

Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2024

Amendments during consideration in detail to be moved by
The Honourable the Minister for State Development and Infrastructure,
Minister for Industrial Relations and Minister for Racing

1 **Clause 2 (Commencement)**

Page 8, after line 6—

insert—

- (1) Section 15A(2) commences on the day after the *Industrial Relations Act 2016*, chapter 12, part 15A, as inserted by this Act, expires.

2 **Clause 2 (Commencement)**

Page 8, line 7, before 'The'—

insert—

- (2)

3 **Clause 13 (Amendment of s 554 (Appeal from court or commission in certain circumstances))**

Page 13, lines 1 to 6—

omit.

4 **Clause 14 (Amendment of s 557 (Appeal from commission))**

Page 13, lines 7 to 11—

omit.

5 **After clause 14**

Page 13, after line 11—

insert—

14A Insertion of new ch 11, pt 8, div 4

Chapter 11, part 8—

insert—

Division 4 Miscellaneous

578AA Other orders for contravention of s 876K or 876P

- (1) This section applies if a person contravenes the civil penalty provision in section 876K(2) or 876P(1).
- (2) On an application under section 572, the relevant industrial tribunal may make any other order the tribunal considers appropriate.
- (3) Without limiting subsection (2), the relevant industrial tribunal may make an order requiring a person to comply, wholly or partly, with a notice given to the person under section 876K(1).
- (4) This section applies whether or not a civil penalty order is made in relation to the contravention.

578AB Expiry

This division expires on the day chapter 12, part 15A expires.

14B Insertion of new ch 12, pt 15A

Chapter 12—

insert—

Part 15A Administration of C&G division of CFMEUQ

Division 1 Preliminary

876A Application of part

This part applies if the Construction and General Division of the CFMEU (federal), and its branches, have been placed under administration under the Commonwealth Registered Organisations Act.

876B Purpose of part

- (1) The purpose of this part is to enable the C&G division to be placed under administration to—
 - (a) protect the public interest; and
 - (b) ensure the C&G division acts lawfully and appropriately and in the interests of its members; and
 - (c) complement any corresponding administration scheme that is in effect.
- (2) In this section—

corresponding administration scheme means—

 - (a) the administration scheme for the Construction and General Division of the CFMEU (federal) mentioned in section 876A; or
 - (b) a scheme for the administration, under the *Industrial Relations Act 1996* (NSW), of the Construction and

General Division of the organisation of employees registered under that Act with the registration number EE70.

876C Definitions for part

In this part—

administration notice see section 876E(2).

administration scheme see section 876E(2)(a).

administrator means a person appointed, under an administration notice or a gazette notice under section 876F(2), as the administrator of the C&G division.

CFMEU (federal) means the CFMEU within the meaning of the Commonwealth Registered Organisations Act, schedule 3, clause 1.

CFMEUQ means—

- (a) the organisation named, immediately before the commencement, the Construction, Forestry, Mining & Energy, Industrial Union of Employees, Queensland; or
- (b) if the organisation mentioned in paragraph (a) changes its name—the organisation under its new name; or
- (c) if the organisation mentioned in paragraph (a) amalgamates with another organisation under part 14, division 2—the amalgamated organisation.

CFMEUQ rules means the rules of the CFMEUQ to the extent the rules relate to the C&G division.

C&G division means the State Construction

and General Division within the meaning of the rules of the CFMEUQ as the rules were in effect immediately before the commencement.

876D C&G division placed under administration

- (1) The C&G division is placed under administration on the later of the following days—
 - (a) the day an administration notice takes effect under section 876G;
 - (b) the day an administrator is appointed under the administration notice.
- (2) The administration ends on the day the administration notice is revoked under section 876H.

Division 2 Making of administration scheme and appointment of administrator

876E Power of Minister to make administration notice

- (1) This section applies if the Minister is satisfied it is in the public interest for the C&G division to be placed under administration, having regard to—
 - (a) the purpose of this part; and
 - (b) any other matters the Minister considers relevant.
- (2) The Minister must, by gazette notice (an *administration notice*)—

- (a) establish a scheme for the administration of the C&G division (the *administration scheme*); and
 - (b) appoint a person to be administrator of the scheme.
- (3) The administration notice is a statutory instrument, but is not subordinate legislation.
- (4) Without limiting subsection (2)(a), the administration scheme may provide for any of the following matters—
- (a) the functions and powers of the administrator in relation to the scheme;
 - (b) the suspension, including suspension without pay, or removal of officers of the C&G division;
 - (c) the taking of disciplinary action, including the expulsion of members of the C&G division and disqualification of officers and former officers of the C&G division for up to 5 years;
 - (d) declaring stated offices in the C&G division to be vacant;
 - (e) terminating the employment of employees;
 - (f) the filling of positions of officers of the C&G division, including the holding of elections;
 - (g) altering the CFMEUQ rules;
 - (h) the engagement of persons to assist the administrator in performing the administrator's functions;
 - (i) the delegation of the administrator's functions or powers;

- (j) requirements about reporting in relation to the administration;
 - (k) obligations of the administrator to cooperate with an inquiry by a law enforcement agency or regulatory body into—
 - (i) the CFMEUQ or the C&G division; or
 - (ii) officers or employees, or former officers or former employees, of the CFMEUQ or the C&G division;
 - (l) matters that are ancillary or incidental to the matters mentioned in any of paragraphs (a) to (k).
- (5) To remove any doubt, it is declared that the administration scheme may provide for the taking of disciplinary action in circumstances not provided for in the CFMEUQ rules.
- (6) The disqualification of an officer or former officer of the C&G division under the administration scheme is not limited by part 9, division 2.
- (7) The Minister is not required to provide procedural fairness in making the administration notice.

876F Period of administrator's appointment etc.

- (1) The administration notice may provide for—
- (a) the period of the administrator's appointment; and
 - (b) the terms of the administrator's appointment, including the

remuneration the Minister considers appropriate.

- (2) The Minister may, by gazette notice, do any of the following—
 - (a) terminate the appointment of the administrator;
 - (b) appoint another person as the administrator;
 - (c) vary the terms of the administrator's appointment.

876G When administration notice takes effect

The administration notice takes effect on—

- (a) the day the notice is published in the gazette; or
- (b) if a later day is stated in the notice—the stated day.

876H Variation and revocation of administration notice

- (1) The Minister may, by gazette notice—
 - (a) vary the administration notice, including to vary the administration scheme; or
 - (b) revoke the administration notice.
- (2) However, the administration notice must not be revoked earlier than the day that is 3 years after the day the scheme started unless—
 - (a) the administrator is satisfied the C&G division is functioning lawfully and appropriately and in the interests of its members; and

876J Functions and powers of administrator

- (1) While the C&G division is under administration, the administrator—
 - (a) has conduct and management of the affairs of the C&G division; and
 - (b) has control of, and may manage, the property of the C&G division; and
 - (c) may dispose of property of the C&G division; and
 - (d) may perform any function, or exercise any power, the C&G division could perform or exercise if it were not under administration.
- (2) To remove any doubt, it is declared that in performing functions and exercising powers as administrator, the administrator may undertake investigations into past practices of the C&G division.
- (3) The administrator also has the functions of—
 - (a) promoting compliance by the C&G division with the laws, including workplace laws, of the State and the Commonwealth; and
 - (b) ensuring officers and employees of the C&G division have complied (including before the commencement), and continue to comply, with their obligations under this chapter; and
 - (c) to the extent an officer or employee of the C&G division has not complied with an obligation under this chapter (including before the commencement)—as far as reasonably practicable, ensuring the officer or employee is held accountable for the noncompliance.

- (4) In performing functions and exercising powers as administrator, the administrator must have regard to—
 - (a) the purpose of this part; and
 - (b) the objectives of the CFMEUQ as stated in the rules of the CFMEUQ as in effect on the commencement and to the extent the rules are lawful.
- (5) A reference in this section to property of the C&G division includes a reference to property of the CFMEUQ that, immediately before the commencement, was solely or predominantly used for the benefit or purposes of the C&G division.

876K Providing assistance to administrator

- (1) The administrator may, for performing the administrator's functions, by written notice to a relevant person, require the person to do the following—
 - (a) give the administrator documents in the person's possession that are reasonably required by the administrator to perform the functions;
 - (b) give the administrator any other information or assistance reasonably required by the administrator for the performance of the functions.
- (2) A relevant person who is given a notice under subsection (1) must comply with the notice unless the person has a reasonable excuse.

Notes—

- 1 This subsection is a civil penalty provision.

- 2 See also section 571 in relation to persons involved in a contravention of a civil penalty provision.
- (3) It is a reasonable excuse for the relevant person not to comply with the notice if doing so might tend to incriminate the person.
- (4) In this section—
- relevant person* means—
- (a) an officer, agent or employee of the CFMEUQ or any of its divisions; or
 - (b) a former officer, agent or employee of the CFMEUQ or any of its divisions; or
 - (c) a person who provides, or provided, services to the CFMEUQ or the C&G division under a contract or agreement; or
 - (d) a person prescribed by regulation.

876L Reporting to Minister

- (1) The administrator must give the Minister a report about the operation of the administration scheme—
- (a) no later than 6 months after the administration notice takes effect under section 876G; and
 - (b) within 28 days after the end of each subsequent 6-month period until the administration notice is revoked under section 876H.
- (2) The Minister must table a copy of a report in the Legislative Assembly within 15 sitting days after the Minister receives the report.

876M Protection from liability

- (1) The administrator is not civilly liable for an act done, or omission made, honestly and without negligence under this part.
- (2) If subsection (1) prevents civil liability attaching to a person, the liability attaches instead to the State.

876N Actions of administrator under administration scheme

- (1) Actions of the administrator, including actions mentioned in section 876E(4)(b) and (c), have effect—
 - (a) regardless of the ending of the administration under section 876D(2); and
 - (b) after the expiry of this part; and
 - (c) despite any provision of this chapter or the CFMEUQ rules.
- (2) A regulation may prescribe the effect of actions taken under the administration scheme for the purposes of other laws.
- (3) This section does not limit the *Acts Interpretation Act 1954*, sections 20 and 20A.

876O Application of pt 15, div 3

Part 15, division 3 does not apply in relation to the administrator in performing functions or exercising powers under this part.

Division 4 Other provisions for operation of administration scheme

876P Anti-avoidance provision

- (1) A person must not, without a reasonable excuse, engage in conduct if, as a result of the conduct—
- (a) another person is prevented from taking action under the administration scheme; or
 - (b) the administrator is prevented from effectively administering the administration scheme.

Maximum penalty—6,000 penalty units or 2 years imprisonment.

Notes—

- 1 This subsection is a civil penalty provision.
 - 2 See also section 571 in relation to persons involved in a contravention of a civil penalty provision.
 - 3 See also the Criminal Code, section 7 and section 937 of this Act in relation to parties to an offence against this subsection.
- (2) A criminal proceeding may be started against a person for a contravention of subsection (1) regardless of whether a civil penalty has been imposed on the person for the contravention.
- (3) However, a civil penalty must not be imposed on a person on the grounds of a contravention of subsection (1) if the person has been convicted of an offence against subsection (1).
- (4) This section applies despite section 571(1).
- (5) In this section—

conduct includes a course of conduct.

convicted means found guilty, or having a plea of guilty accepted, by a court whether or not a conviction is recorded.

876Q Disclosure of information to administrator by registrar or inspector

- (1) This section applies to a person who is or was either of the following (each an *official*)—
 - (a) the registrar;
 - (b) an inspector.
- (2) The official may disclose to the administrator, for the purposes of the administration scheme, information about the C&G division that is in the official's possession or control.
- (3) The administrator may use information disclosed under this section for the purposes of the administration scheme.
- (4) A person who, acting honestly, discloses or uses information under this section is not liable, civilly, criminally or under an administrative process, for the disclosure or use.

876R Costs of administration

Subject to the administration notice, the costs of the administration, including the costs incurred by the administrator in acting under the administration scheme, are payable by the C&G division.

876S Alteration of CFMEUQ rules under administration scheme

- (1) This section applies if an alteration of the CFMEUQ rules is made under the administration scheme.
- (2) The administrator must, within 35 days after the alteration is made or a longer period

decided by the registrar, file written notice of the particulars of the alteration.

- (3) The notice must include a declaration by the administrator that—
 - (a) the alteration was made in accordance with the administration scheme; and
 - (b) the particulars stated in the notice are true and correct to the best of the administrator's knowledge and belief.
- (4) The registrar may, with the administrator's consent, amend the alteration to correct a typographical, clerical or formal error.
- (5) The alteration does not take effect unless—
 - (a) subsections (2) and (3) have been complied with for the alteration; and
 - (b) the registrar has certified that, in the registrar's opinion, the alteration—
 - (i) complies with, and is not contrary to, this Act, the Commonwealth Fair Work Act, modern awards and enterprise agreements; and
 - (ii) is not otherwise contrary to law; and
 - (iii) has been made in accordance with the administration scheme.
- (6) The alteration takes effect on the day it is certified under subsection (5).
- (7) This section applies despite part 6.

876T Decision about excluded matter final

- (1) Unless the Supreme Court decides that a decision about an excluded matter is affected by jurisdictional error, the decision—
 - (a) is final and conclusive; and

- (b) can not be challenged, appealed against, reviewed, quashed, set aside or called in question in any other way under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (2) The *Judicial Review Act 1991*, part 5 applies to a decision about an excluded matter to the extent it is affected by jurisdictional error.
 - (3) In this section—
excluded matter means a decision to make, vary or revoke an administration notice.

Division 5 Expiry

876U Expiry

This part expires on the day that is 5 years after the day this section commences.

6 After clause 15

Page 14, after line 4—

insert—

15A Amendment of sch 3 (Civil penalties)

(1) Schedule 3—

insert—

Chapter 12—Industrial organisations and associated entities
--

s 876K(2) (Providing assistance to administrator)	(a) the administrator under chapter 12, part 15A	the commission	1,200 penalty units
	(b) a person prescribed by regulation		
s 876P(1) (Anti-avoidance provision)	(a) the administrator under chapter 12, part 15A	the commission	1,200 penalty units
	(b) a person prescribed by regulation		

(2) Schedule 3, entry for chapter 12, as inserted by this section—

omit.

7 Clause 35 (Insertion of new ch 3, pt 9, div 2A)

Page 22, line 33, ‘and’—

omit.

8 Clause 40 (Amendment of s 220 (Insurer’s responsibility for rehabilitation and return to work))

Page 28, line 10, ‘221A’—

omit, insert—

221AA

9 Clause 50 (Replacement of s 486A (Code of practice))

Page 35, line 31—

omit, insert—

(iv) section 232AB(1); or

(v) section 232AC(2); or

- 10 Clause 51 (Amendment of s 486B (Effect of code of practice))**
Page 36, line 16, '486B'—
omit, insert—
486A
- 11 Clause 60 (Amendment of sch 4A (Specified diseases))**
Page 51, before line 1—
insert—
primary site uterine cancer 10 years
- 12 Schedule 1 (Other amendments)**
Page 56, line 12, '(4)'—
omit, insert—
(5)
- 13 Schedule 1 (Other amendments)**
Page 56, lines 19 to 22—
omit, insert—
12 Section 325Q(2), examples, 'an industrial organisation'—
omit, insert—
a registered industrial organisation
- 14 Schedule 1 (Other amendments)**
Page 57, line 1, '325S(2)(b)(ii)'—
omit, insert—
325S(2)(a)(ii)

15 Schedule 1 (Other amendments)

Page 58, line 9, '(2)(b)(viab)'—

omit, insert—

(1)(b)(viab)

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