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LEGISLATIVE RESEARCH SERVICE  
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COLLECTIVE AGREEMENTS (CORPORATIONS) BILL 1986

(Private Senator's Bill)

Date introduced: 26 November 1986  
House: Senate  
Presented by: Senator the Hon. John Siddons

DIGEST OF BILL

**Purpose**

To allow collective bargaining between agreeing employees and employers.

**Background**

As the Constitution stands the Commonwealth has power to legislate for conciliation and arbitration for the prevention and settlement of industrial disputes that extend beyond the limits of any one State. The exercise of this power has resulted in the establishment of Commonwealth registered trade unions and organisations that often have the terms for the ending of an industrial dispute determined by the Conciliation and Arbitration Commission. This system is reflected in most States.

While the conciliation and arbitration system has been in use since the early part of this century it has been criticised on a number of occasions. The criticisms have concentrated on a number of areas such as inflexibility, an inability to respond to changing conditions sufficiently quickly and the exclusion of a number of management prerogatives, such as termination schemes, from the process. The early criticisms by Mr H.R. Nicholls have been repeated in recent years.

A major disadvantage of direct employee/employer bargaining is seen by many to be the difference in bargaining power between the parties, particularly at times of high unemployment. It is alleged that the difference in bargaining power would enable employers to conduct

'auctions' for employment with the job going to the person willing to work for least.

Although the specific industrial relations power is restricted as mentioned above, there are opportunities to use other powers. The wide definition given to the Corporations power in recent years strongly suggests that that power could be used to regulate the industrial relations activities of corporations.

This Bill is substantially the same as one of the same name introduced in 1983.

### **Main Provisions**

The objects of the Bill are listed in clause 3 and include to encourage collective agreements that will not undercut the terms of relevant awards.

Negotiated agreements will not have effect until ratified by the majority of members of a registered association employed by that corporation (clause 6). In addition, agreements will not be binding until registered with the Industrial Registrar (clause 7).

Collective agreements may apply to members of associations that are part of the agreement (clause 10).

An agreement is not to undercut the terms and conditions of a relevant award (clause 14).

Clause 15 will exclude recourse to the arbitration system to settle disputes where the parties have made an agreement, while clause 16 will allow the Federal Court to prevent State industrial bodies from interfering with a matter subject to an agreement.

Employers will be prohibited from discriminating against those subject to an agreement (clause 20).

All agreements are to contain an arbitration clause (clause 24).

The agreements will apply as civil contracts and parties will be able to sue for damages and specific performance (clause 26).

For further information, if required, contact the Law and Government Group.

19 March 1987

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This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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