

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Presented and read a first time, 21 May 1985

(Minister for Employment and Industrial Relations)

A BILL

FOR

An Act relating to the prevention and settlement of disputes in the electricity industry

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title

5 **1.** This Act may be cited as the *Conciliation and Arbitration (Electricity Industry) Act 1985*.

Commencement

2. This Act shall come into operation on a day to be fixed by Proclamation.

Incorporation

10 **3.** This Act is incorporated, and shall be read as one, with the Conciliation and Arbitration Act.

Interpretation

4. (1) In this Act—

- 15 (a) a reference to the Conciliation and Arbitration Act is a reference to the *Conciliation and Arbitration Act 1904*;
- (b) a reference to the electricity industry is a reference to the industry in Australia constituted by the generation and distribution of electrical power, or any part of that industry;

(c) a reference to an authority includes a reference to the Government of a State or Territory and also includes a reference to any person or body of persons, whether incorporated or not, on whom or on which powers are conferred by a law of the Commonwealth, of a State or of a Territory; and

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(d) a reference to an electricity authority—

(i) is a reference to an authority that is engaged in the electricity industry; and

(ii) in the case of a reference to an electricity authority of Queensland—includes a reference to a person who is engaged to carry out work (otherwise than as an employee) in or in connection with the electricity industry for or on behalf of an authority engaged in that industry in Queensland, whether the person is engaged to carry out that work by that last-mentioned authority or by another person.

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(2) Without limiting the operation of section 3, but subject to sub-section (1) of this section, expressions used in this Act that are also used in the Conciliation and Arbitration Act have, in this Act, unless the contrary intention appears, the same respective meanings as those expressions have in the Conciliation and Arbitration Act.

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Modification of Conciliation and Arbitration Act

5. This Act has effect notwithstanding anything in the Conciliation and Arbitration Act.

Industrial disputes to which Act applies

6. (1) This Act applies to the industrial dispute between the Electrical Trades Union of Australia and certain authorities that was found to exist by a Commissioner on 18 April 1985.

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(2) Subject to the following provisions of this section, this Act also applies to any industrial dispute that has, whether before or after the commencement of this Act, been found by the Commission to exist between—

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(a) any organization of employees that is declared by the regulations to be an organization of employees to which this sub-section applies; and

(b) one or more electricity authorities,

if the industrial dispute could result in the making of an award that would be binding on an electricity authority of Queensland and would establish terms or conditions of employment of employees of that authority.

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(3) Subject to sub-section (4), this Act does not apply to an industrial dispute referred to in sub-section (2) between an organization of employees and one or more electricity authorities if—

(a) an award made in settlement of the dispute would establish terms or conditions of employment of employees of an electricity authority of

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Queensland, being employees who are members of, or are eligible for membership of, that organization; and

- (b) there is already an award in operation establishing any terms or conditions of employment of any of those employees.

5 (4) An industrial dispute is not excluded by sub-section (3) from the application of this Act if there is in force a Proclamation declaring that this Act applies to that industrial dispute.

10 (5) This Act applies by virtue of sub-section (2) to an industrial dispute between an organization of employees and a person referred to in sub-paragraph 4 (1) (d) (ii) only in so far as the industrial dispute relates to work referred to in that sub-paragraph.

Expeditious settlement of industrial disputes to which Act applies

7. Where—

15 (a) the Commission has, whether before or after the commencement of this Act, found an industrial dispute to exist; and

(b) this Act applies to that industrial dispute,

the Commission shall endeavour in accordance with this Act to settle the industrial dispute as expeditiously as is appropriate having regard to all the circumstances.

20 Limitation on power of Commission to dismiss or refrain from hearing or determining industrial dispute to which Act applies

25 (8. (1) The Commission does not, in relation to an industrial dispute to which this Act applies, have power, in so far as the industrial dispute exists between an organization of employees and one or more electricity authorities of Queensland, to dismiss a matter or part of a matter, or refrain from further hearing or from determining the industrial dispute, by reason that it appears to the Commission—

30 (a) that the industrial dispute has been dealt with, is being dealt with or is proper to be dealt with by a State Industrial Authority of Queensland; or

(b) that further proceedings are not necessary or desirable in the public interest.

35 (2) Nothing in sub-section (1) prevents the Commission from limiting the application of an award that relates to employees of an electricity authority of Queensland to such employees, or such class or classes or group or groups of employees, as the Commission thinks appropriate having regard to the work that is, or could be, performed for that authority by members of the organization of employees involved in the industrial dispute and by members of other organizations of employees or of unions or other associations of employees registered under a law of Queensland.

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Proceedings in relation to disputes to which Act applies

9. (1) Subject to this section, any powers of the Commission in relation to—

- (a) an industrial dispute, being an industrial dispute to which this Act applies; or
- (b) an alleged industrial dispute where, if the industrial dispute is found to exist, this Act will apply to the industrial dispute,

shall, after the commencement of this Act, be exercised by a Full Bench.

(2) Where proceedings before the Commission constituted otherwise than by a Full Bench are, by reason of sub-section (1), required to be dealt with by a Full Bench, the Full Bench may, subject to sub-section 30 (4) of the Conciliation and Arbitration Act, have regard to any evidence given, and any arguments adduced, in any other proceedings (including proceedings that took place before the commencement of this Act).

(3) Where proceedings in relation to an industrial dispute or an alleged industrial dispute are before a Full Bench by reason of sub-section (1), the Full Bench may direct any member of the Commission—

- (a) to inquire into any matter involved in the industrial dispute or alleged industrial dispute and to report to the Full Bench on that matter; or
- (b) to endeavour to settle the industrial dispute or a part of the industrial dispute by conciliation and to report to the Full Bench on the result of the endeavours.

(4) A member of the Commission to whom a direction is given by a Full Bench under sub-section (3) in relation to an industrial dispute or a part of an industrial dispute has, for the purpose of complying with the direction, all the powers of the Commission or of a member of the Commission under the Conciliation and Arbitration Act other than the power to certify a memorandum, or make an award or order, under sub-section 28 (1) of that Act and, for the purpose of the settlement of all or any of the matters in dispute, that last-mentioned sub-section has effect as if any reference in that sub-section to a member of the Commission were a reference to the Full Bench.

(5) Where the member of the Commission to whom a direction is given under sub-section (3) in relation to an industrial dispute is a member of the Full Bench by which the direction was given, sub-section 22 (2) of the Conciliation and Arbitration Act does not apply but, if—

- (a) the Full Bench proposes to exercise powers with respect to arbitration in relation to the industrial dispute;
- (b) a party to the arbitration proceedings objects to the member taking part in the exercise of those powers; and
- (c) the Full Bench as constituted without that member is satisfied that there are reasonable grounds for the objection,

the Full Bench shall direct that that member shall not take part in the exercise of those powers and, where such a direction is given, the President may appoint another member to the Full Bench in place of the first-mentioned member.

5 (6) Where proceedings in relation to an industrial dispute are before a Full Bench by reason of sub-section (1) and the Full Bench is satisfied that it would be appropriate, in relation to the industrial dispute, to hear and determine so much of the industrial dispute as involves an electricity authority of Queensland or electricity authorities of Queensland separately from any other part of the industrial dispute, the Full Bench may make a declaration to that effect and, where such a declaration is made—

10 (a) this section ceases to apply in relation to the part of the industrial dispute that involves employers other than electricity authorities of Queensland; and

15 (b) the Commission as constituted under the Conciliation and Arbitration Act for the purposes of the part of the industrial dispute to which this section has so ceased to apply may, subject to sub-section 30 (4) of the Conciliation and Arbitration Act, for the purpose of any proceedings in relation to that part of the industrial dispute, have regard to any evidence given, and any arguments adduced, before the declaration was made, in any proceedings in relation to the industrial dispute before the Commission as constituted under this section.

Regulations

20 **10.** The Governor-General may make regulations, not inconsistent with this Act, prescribing matters—

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Cessation of operation of Act

25 **11.** This Act, unless sooner repealed, shall cease to be in force at the expiration of—

(a) the period of 3 years next following the day of commencement of this Act; or

30 (b) if a day that is earlier than the last day of that period is fixed by Proclamation—that earlier day.

