

1995

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

INDUSTRY COMMISSION AMENDMENT BILL 1995

EXPLANATORY MEMORANDUM

(Circulated by authority of the Assistant Treasurer, the Hon George Gear, MP)



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OUTLINE

This Bill amends the *Industry Commission Act 1989* (the Principal Act).

The primary purpose of this Bill is to amend the Principal Act to allow greater flexibility in the operations of the Industry Commission.

The amendments are of a purely procedural nature and will operate from date of Royal Assent.

The amendments will allow:

- the appointment of Commissioners on a part-time basis in addition to the current full-time basis;
- a consequential increase in the maximum number of Commissioners, other than the Chairperson, from eight to eleven; and
- a Commissioner to act on behalf of all other Commissioners on an inquiry in the absence of other Commissioners, but limited to public hearings and only in emergency situations.

The first amendment will increase the Commission's chances of attracting a more diverse range of suitably qualified people on a part-time basis. The Commission will then be able to recruit those who hold other positions who are unwilling to become full-time Commissioners.

The second amendment necessarily follows the first, as the Commission will need to maintain the same level of resources at the Commissioner level, requiring more Commissioners in total if there are to be part-time appointees.

The third amendment would apply to situations where, due to unforeseen circumstances such as accident, illness or injury preventing one or other Commissioners on an inquiry from participating in a public hearing, the remaining Commissioner will be able to preside at the public hearing, or part of a public hearing.

The remaining amendments are consequential on the above amendments.

FINANCIAL IMPLICATIONS

The proposed amendments do not have any financial implications. However should the number and mix of full-time and part-time Commissioners increase beyond the present funding levels, an increase in funding will be sought through the normal budgetary processes.

NOTES ON CLAUSES

PART 1 - PRELIMINARY

This part sets out the preliminary framework for the operation of the Bill.

Clause 1: Short Title

The short title of this Act is specified.

Clause 2: Commencement

This clause provides that this Act is to commence on the day on which it receives Royal Assent.

Clause 3: Amendments

This clause amends the Principal Act in accordance with the applicable items in the Schedule of Amendments of the Principal Act (the Schedule).

PART 2 - SCHEDULE OF AMENDMENTS OF THE PRINCIPAL ACT

Item 1: Constitution of Commission

This item amends Section 28(1)(b) to provide for the increase from 8 to 11 Commissioners, other than the Chairperson.

Item 2: Terms of appointment

This item omits the provision under Section 29 (1) for Commissioners to be appointed only on a full-time basis.

Item 3: Terms of appointment

This item provides in a new Section 29 (1)(A) for the Chairperson to be appointed on a full-time basis, and for the other Commissioners to be appointed on either a full-time or part-time basis.

Item 4: Outside employment

This item provides in Section 30 for full-time Commissioners to require the consent of the Minister to engage in paid employment outside the duties of his or her office.

Item 5: Outside employment

This item restricts in a new Section 30 (2) a part-time Commissioner from engaging in any paid employment that, in the Minister's opinion, conflicts with the proper performance of the Commissioner's duties.

Item 6: Leave of absence

This item inserts a new Section 34(2)(A) requiring part-time Commissioners to obtain the approval of the Chairperson in order to be absent from meetings of the Commission. This is to ensure that part-time Commissioners, who may have other calls on their time, are not absent from meetings of the Commission without prior approval.

Item 7: Acting appointments

This item amends Section 35(4) to reflect the amendment to **Item 1** which increases the number of Commissioners, other than the Chairperson, from 8 to 11.

Item 8: Suspension and removal from office

This item amends Section 38(5)(b) to provide that the existing criteria for the removal from office applies only to full-time Commissioners.

Item 9: Suspension and removal from office

This item inserts a new Section 38(5)(ba) to provide criteria for the removal from office of part-time Commissioners. The criteria are similar to those applying to full-time Commissioners.

Item 10: Meetings of Commission

This item amends Section 40(5)(a) to increase the number of Commissioners other than the Chairperson, who form a quorum from 3 to 4. It is consequential on the proposed increase in the maximum number of Commissioners, other than the Chairperson, from 8 to 11.

Item 11: Meetings of Commission

This item amends Section 40(8) to enable Section 40 to be subject to a new Section 41A.

Item 12: Constitution of Division by a single Commissioner in exceptional cases

This item inserts a new Section 41A to enable a single Commissioner to preside at a public hearing, if all of the other Commissioners on the inquiry are unavailable because of accident, illness, injury or any other reason beyond their control.