

1991—No. 540

EMPLOYMENT PROTECTION ACT 1982—REGULATION

(Relating to the effect of enterprise agreements)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Employment Protection Act 1982, has been pleased to make the Regulation set forth hereunder.

JOHN FAHEY

Minister for Industrial Relations.

The Employment Protection Regulation 1983 is amended:

- (a) by inserting in clause 2 before the definition of “Commission” the following definition:
 - “**Agreement**” means (except in clause 4 (2)) an industrial agreement, or an enterprise agreement, within the meaning of the Industrial Arbitration Act 1940;
- (b) by omitting from clause 5 (a) the words “or industrial”;
- (c) by omitting from clause 5A the words “or industrial”;
- (d) by inserting in Form 2 in Schedule 1 in item 15 after the word “Agreement” the words “/Enterprise Agreement”.

EXPLANATORY NOTE

Under sections 7 and 8 of the Employment Protection Act 1982, an employer who employs 15 or more employees is, as a general rule, required to serve on the Industrial Registrar:

- (a) notice of intention to terminate the employment of an employee or employees; and

(b) if that notice is not served, a notice giving the reasons for the termination.

Those sections do not apply to such cases as are prescribed under the regulations. The Employment Protection Regulation 1983 identifies several cases to which sections 7 and 8 do not apply. Included among them are:

- the termination of employment of an employee whose employment is covered by an award or **industrial agreement** which provides for the making of a severance payment; and
- the termination of employment of an employee to whom no award or **industrial agreement** applies.

As a consequence of the enactment of the Industrial Arbitration (Enterprise Agreements) Amendment Act 1990, the provisions of the Employment Protection Act 1982 were extended to apply to enterprise agreements registered under Part 1C of the Industrial Arbitration Act 1940 as well as to industrial agreements. The amendment made by this regulation will cause that extension to flow through to the regulations made under the Employment Protection Act 1982. Sections 7 and 8 of the Employment Protection Act 1982, therefore, will not apply to the termination of employment of an employee whose employment is covered by an award, industrial agreement or **enterprise agreement** which provides for the making of a severance payment or the termination of employment of an employee to whom no award, industrial agreement or **enterprise agreement** applies.
