



New South Wales

# Industrial Relations Amendment (Non-operative Awards) Act 2010 No 109

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New South Wales

# **Industrial Relations Amendment (Non-operative Awards) Act 2010 No 109**

Act No 109, 2010

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An Act to amend the *Industrial Relations Act 1996* to protect non-operative awards;  
and for other purposes. [Assented to 29 November 2010]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Industrial Relations Amendment (Non-operative Awards) Act 2010*.

**2 Commencement**

This Act commences on the date of assent to this Act.

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## **Schedule 1      Amendment of Industrial Relations Act 1996 No 17**

**[1]    Section 17 Variation or rescission of award (other than non-operative award)**

Insert “(other than a non-operative award) under this section” after “award” in section 17 (1).

**[2]    Section 17 (1), note**

Insert at the end of section 17 (1):

**Note.** A non-operative award may be varied under section 52.

**[3]    Section 17 (3)**

Insert “(other than a non-operative award)” after “An award”.

**[4]    Section 17 (4)**

Insert “(other than a non-operative award)” after “award”.

**[5]    Section 19 Review of awards**

Omit “rescind obsolete awards” from section 19 (2).

Insert instead “determine whether or not an award has any current application to any employer or employee”.

**[6]    Section 19 (6)**

Omit the subsection. Insert instead:

- (6) The Commission is to:
  - (a) make such changes to awards as it considers necessary as a result of a review, or
  - (b) in the case of an award that the Commission determines does not have any current application to any employer or employee—make a declaration to that effect, or
  - (c) in the case of a non-operative award that the Commission determines has current application to an employer or employee—declare that the award is no longer a non-operative award.

**[7] Section 20 Consolidation of awards**

Omit section 20 (2). Insert instead:

- (2) The Commission may, in connection with the consolidation of awards, declare that an award does not have any current application to any employer or employee.

**[8] Section 20A**

Insert after section 20:

**20A Non-operative awards**

- (1) The Commission may:
  - (a) if the Commission is satisfied that an award does not have any current application to any employer or employee—make a declaration to that effect, or
  - (b) if the Commission is satisfied that a non-operative award has current application to an employer or employee—declare that the award is no longer a non-operative award.
- (2) Section 11 applies to any such declaration as if it were an award.
- (3) The Industrial Registrar is to keep a register of non-operative awards.
- (4) A copy of the register is to be published by the Industrial Registrar on the NSW industrial relations website.

**[9] Section 52 Variation of awards and other orders on adoption of National decisions or making of State decisions**

Insert “(other than non-operative awards)” after “awards”.

**[10] Section 52 (2)**

Omit the note to section 52. Insert instead:

- (2) When adopting the principles or provisions of a National decision or making a State decision, the Commission is to vary non-operative awards to the extent necessary to give effect to the decision.

**[11] Schedule 4 Savings, transitional and other provisions**

Insert at the end of clause 2 (1):

*Industrial Relations Amendment (Non-operative Awards)  
Act 2010*

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[12] **Schedule 4**

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of  
Industrial Relations Amendment  
(Non-operative Awards) Act 2010**

**Non-operative awards**

- (1) This clause applies to an award that:
  - (a) was in force on the date of introduction, and
  - (b) was varied or rescinded during the period commencing on the date of introduction and ending immediately before the commencement of the 2010 amending Act.
- (2) On or after the commencement of the 2010 amending Act, the Commission may make a declaration under section 20A in relation to an award to which this clause applies as if the award had not been rescinded or varied.
- (3) If the Commission makes a declaration under section 20A (1) (a) in relation to such an award, the award continues in force as if the variation or rescission referred to in subclause (1) (b) had not occurred.
- (4) In this clause:

*date of introduction* means the date on which the Bill for the 2010 amending Act was introduced into the Legislative Assembly.

*the 2010 amending Act* means the *Industrial Relations Amendment (Non-operative Awards) Act 2010*.

**[13] Dictionary**

Insert in alphabetical order:

*non-operative award* means an award that is declared, under section 19, 20 or 20A, to be an award that does not have any current application to any employer or employee.

[Agreement in principle speech made in Legislative Assembly on 11 November 2010  
Second reading speech made in Legislative Council on 23 November 2010]

BY AUTHORITY