

1985-86

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time, 8 April 1986

(Minister for Employment and Industrial Relations)

A BILL

FOR

**An Act to enact certain provisions consequential upon the
cancellation of the registration under the *Conciliation and
Arbitration Act 1904* of The Australian Building
Construction Employees' and Builders Labourers'
Federation, and for related purposes**

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 *Builders Labourers' Federation
(Cancellation of Registration—Consequential Provisions) Act 1986*.

Commencement

- 2.** This Act shall come into operation immediately after the *Builders
Labourers' Federation (Cancellation of Registration) Act 1986* comes into
operation.

Interpretation

3. In this Act, unless the contrary intention appears—

“award” means an award made under the Conciliation and Arbitration Act, an order made by the Commission under that Act, an industrial agreement made pursuant to that Act or a memorandum certified in accordance with section 28 of that Act;

“Commission” means the Australian Conciliation and Arbitration Commission;

“Conciliation and Arbitration Act” means the *Conciliation and Arbitration Act 1904*;

“Federation” means—

(a) subject to paragraph (b), the association that was registered under the Conciliation and Arbitration Act by the name “The Australian Building Construction Employees’ and Builders Labourers’ Federation”; or

(b) if the name of that association has been or is changed—that association under the new name;

“industrial dispute” has the same meaning as in the Conciliation and Arbitration Act;

“non-registered association” means—

(a) the Federation; or

(b) another association—

(i) that is not registered under the Conciliation and Arbitration Act;

(ii) that was formed in or in connection with the industry or a part of the industry in or in connection with which The Australian Building Construction Employees’ and Builders Labourers’ Federation was registered under the Conciliation and Arbitration Act immediately before the commencement of the *Builders Labourers’ Federation (Cancellation of Registration) Act 1986*; and

(iii) all or a majority of the members of which are persons who are or have been members of the Federation;

“Registrar” means the Industrial Registrar or a Deputy Industrial Registrar appointed under the Conciliation and Arbitration Act.

Effect on Federation of cancellation of registration

4. (1) Sub-section 143 (5) of the Conciliation and Arbitration Act does not apply in relation to the Federation or its members but sub-sections 143 (4) and (6) of that Act apply.

(2) Any award that would, but for this sub-section, apply to the Federation or its members does not have any effect in relation to the Federation or its members.

(3) A non-registered association is not capable of being a party to, and shall not be permitted to intervene in, a proceeding before the Commission and is not capable of being a party to an award made by the Commission.

(4) Subject to sub-section (5), the Commission does not have any powers under the Conciliation and Arbitration Act in relation to—

(a) an industrial dispute in so far as that industrial dispute resulted from—

(i) an act done by a non-registered association or by persons who are members of a non-registered association; or

(ii) an act done by an employer as defined by section 4 of the Conciliation and Arbitration Act in relation to a non-registered association or in relation to persons who are members of a non-registered association; or

(b) an industrial matter as defined by section 70A of the Conciliation and Arbitration Act in so far as that industrial matter relates to a claim made by a non-registered association or by persons who are members of a non-registered association.

(5) Nothing in this section prevents the Commission from exercising powers under the Conciliation and Arbitration Act in relation to an industrial dispute in so far as that industrial dispute involves members of an organization of employees registered under that Act who are also members of a non-registered association.

(6) A person or an organization or association of employees is not entitled to be represented by an officer, employee, agent or member of a non-registered association in any proceedings before the Commission or the Registrar other than an application by the non-registered association under paragraph 5 (1) (b) or an application by the non-registered association for registration under section 132 of the Conciliation and Arbitration Act.

Registration

5. (1) Notwithstanding anything in section 132 of the Conciliation and Arbitration Act, a non-registered association is not entitled to apply to be, or to be, registered under that section unless—

(a) a period of 3 years has elapsed from the day of commencement of the *Builders Labourers' Federation (Cancellation of Registration) Act 1986*;

(b) the Commission, on application by the non-registered association, has declared that it is satisfied that—

(i) if the non-registered association were registered under that section, the non-registered association would not engage in conduct inimical to the prevention and settlement of industrial disputes by means of conciliation and arbitration; and

(ii) the registration of the non-registered association under that section would not prevent or seriously hinder the achievement of an object of the Conciliation and Arbitration Act; and

- (c) the requirements of the Conciliation and Arbitration Act, and of the regulations in force under that Act, that would, apart from this section, apply in relation to an application by the non-registered association for registration under section 132 of that Act have been complied with.

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(2) For the purposes of the application of the regulations in force under the Conciliation and Arbitration Act in respect of an application by a non-registered association for registration under section 132 of that Act, any powers conferred on the Registrar by those regulations to hear and determine the application and any objection to the registration shall be exercised by the Commission.

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Powers and procedure of Commission

6 (1) The powers of the Commission under or by virtue of this Act are exercisable by a Full Bench of the Commission constituted in accordance with section 17 of the Conciliation and Arbitration Act and not otherwise.

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(2) The provisions of the Conciliation and Arbitration Act, and of the regulations in force under that Act, with respect to the procedure and powers of the Commission in relation to proceedings before the Commission under that Act apply, so far as they are capable of application, in relation to proceedings before the Commission under or by virtue of this Act.

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(3) On an application under paragraph 5 (1) (b), the Minister, the non-registered association and any person granted leave to intervene may be represented by counsel or solicitor.

Eligibility of certain building industry employees for membership of certain organizations

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7. (1) A reference in this section to a relevant industry is a reference to an industry in or in connection with which The Australian Building Construction Employees' and Builders Labourers' Federation was, immediately before the commencement of the *Builders Labourers' Federation (Cancellation of Registration) Act 1986*, registered under the Conciliation and Arbitration Act.

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(2) Where the Secretary or another executive officer of an organization of employees that is registered under the Conciliation and Arbitration Act has consented in writing to persons who are, or are usually, employed in work of a specified kind or class, in Australia or in a specified part or parts of Australia, in a relevant industry being made eligible for membership of that organization, the regulations may declare those persons to be eligible for membership of that organization, and, where the regulations so declare, those regulations have effect according to their tenor notwithstanding anything in the rules of that organization as in force at the time when the regulations came into operation.

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(3) The making of regulations for the purposes of this section declaring persons referred to in the regulations to be eligible for membership of an

organization of employees that is registered under the Conciliation and Arbitration Act does not preclude the making of any alteration to the rules of that organization and, if an alteration so made to which the Registrar has consented under section 139 of that Act is inconsistent with the terms of the regulations, the regulations, to the extent of the inconsistency, cease to have effect.

(4) Regulations made for the purposes of this section continue in force notwithstanding that a non-registered association becomes registered under the Conciliation and Arbitration Act.

Regulations

8. 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.

