

1982

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Conciliation and Arbitration
(Complementary Industrial Relations System) Bill 1982

EXPLANATORY MEMORANDUM

(Circulated by authority of
the Minister for Employment and Industrial Relations
the Hon Ian Macphee MP)

OUTLINE

CONCILIATION AND ARBITRATION (COMPLEMENTARY INDUSTRIAL RELATIONS SYSTEM) BILL 1982

This Bill seeks to amend the Conciliation and Arbitration Act 1904 to:

- (i) provide a procedure for the conduct of joint proceedings of the Australian Conciliation and Arbitration Commission with a prescribed State Industrial Authority;
- (ii) provide for an expansion of the powers of Local Industrial Boards to enable the Commission to refer an industrial dispute to a member of a State Industrial Authority;
- (iii) provide for the nomination of a member of the Australian Commission to act as a member of a State Industrial Authority.

These provisions are designed to achieve, in conjunction with complementary legislation to be enacted by the States, improved co-ordination between the industrial tribunals operating within Australia.

NOTES ON CLAUSES

JOINT PROCEEDINGS

Clause 3 - inserts a new section 22AA to enable proceedings of the Australian Commission to be conducted concurrently with proceedings of a prescribed State Industrial Authority.

New sub-section 22AA(2) provides that where the President considers it appropriate, a Commission member is empowered to exercise the powers exercisable by him in relation to an industrial dispute in the presence of a State Industrial Authority, and the parties and witnesses appearing before that State Industrial Authority.

LOCAL INDUSTRIAL BOARDS

Clause 4 - inserts new section 44B to permit the reference of disputes by the Australian Commission to a Local Industrial Board for determination.

New sub-section 44B(1) empowers the President to determine to refer an industrial dispute to a Local Industrial Board, whether such dispute is to be dealt with by conciliation, arbitration or by both conciliation and arbitration, and to revoke such a reference where it appears to him to be appropriate to do so.

New sub-sections 44B(2) and (3) provide that the powers of a Local Industrial Board under section 44B shall be those exercisable by a Commissioner, except that where the dispute referred is one within the meaning of Division 2 or 4 of Part III, the powers conferred on a Local Industrial Board shall be subject to any directions of the Presidential Member assigned by the President for the purposes of that Division.

New sub-section 44B(4) provides that a decision or determination of a Local Industrial Board acting under section 44B shall be deemed to be an award of the Commission, except that section 36A and paragraph 35(9)(e) shall not apply to such a decision.

New sub-section 44B(5) extends the protection and immunity granted to a member of the Australian Commission by section 11A to a Local Industrial Board exercising powers under sub-section 44B(2).

New sub-section 44B(6) provides that the provisions of section 61 shall apply to a decision or determination of a Local Industrial Board acting under section 44B(2) as if references in section 61 to the Commission were references to a Local Industrial Board acting under section 44B(2).

New sub-section 44B(7) provides that for the purposes of section 65, a decision or determination of a Local Industrial Board acting pursuant to section 44B shall be deemed not to be an award, order, decision or determination of a State Industrial Authority. This provision ensures that a decision or determination of a State Industrial Authority in settlement of an industrial dispute referred to it by the Australian Commission, will have the same weight and authority as a decision or determination of the Australian Commission.

New sub-section 44B(8) ensures that provisions concerning offences relating to the Commission, evidence produced before the Commission and costs of parties to proceedings before the Commission, contained in sections 182, 183, 184, 186, 187 and 197A, shall apply in relation to a Local Industrial Board exercising powers under section 44B.

New sub-section 44B(9) defines "Local Industrial Board", "President of a State Industrial Authority" and "industrial dispute" for the purposes of section 44B.

EXERCISE OF STATE JURISDICTION BY AUSTRALIAN COMMISSION

Clause 4 - further provides for new section 44C which enables the President of the Commission, when requested to do so by the President of a State Industrial Authority, to nominate a member of the Commission to deal with a particular dispute or claim within the jurisdiction of that State Industrial Authority.

New sub-section 44C(2) provides that the member so nominated shall exercise the powers conferred on him by the prescribed law of the State concerned.

New sub-section 44C(3) provides that a decision or determination made by a member of the Commission pursuant to sub-section 44C(2) shall be deemed not to be a decision or determination of the Commission but, for the purposes of section 65, shall be deemed to be a decision or determination of a State Industrial Authority.

CONFERENCE WITH STATE AUTHORITIES

For the purposes of enabling joint proceedings under Clause 3, Clause 5 - amends section 67 by adding new sub-section (2) to enable the President to confer with a State Industrial Authority for the purposes of conducting joint proceedings with a State Industrial Authority.

MISCELLANEOUS

Clause 6 - amends section 74 by adding new paragraph (2)(aa) to provide that the powers of the Commission under section 44B shall include those powers exercisable, by virtue of section 73, by a Commissioner assigned by the President to deal with industrial matters arising in the Maritime Industry.

Clause 7 - amends section 80 to preclude the Commission when exercising powers under Division 3 of Part III (Industrial Matters - Snowy Mountains Area) from referring a matter to a Local Industrial Board for determination.

Clause 8 - amends section 88 by the addition of new paragraph (2)(aa) to provide that the powers of the Commission under section 44B shall include those powers exercisable, by virtue of section 84 by a Commissioner assigned by the President to deal with industrial matters arising under Division 4 of Part III (Industrial Matters - Waterside Workers).

Clause 9 - amends section 88D to preclude the Commission when exercising powers under Division 5 of Part III (Industrial Matters - Commonwealth Projects) from referring a matter to a Local Industrial Board for determination.

