2 provides that proposed new subclause 4(2) [see below] is to be taken as repealed if it does not commence at the same time as clause 4(1)(b) [see below].

Amendments (2) and (3): proposed amendments to clause 4

Existing paragraph (b) of clause 4 inserts two new subsections in section 4 of the Principal Act.

Proposed subsection (3A) will give a State association, other than that in NSW, certain rights to be involved in proceedings before the Australian Industrial Relations Commission.

Proposed subsection (3B) excludes the operation of the provision from proceedings instituted before the Bill takes effect.

The proposed amendments to clause 4 revise its structure by:

- (i) dividing clause 4 into two subclauses;
- (ii) omitting proposed new subsection (3B) from paragraph (b) of clause 4; and
- (iii) inserting a new subclause 4(2) which has a similar effect to proposed subsection (3B).

This is to take account of the changes to the commencement provisions. It should be noted that, if paragraph (b) of subclause 4(1) and subclause 4(2) do not commence simultaneously, the latter is to be taken as repealed (see notes on amendment to clause 2).

Amendment (4): proposed amendment to clause 6

Clause 6 applies the Bill to applications made or proceedings instituted before the Bill takes effect.

It is proposed to revise the clause to take account of the fact that the Bill's provisions could commence at different times. It is also framed (by use of the term "subject to this Act") to recognise that, if proposed subclause 4(2) is proclaimed to operate, the rights conferred by proposed subsection 4(3A) to be inserted by paragraph (b) of subclause 4(1) will not be available in relation to such applications or proceedings [provided subclause 4(2) is proclaimed to operate at the same time as paragraph (b) of subclause 4(1)].



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