

Public Service (Industrial Functions) Bill

EXPLANATORY MEMORANDUM

Clause 1 sets out the purposes of the Act.

Clause 2 provides for the Act to come into operation on a day to be proclaimed.

Clause 3 inserts new section 41B in the **Public Service Act 1974** which provides that the **Industrial Relations Act 1979** applies to people appointed or employed under the **Public Service Act 1974**. The clause also provides that the **Industrial Relations Act 1979** will not apply to the senior executive service or chief administrators of the public service or to matters relating to unfair dismissals.

Clause 4 amends section 42 (1) of the **Public Service Act 1974** by providing that the Public Service Board's power to determine a matter is subject to the new section 41B.

Clause 5 amends the **Industrial Relations Act 1979** so that the Act applies to people appointed or employed under the **Public Service Act 1974** except for the senior executive service or chief administrators of the public service or for matters relating to unfair dismissals. New sections 3 (7) and (8) provide for the Governor in Council to nominate an employer for public servants and the deeming of an employer's representative for the purposes of the Act.

Clause 6 amends the **Industrial Relations Act 1979** to alter references to a Deputy President or Commissioner sitting alone to a member of the Commission sitting alone.

Clause 7 amends section 11 (1) (e) of the **Industrial Relations Act 1979** to provide that an industrial matter can be referred to the Commission in full session from the following people:

- (a) the Minister;
- (b) the President;
- (c) the President on application by—
 - (i) a member of the Commission sitting alone;
 - (ii) a Board;
 - (iii) the chairperson of a Board; or
 - (iv) if the matter is an industrial dispute, a party to that dispute.

A new section 12A (4) is inserted to provide a member of the Commission sitting alone with the powers of a Conciliation and Arbitration Board under section 34 of the Act.

Clause 8 provides that the provisions of sections 37, 38 and 39 of the **Industrial Relations Act 1979** apply to a member of the Commission sitting alone in respect of an application for a determination or other proceeding before the member or an award of the member.

Clause 9 inserts a new section 15A in the **Industrial Relations Act 1979** which provides that a member of the Commission sitting alone must take into consideration the relevant determinations of the Hospitals Remuneration Tribunal when making an award, order or determination in respect of medical practitioners appointed or employed under section 66 of the **Intellectually Disabled Persons' Services Act 1986** or section 95 of the **Mental Health Act 1986**.

Clause 10 inserts a new section 24 (1A) in the **Industrial Relations Act 1979** which provides for the appointment of Conciliation and Arbitration Boards for people appointed or employed under the **Public Service Act 1974**. It provides that a maximum of 3 Boards can only be appointed for a 5 year period from the date of commencement of the Act. The Commission must also determine the jurisdiction of the Boards once appointed.

Clause 11 amends section 26 of the **Industrial Relations Act 1979** to provide that a member of the Commission can be appointed to be a chairperson of a Conciliation and Arbitration Board.

Clause 12 inserts a new section 26A in the **Industrial Relations Act 1979** to provide for the appointment of an acting chairperson of a Conciliation and Arbitration Board in the absence of the chairperson.

Clause 13 amends section 27 (4) of the **Industrial Relations Act 1979** by exempting a Conciliation and Arbitration Board appointed under section 24 (1A) from the requirements of section 27 (4).

Clause 14 makes a statute law revision amendment to section 29 (5) of the **Industrial Relations Act 1979**.

Clause 15 inserts a new section 34 (8) in the **Industrial Relations Act 1979** which provides that a Conciliation and Arbitration Board must take into consideration the relevant determinations of the Hospitals Remuneration Tribunal when making an award, order or determination in respect of medical practitioners appointed or employed under section 66 of the **Intellectually Disabled Persons' Services Act 1986** or section 95 of the **Mental Health Act 1986**.

Clause 16 inserts a new section 37 (10) in the **Industrial Relations Act 1979** that provides the power for the President of the Commission to refer a matter that is before a Conciliation and Arbitration Board to the Commission after consultation with the chairperson of the Board.

Clause 17 amends section 44 (6) of the **Industrial Relations Act 1979** to provide the President of the Commission with the power to refer an industrial dispute to the Commission.

Clause 18 inserts a new section 53A in the **Industrial Relations Act 1979** which provides for the recognition of certain associations with respect to the trade or trades for which a Conciliation and Arbitration Board has been appointed under section 24 (1A).

Clause 19 inserts a new section 55 (2A) in the **Industrial Relations Act 1979** which provides that the Commission may grant recognition to an association with respect to a Conciliation and Arbitration Board that has been appointed under section 24 (1A).

Clause 20 makes a statute law revision amendment to section 64 (1) of the **Industrial Relations Act 1979**.

Clause 21 amends sections 66 and 67 of the **Intellectually Disabled Persons' Services Act 1986** to provide that the **Industrial Relations Act 1979** applies to medical practitioners appointed or employed under the Act except for matters relating to unfair dismissals.

Clause 22 amends sections 95 and 97 of the **Mental Health Act 1986** to provide that the **Industrial Relations Act 1979** applies to medical practitioners appointed or employed under the Act except for matters relating to unfair dismissals.

Clause 23 amends the **Legal Aid Commission Act 1978** to provide that the **Industrial Relations Act 1979** applies to officers or employees employed under the Act except for matters relating to unfair dismissals.

Clause 24 provides savings provisions in relation to regulations and determinations made under the **Public Service Act 1974** until superseded by an award, order or determination of the Industrial Relations Commission or a Conciliation and Arbitration Board.

Clause 25 provides transitional provisions in relation to an award, order or determination of the Industrial Relations Commission or a Conciliation and Arbitration Board superseding provisions in regulations or determinations made under the **Public Service Act 1974**. The clause also provides transitional provisions for provisions in any Act or subordinate instrument that refer to Public Service Regulations or Determinations. Further provisions provide for unfinished proceedings before the Public Service Board to be transferred to the Industrial Relations Commission and the means with which the Commission may deal with these matters.

