

1983

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

Conciliation and Arbitration Amendment Bill (No.2) 1983

EXPLANATORY MEMORANDUM

(Circulated by authority of the  
Minister for Employment and Industrial Relations  
the Hon Ralph Willis MP)



## OUTLINE

### CONCILIATION AND ARBITRATION AMENDMENT BILL (NO 2) 1983

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

#### Complementary Industrial Relations System

The Bill seeks 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.

#### Rationalisation of Industrial Tribunals

The Bill seeks to:

- (i) repeal the Public Service Arbitration Act 1920;
- (ii) vest the Australian Conciliation and Arbitration Commission with jurisdiction over employment by the Commonwealth, the Northern Territory, or authorities of either, by the insertion of a new Division 1A;

- (iii) exclude certain authorities and employees from Division 1A;
- (iv) exclude certain employees from the jurisdiction of the Commission entirely;
- (v) provide how the powers of the Commission under Division 1A are to be exercised;
- (vi) require the Commonwealth, the Northern Territory or their authorities to act through specified "employing authorities" where the Act applies to their employees under, or as a result of, Division 1A;
- (vii) provide for representation of such employing authorities before tribunals established under the Act;
- (viii) permit matters being heard under Division 1A to be dealt with wholly or partly under other provisions of the Act and vice versa;
- (ix) empower the Commission to make such orders as it thinks necessary to bring about the cessation of, or to prevent, industrial action by employees of the Commonwealth or the Northern Territory or their authorities;
- (x) allow the Commission to declare awards to be common rules for all or part of the public service;
- (xi) permit the Commission to make awards affecting such employment in this area that do not accord with a law of the Commonwealth or of an internal Territory relating to salaries, wages, rates of pay or terms or conditions of service or employment or employment of their employees, other than specified laws;

- (xii) provide for intervention by the Minister in proceedings involving Commonwealth or Northern Territory employees;
- (xiii) continue the registration of organisations registered by virtue of the operation of the Public Service Arbitration Act 1920, provided their membership does not fall below a certain level;
- (xiv) provide for certain transitional arrangements so that determinations under the Public Service Arbitration Act 1920 continue in force, and proceedings under that Act may be dealt with, notwithstanding its repeal;
- (xv) make certain consequential amendments as a result of the repeal of the Public Service Arbitration Act 1920.

#### Financial Accounting and Reporting by Organisations

The Bill seeks to overcome practical difficulties in the operation of Part VIIIAA of the Act in relation to:

- . various statutory time limits
- . the appointment of auditors
- . accounting on a cash basis and on an accrual basis
- . investigation of qualified accounts
- . attendance by auditors at meetings of registered organisations
- . reporting by federal organisations in branch journals.

The Bill also seeks to:

- (i) enable organisations with rules providing for the control and management of the assets, including branch assets by the federal body to elect to provide for its accounts to be prepared on a consolidated basis; and,
- (ii) enable organisations to elect subject to specified conditions, to supply members with summaries of accounts.

#### Common Rules

The Bill seeks to simplify the procedures relating to the declaration of variations of common rule awards as common rules throughout the Territories.

#### Registration of Organisations

The Bill seeks to maintain the arrangements under section 132 whereby certain non-employees are eligible for membership of federally registered trade unions. The proposed amendment takes account of amendments in 1979 to the provisions of the NSW Industrial Arbitration Act 1940 relating to non-employees. The Bill also seeks to validate the membership of certain persons who have purported to continue as members of a federal union after being validly enrolled as members before amendments to the Act in 1977 made them ineligible to remain members.

#### Disqualification from Office

The Bill proposes variation to the prescribed offences which lead to disqualification from holding office in an organisation.

#### Extension of Term of Office

The Bill proposes that organisations may alter their rules to provide for an extension of the maximum term of an office for full-time officers approaching retirement.

### Casual Vacancies

The Bill seeks to provide that the rules of organisations may provide for the filling of casual vacancies for specified periods and, to provide that, where a vacancy is so filled in a collegiate electoral system, the person shall be deemed to have been elected to that office for the purpose of participating in a further collegiate election.

### Loans, Grants and Donations

The Bill proposes a variation to the provision in the Act relating to the making of loans by organisations to provide that payments to relieve members or their dependants from severe financial hardship may be made up to a maximum of \$3000 without prior approval of the Committee of Management.

### Rule Altering Procedures for Organisations

The Bill seeks to make provision for regulations to be made if required, to permit organisations to have rules providing for alteration of rules by the committee of management of the organisation.

### Technical Amendments

The Bill proposes the following amendments to the Act:

- (i) to provide a procedure for the resignation of Presidential Members of the Australian Conciliation and Arbitration Commission;
- (ii) to enable a Deputy Industrial Registrar to deal with requests for the conduct of elections under section 170 of the Act;
- (iii) to permit applications under section 159 for inquiries into alleged irregularities in elections conducted by the Australian Electoral Office under section 165A of the Act pursuant to an order of the Federal Court of Australia;

- (iv) to provide for the appointment of additional Deputy Industrial Registrars; and
- (v) to enable the making of regulations prescribing the procedure for making requests by members for the conduct of elections under section 170.



NOTES ON CLAUSESCOMMENCEMENT

Clause 2 provides that the Bill is to come into effect upon Royal Assent, except for the amendments specified in sub-clauses 2(2) and 2(3).

INTERPRETATION

Clause 3 amends section 4 by:

- deleting paragraph (e) of the definition of "industrial dispute" in sub-section 4(1); and
- adding sub-sections (7) and (8) which deal with the coverage of public sector employees for registration purposes after the repeal of the Public Service Arbitration Act 1920.

Proposed sub-section 4(7) deems employees in "prescribed service" or in specified aspects of "prescribed service" to be employees in an industry. Sub-section 4(8) inserts a definition of "prescribed service".

PRESIDENT AND DEPUTY PRESIDENT

Clause 4 inserts a new sub-section (3A) into section 7 which provides a procedure for a Presidential Member of the Commission to resign his office.

JOINT PROCEEDINGS

Clause 5 inserts a new section 22AA to enable proceedings of the Commission to be conducted concurrently with proceedings of a prescribed State Industrial Authority.

Proposed sub-section 22AA(2) provides that where the President considers it appropriate, a Commission member is empowered to exercise the powers exercisable by him under the Act 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.

Proposed sub-section 22AA(3) allows the Commission member to have regard to evidence given to the State Industrial Authority in any such joint proceedings where it is given in his presence and that of the parties to the federal industrial dispute.

#### PANELS

Clause 6 inserts in sub-section 23(5) a reference to proposed new Division 1A.

#### INTERVENTION

Clause 7 inserts sub-section 36(1A) to permit the Minister to intervene in the public interest on behalf of the Commonwealth in a matter before the Commission if it is, or to the extent that it involves, an industrial question within new Division 1A or what would be such a question if certain employers were not excluded by the operation of proposed sub-section 70A(1) from the Commission's jurisdiction under Division 1A.

#### CONTINUATION OF HEARING OF MATTERS

Clause 8 deletes the reference in sub-section 37(2) to the Public Service Arbitration Act 1920-1959.

POWERS TO OVERRIDE CERTAIN LAWS AFFECTING PUBLIC SERVICE

Clause 9 repeals existing section 41A and inserts a new section 41A which is based on the existing provision but makes it clear that the provision extends to relevant laws of the internal Territories and takes account of the proposed repeal of the Public Service Arbitration Act 1920 and vesting of the jurisdiction under that Act in the Commission under proposed Division 1A.

JOINT SESSIONS OF THE COMMISSION

Clause 10 deletes the reference to the Public Service Arbitration Act 1920-1964 from section 44A.

COMPLEMENTARY INDUSTRIAL RELATIONS SYSTEM

Clause 11 inserts new section 44B to permit the reference of disputes by the President of the Commission to a Local Industrial Board constituted by a member of a State Industrial Authority for determination and a new section 44C to enable members of the Commission to exercise powers under prescribed State laws in certain circumstances.

Reference of disputes to Local Industrial Board for determination

New sub-section 44B(1) empowers the President 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 Divisions 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 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 sub-section 44B(2).

New sub-section 44B(7) provides that for the purposes of section 65, a determination of a Local Industrial Board in settlement of an industrial dispute referred to it under section 44B shall be deemed not to be an order, award, decision or determination of a State Industrial Authority.

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 powers under prescribed State laws by Member of Commission

New sub-section 44C(1) 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 or threatened dispute or claim within the jurisdiction of that State Industrial Authority.

New sub-section 44C(2) provides that the member so nominated may, for the purpose of dealing with the dispute or claim, exercise the powers, and shall perform the functions, conferred on that member by a prescribed law of the State concerned.

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

New sub-section 44C(4) defines "President of a State Industrial Authority" for the purposes of section 44C.

#### VARIATION OF COMMON RULE

Clause 12 inserts a new section 49A which relates to the making and enforceability of variations of common rule awards in the Territories.

New sub-section 49A(1) provides that a variation by the Commission of a term of an award which is a common rule of an industry in a Territory is itself a common rule of that industry in that Territory and operates from the date of effect of the variation.

Proposed sub-section 49A(2) requires the Industrial Registrar to give notice of a proposed variation of a term of a common rule award.

Under new sub-section 49A(3), after the Commission makes such a variation, the Industrial Registrar is required to give notice forthwith inviting objections within 28 days to the operation of the variation.

Proposed sub-section 49A(4) requires the Commission to hear objections lodged pursuant to sub-section 49A(3) and permits it to declare that the variation is not binding on the objector. The Registrar is required to give notice of such a declaration pursuant to sub-section 49A(5).

New sub-section 49A(6) provides that a variation which is a common rule under section 49A is not enforceable until 28 days after the variation is made, except in respect of an objector, against whom the variation is not to be enforceable until the objection is finally disposed of.

CONFERENCE WITH STATE AUTHORITIES

Clause 13 amends section 67 by adding new sub-section 67(2) to enable the President to confer with a State Industrial Authority for the purposes of conducting joint proceedings under proposed section 22AA with a State Industrial Authority.

NEW DIVISION 1A

Clause 14 inserts a new Division 1A (comprising sections 70A to 70K, both inclusive) into Part III of the Act. This will empower the Commission to deal with industrial disputes and industrial matters concerning Commonwealth and Territory employees.

Interpretation

In proposed section 70A:

- sub-section 70A(1) defines the terms "Commonwealth authority", "employee", "employer", "employing authority", "employment", "industrial dispute", "industrial matter", "industrial question", "Northern Territory authority", "principal officer" and "public service" for the purposes of Division 1A.

The definition of "Commonwealth authority" excludes for the purposes of Division 1A the Australian Postal Commission, the Australian Telecommunications Commission or the Australian National Railways Commission, and, if not declared by the regulations to be such authorities, the Australian Shipping Commission, the Australian Industry Development Corporation, the Australian National Airlines Commission, the Pipeline Authority or the Health Insurance Commission, or any body declared by the regulations to be a body to which the definition does not apply.

In the definition of "employee" certain employees are specifically excluded from the operation of the legislation;

- sub-section 70A(2) excludes members of the Defence Force, the Northern Territory Police Force, and persons whose employment is under the jurisdiction of tribunals established under the Northern Territory Fire Brigades Arbitral Tribunal Ordinance 1965 or Prisons Ordinance 1950, unless otherwise prescribed by regulations, from Division 1A;
- sub-section 70A(3) makes provision for such regulations; and under sub-section 70A(4) reference to "employees" may include references to "officers".

#### Powers in respect of industrial disputes and matters

Section 70B sets out the Commission's powers in respect of industrial disputes and industrial matters under Division 1A. The Commission is to be empowered to prevent or settle industrial disputes by conciliation or arbitration and to settle by conciliation, or to hear or determine, industrial matters, whether or not an industrial dispute exists in relation to those matters.

#### Exercise of powers

Section 70C deals in proposed sub-sections 70C(1), (2) and (3) with how the Commission is to exercise its powers under this Division. Provision is made for the President to assign a Presidential Member or Commissioner for these purposes or to deal with a particular industrial question himself, but the exercise of the Commission's powers under sections 31, 34, 34A(4), 35 and 36A is reserved to a Full Bench.

Sub-section 70C(4) provides for consultation between a Commissioner and the relevant Presidential Member where the Commissioner is providing for, or altering, wages or conditions of employees under Division 1A.

#### Application of Division 1

Section 70D provides in proposed sub-section 70D(1) for Division 1 of Part III to apply to the Commission's powers and functions, to proceedings, and to awards under Division 1A. Sub-section 70D(1) also provides that proposed section 44B, which is to be inserted by clause 11, is not to apply to Division 1A.

Sub-section 70D(2) makes appropriate modifications to the meaning of terms in Division 1 for the purposes of its application under sub-section 70D(1).

Employer to act through employing authority

Section 70E requires an employer of an employee to act through that employee's employing authority for the purposes of:

- . the provisions of Division 1A;
- . any other provisions of the Act applying through Division 1A;
- . any proceedings arising under those provisions before the Commission, the Flight Crew Officers Industrial Tribunal or any Court; and
- . any award made under those provisions.

An employing authority is accordingly put, by this section, in the position of an employer for these purposes.

Representation

Section 70F deals with the representation of an employing authority before the Commission, the Flight Crew Officers Industrial Tribunal or the Federal Court in proceedings arising under the Act.

Sub-section 70F(1) excludes the operation of sections 63, 88ZE and 117A (which relate to representation before the Commission, the Flight Crew Officers Industrial Tribunal and the Federal Court, respectively) from proceedings covered by this provision.

Sub-section 70F(2) provides for certain officers to represent employing authorities before such tribunals, other than in appeals under section 113 or proceedings in respect of an offence against the Act.

Sub-sections 70F(3) and 70F(4) deal with the circumstances under which representation may be by counsel, solicitor or paid agent.



Transfer of question to be dealt with under other provisions of the Act

Section 70G provides a procedure whereby, on the direction of the President, an industrial question before the Commission under Division 1A may be wholly or partly dealt with by the Commission as constituted under another Division of Part III of the Act, or by the Flight Crew Officers Industrial Tribunal.

Sub-section 70G(1) provides for consultation with the President by the Commission as constituted under Division 1A on such a matter where the Commission considers that the industrial question before it should be dealt with as described above.

Sub-section 70G(2) enables the President to give appropriate directions and sets out the powers of the Commission or Flight Crew Officers Industrial Tribunal in such circumstances.

Under sub-section 70G(3) the President's powers under section 70G are in addition to those conferred upon him by sections 23 and 44A.

Sub-section 70G(4) makes the term "industrial question" inclusive of a part of an industrial question for the purposes of this provision.

Transfer of matters to be dealt with under Division 1A

Section 70H provides a procedure whereby a matter before the Commission (other than a Full Bench) as constituted under another Division of Part III of the Act or before the Flight Crew Officers Industrial Tribunal may, on the direction of the President, be dealt with wholly or partly under Division 1A.

Sub-section 70H(1) makes section 70H applicable where such a matter appears to the Commission, as constituted under Part III otherwise than under Division 1A, or to the Tribunal, to be an industrial question which should be dealt with under Division 1A.

Sub-section 70H(2) provides for consultation with the President.

Under sub-section 70H(3), the President may direct that the matter be dealt with under Division 1A and, in so dealing with it, the Commission is able to have regard to previous proceedings.

Sub-section 70H(4) sets out the type of matters covered by section 70H.

#### Orders in relation to industrial action

Section 70J enables the Commission to make certain orders in relation to industrial action.

Under sub-section 70J(1) the Commission is empowered in relation to an industrial question to make orders to end or prevent industrial action, or to prevent further industrial action, and to make such other orders as may be necessary or desirable.

Sub-section 70J(2) provides that the powers of the Commission under section 70J are in addition to any other powers it has under the Act.

#### Common Rules

Section 70K deals with the making of common rules.

Under sub-section 70K(1) the Commission may declare terms of awards to be common rules for the whole or a part of the public service.

Sub-section 70K(2) allows interested organisations and persons to be heard before a common rule is made.

Under sub-section 70K(3), the provisions of proposed section 49A are to apply with appropriate modifications to the variation of a common rule under section 70K.

APPLICATION OF DIVISION 1 TO DIVISION 2

Clause 15 amends section 74 by adding new paragraph (2)(aa) to provide that the powers of the Commission under proposed 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.

REPEAL OF SECTION 79

Clause 16 repeals section 79 which referred to the Public Service Arbitrator.

APPLICATION OF DIVISION 1 TO DIVISION 3

Clause 17 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.

APPLICATION OF DIVISION 1 TO DIVISION 4

Clause 18 amends section 88 by the addition of new paragraph (2)(aa) to provide that the powers of the Commission under proposed 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).

APPLICATION OF DIVISION 1 TO DIVISION 5

Clause 19 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.

POWER TO ESTABLISH REGISTRIES AND APPOINT REGISTRARS

Clause 20 amends section 127 to provide for the appointment of additional Deputy Industrial Registrars.

REGISTERS OF ORGANISATIONS

Clause 21 amends section 131 by omitting present sub-section (2) and substituting a new sub-section (2). This is a technical amendment which is consequential upon the amendment in clause 20.

REGISTRATION OF ORGANISATIONS

Clause 22 amends section 132 of the Act:

- . to take account of amendments made in 1979 to the New South Wales Industrial Arbitration Act 1940, which affect the arrangements in that State for membership of State registered trade unions;
- . to validate the membership of federally registered organisations of certain persons affected by amendments to the Conciliation and Arbitration Act in 1977; and
- . to continue the registration of employee organisations registered under the Public Service Arbitration Act.

Sub-clause 22(1) amends sub-section 132(4)(b)(i) by omitting the existing provision and substituting a new provision which will make a person eligible for membership of an organisation of employees registered under the Act where that person is:

- . employed in an industry or engaged in an industrial pursuit in New South Wales; and

- is, or is able to become, a member of an industrial union of employees registered under the New South Wales Industrial Arbitration Act 1940.

Sub-clause 22(2) adds sub-section 132(5) which validates the membership of a registered organisation of employees by those persons who ceased to be members by virtue of amendments to section 132 made by the Conciliation and Arbitration Act (No 3) 1977. However, the new provision only operates in relation to those persons who have at all times since the 1977 amendment purported to continue to be members, and who continue to be members after the commencement of the sub-section. There is also provision to validate acts by or in relation to such persons or the relevant organisation.

Sub-clause 22(3) adds sub-section 132(6) to provide for the continuance of the registration of associations of less than 100 employees which were registered under the authority of the Public Service Arbitration Act. The registration of such bodies is not to be cancelled by virtue of sub-section 132(1)(b) of the Conciliation and Arbitration Act unless their membership falls below sixty per cent of the number of employees in the relevant industry in the public service.

#### PRESCRIBED OFFENCES

Clause 23 amends section 132F by:

- omitting paragraph (b) of sub-section (1) and substituting a new paragraph (b) which specifies prescribed offences under the Act or Regulations. These relate to offences concerning elections and ballots conducted under the Act;
- omitting from paragraph (1)(d) the references to reckless conduct; and
- inserting a new sub-section 132F(2A) to provide that for an offence under paragraph 132F(1)(d) to constitute a prescribed offence, the offence must be one for which a

person on conviction has served or is serving a sentence of imprisonment.

RULES TO PROVIDE FOR ELECTIONS, SECRET BALLOTS AND CERTAIN  
OTHER MATTERS

Clause 24 amends section 133 which concerns the requirements as to the rules of an organisation.

Sub-clause 24(a) corrects a grammatical error.

Sub-clauses 24(b) and (c) make certain consequential amendments to section 133 consequent upon the amendments proposed in sub-clauses (d) and (e).

Sub-clause 24(d) adds new sub-sections (4E) and (4F). The provisions of the new sub-sections qualify the present provisions of paragraph 133(1)(db) of the Act.

(Paragraph 133(1)(db) provides that rules of an organisation shall not permit a person to be elected to hold office within the organisation for a period exceeding 4 years without being re-elected.)

Sub-section 133(4E) proposes that the rules of an organisation may provide that the holder of a full-time office who is due to retire under the rules within a period of 12 months after the expiration of the period for which he was elected may remain in office without being re-elected until he retires.

Paragraph (a) of sub-section 133(4F) requires an organisation whose rules so provide for an extended term of office also to have rules providing that where a candidate for election to a full time office is a person, who, if elected would hold office for a period in excess of the normal term, then the ballot papers shall contain details of that extended term.

Paragraph (b) of sub-section 133(4F) enables an organisation to extend the term of office under its rules by up to 12 months in respect of a person who holds a full time office on the commencement of sub-section (4F) and who will reach retirement age under the rules within that period.

Sub-clause 24(e) inserts a new sub-section 133(7) defining the terms "full time office" and "retirement age".

### CASUAL VACANCIES

Clause 25 inserts a new section 133AB which relates to the filling of casual vacancies in offices within organisations.

The effect of new sub-sections 133AB(1) and (2) is to permit the rules of an organisation to provide for the filling of a casual vacancy in an office within an organisation

by a procedure otherwise than by election in accordance with sub-section 133(1), subject to the limitations imposed by proposed sub-section 133AB(3).

Proposed sub-section 133AB(3) requires that rules made under sub-section 133AB(2) contain a provision that casual vacancies may be filled:

- until the expiration of the term of office where that term does not exceed 12 months; or
- where the term of office is longer than 12 months, for so much of the unexpired part of the original period as does not exceed three-quarters of the original period.

Sub-section 133AB(4) proposes that where a casual vacancy has been filled in accordance with a procedure authorized by the new section the person filling the vacancy shall be deemed to have been elected to that office

Sub-section 133AB(5) is designed to prevent a person who fills a casual vacancy under this section on an electoral college in an organisation whose rules provide for a collegiate electoral system as described in sub-section 4(5) from being able to be elected more than once by and from the college to any position whose holder is ex officio a member of the college.

Sub-section 133AB(6) defines the terms "electoral college" and "organisation" for the purposes of the proposed section.

#### RULES TO PROVIDE CONDITIONS FOR LOANS, GRANTS AND DONATIONS BY ORGANISATIONS

Clause 26 amends section 133B by inserting new sub-sections (1A) and (1B).

Proposed sub-section 133B(1A) permits the rules of an organisation to provide for a person authorised by the rules to make a loan, grant or donation, not exceeding \$3,000, for the purpose of relieving a member or any of his dependants from severe financial hardship. The rules are also to provide that such a loan, grant or donation is subject to the condition that if not approved by the next meeting of the committee of management then it is to be repaid as determined by that committee.

Proposed sub-section 133B(1B) sets out matters which the committee of management must take into account in considering whether or not to approve the loan, grant or donation.

#### ALTERATION OF NAME OR RULES OF ORGANISATION

Clause 27 inserts new sub-sections (7) and (8) in section 139.

Under new sub-section 139(7) regulations may permit organisations to provide for the alteration of the rules by the committee of management.

Proposed sub-section 139(8) specifies the nature of the regulations which may be made.



INTERPRETATION

Clause 28 amends paragraph (b) of the definition of "auditor" in section 158AA. This amendment is consequent upon that proposed in clause 31.

APPLICATION OF PART VIIIAA WITH RESPECT TO ORGANISATIONS DIVIDED INTO BRANCHES

Clause 29 proposes amendments to section 158AAA.

The amendment in sub-clause 29(a) is consequential to the amendment proposed in clause 33 to section 158AG.

Sub-clause 29(b) inserts new sub-sections 158AAA(3) and (4).

Under proposed sub-section 158AAA(3) an organisation with branches may apply to the Registrar for a certificate that would remove it from the operation of sub-sections 158AAA(1) and (2) and enable it to use a consolidated accounting system. Before issuing a certificate the Registrar must satisfy himself that the committee of management under the rules of the organisation or by established practice has control and management of the assets of the organisation including the assets of the branches, or has effective control over the financial management of the organisation and that, if sub-sections 158AAA(1) and (2) were not to apply, the organisation would be able to comply with the requirements of Part VIIIAA of the Act.

New sub-section 158AAA(4) provides for the Registrar to revoke a certificate issued under sub-section 158AAA(3).

ORGANISATION TO KEEP PROPER ACCOUNTING RECORDS

Clause 30 amends section 158AC by inserting a new sub-section 158AC(1B) to permit an organisation which keeps accounting records on an accrual basis to keep separate membership subscription records on a cash basis.

AUDITORS OF ORGANISATIONS

Clause 31 amends section 158AE so that a firm at least one of whose members is a competent person may be appointed as auditor of an organisation. Sub-clauses 31(b) and (c) are consequential amendments.

REMOVAL OF AUDITOR FROM OFFICE

Clause 32 proposes amendments to section 158AFB consequential upon those proposed in clause 31.

COPIES OF REPORT AND AUDITED ACCOUNTS TO BE SUPPLIED TO MEMBERS AND PRESENTED TO MEETINGS

Clause 33 proposes amendments to section 158AG.

Sub-clause 33(a) extends the period within which the organisation is to supply to members copies of the accounts, auditor's report and statements from 28 days to 56 days.

Sub-clause 33(b) enables the committee of management under the rules of the organisation to meet the requirements of sub-section 158AG(1) by supplying to members a summary of the reports, accounts and statements provided that:

- . the auditor certifies that the summary is a fair and accurate summary;
- . the summary contains a statement advising that the organisation will supply free of charge a copy of the accounts, report and statements to members upon request;
- . the summary sets out particulars of any deficiency, failure or shortcoming which is set out in the report; and
- . the organisation provides a copy of the summary to the Registrar.

Sub-clauses 33(c) and (d) are consequential.

Sub-clause 33(e) deletes sub-section 158AG(4) and inserts a new sub-section which provides that an organisation may publish the federal organisation's report, accounts and statements or, if applicable, a summary of accounts in a journal of a branch supplied free of charge to the members.

New sub-section 158AG(4A) requires the organisation to present the accounts, reports and statements within a specified period to a general meeting or to a meeting of the committee of management or, if no such meeting is scheduled in that period, to the next meeting of the committee of management. The specified period commences on the eighth day after the supply of accounts, etc., to members and ends 28 days after the expiration of the period set down in sub-section 158AG (1), with a discretion for the Registrar to extend the period.

New sub-section 158AG(4B) qualifies new sub-section 158AG(4A) by requiring that, where the report of the auditor contains particulars of a deficiency, failure or shortcoming and where neither a general meeting nor a meeting of the committee of management is scheduled within the specified period, the organisation is required to present that report, accounts and statements to a specially convened meeting of the committee of management within the period.

Sub-clauses 33(f) and (g) are consequential.

COPIES OF REPORTS, ACCOUNTS AND STATEMENTS TO BE FILED WITH REGISTRAR

Clause 34 amends section 158AH by:

- amending sub-section (1) to take into account the amendments made in sub-clause 33(e);
- amending sub-section (3) so that it is subject to new sub-section (3A); and

- inserting a new sub-section (3A) to give the Registrar a discretion not to conduct an investigation if the matter arises solely from the keeping of records of membership subscriptions on a cash basis as provided in new sub-section 158AC(1B), or where, after discussing the matter with the committee of management and the auditor, he is satisfied that the deficiency failure or shortcoming is trivial or will be remedied in the next financial year.

#### AUDITOR ENTITLED TO ATTEND MEETINGS AT WHICH REPORT PRESENTED

Clause 35 amends section 158AK by deleting present sub-sections (1) and (2) and replacing them with a new sub-section (1). The effect of this amendment is that the auditor has a right to attend and be heard at that part of a meeting which considers his report or related business concerning him in his official capacity.

#### OFFENCES IN RELATION TO OBSTRUCTION ETC., OF AUDITORS

Clause 36 makes amendments to section 158AL consequential on those amendments contained in clause 35.

#### APPLICATIONS FOR INQUIRIES RESPECTING ELECTIONS

Clause 37 amends section 159 so that an application by a member of an organisation for an inquiry into an election conducted by the Australian Electoral Office under section 165A in that organisation may be made.

#### REGISTRAR TO CONDUCT ELECTIONS ON REQUEST

Clause 38 amends section 170 to facilitate the arrangements for officially conducted elections and to permit more comprehensive requirements for applications for such elections.

Sub-sections 170(1), (4) and (5) are amended so that requests for officially conducted elections may be dealt with and the arrangements for their conduct made by a Deputy Industrial Registrar as well as by the Industrial Registrar.

Sub-section 170(3) is omitted and new sub-sections 170(3) and (3A) inserted to permit the making of regulations dealing with when and how such requests should be made.

#### VARIATION OF INDUSTRIAL AGREEMENTS

Clause 39 amends section 179, which deals with the variation of industrial agreements to conform with common rules, to include a reference to employment to which proposed Division 1A applies.

#### REPEAL OF PUBLIC SERVICE ARBITRATION ACT

Clause 40 effects the repeal of the Public Service Arbitration Act and Schedule 1 to the Bill sets out the relevant enactments to be repealed.

#### CONSEQUENTIAL AMENDMENTS

Clause 41 amends certain Acts consequentially upon the repeal of the Public Service Arbitration Act and the insertion of proposed Division 1A into the Conciliation and Arbitration Act; Schedule 2 to the Bill specifies the relevant Acts.

#### FORMAL AMENDMENTS

Clause 42 makes a number of formal amendments to the Conciliation and Arbitration Act which are set out in Schedule 3 to the Bill.

#### TRANSITIONAL PROVISIONS

Clause 43 contains transitional provisions relating to the repeal of the Public Service Arbitration Act, so that:

- determinations made under the Public Service Arbitration Act are to continue in force as if they were awards made under proposed Division 1A;

- . matters pending under the Public Service Arbitration Act before its repeal are to be dealt with as if it had not been repealed, and sections 37 and 44A of the Conciliation and Arbitration Act are to apply to them as if those sections had not been amended by the Bill;
- . conferences which were pending or uncompleted under the Public Service Arbitration Act before its repeal, and in respect of which directions were given under that Act, may be held or completed, and the directions have effect, as if that Act had not been repealed; and
- . section 22 of the Public Service Arbitration Act is to continue to apply in relation to determinations made by virtue of sub-section 22(2) of that Act, under which the Public Service Arbitrator is empowered to make determinations not in accordance with laws of the Commonwealth relating to conditions of employment of public sector employees, other than specified laws.



