

Commonwealth Powers (Industrial Relations) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

- Clause 1 states the purpose of the Act which is to:
- (a) refer to the Parliament of the Commonwealth certain matters relating to industrial relations;
 - (b) amend the **Employee Relations Act 1992**;
 - (c) repeal the **Annual Leave Payments Act 1992**;
 - (d) make certain consequential amendments to certain Acts.
- Clause 2 provides for the commencement of the Act. Part 1 and Part 5 will come into operation on the day the Act receives Royal Assent. It provides for the remaining provisions to come into operation on a day or days to be proclaimed. A proclamation (other than a second or subsequent proclamation) must not be made unless the proclamation includes a statement that the Governor in Council is satisfied that a Bill has been introduced into the Parliament of the Commonwealth containing provisions about matters to be referred to it by this Act.
- Clause 3 defines certain terms used in the Act.

PART 2—REFERENCE OF MATTERS

- Clause 4 provides for the reference of matters to the Parliament of the Commonwealth to the extent to which the matters are not otherwise included in the legislative powers of the Commonwealth for a period which may end on a day fixed under clause 6.

Sub-clause 4(1) provides that a matter is so referred subject to the Commonwealth of Australia Constitution Act and pursuant to section 51 (xxxvii) of that Act.

Sub-clause 4(2) refers the matter of conciliation and arbitration for the prevention and settlement of industrial disputes within the limits of the State.

Sub-clause 4(3) refers the matter of agreements about matters pertaining to the relationship between an employer or employers and employee or employees in the State.

Sub-clause 4(4) refers the matter of minimum terms and conditions of employment for employees in the State.

Sub-clause 4(5) refers the matter of termination, or proposed termination, of an employee's employment.

Sub-clause 4(6) refers the matter of freedom of association, namely the rights of employees, employers and independent contractors in the State to join or not to join an industrial association of their choice.

Sub-clause 4(7) refers the matter of the setting and adjusting of minimum wages for employees in the State within a work classification that, immediately before the commencement of this sub-section, is a declared work classification under the **Employee Relations Act 1992**, or has been declared, by the Employee Relations Commission of Victoria within the meaning of that Act, to be an interim work classification, who are not subject to an award or agreement under the Commonwealth Act.

- Clause 5 specifies certain matters excluded from the reference of matters to the Parliament of the Commonwealth made by clause 4.
- Clause 6 provides for the termination of the reference.
- Clause 7 provides for the alteration or variation of section 85 of the **Constitution Act 1975**.
- Clause 8 provides that the Act will expire on 1 July 1997 unless, before that date, a proclamation has been made under sub-clause 2(2).

PART 3—EMPLOYEE RELATIONS ACT 1992

- Clause 9 provides for the amendment of the **Employee Relations Act 1992** as provided for in Schedule 1 of this Act.

PART 4—CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS

- Clause 10 provides for consequential amendments to other Acts as provided for in Schedule 2 of this Act.

Clause 11 makes transitional provisions as provided for in Schedule 3 of this Act.

PART 5—ANNUAL LEAVE PAYMENTS ACT 1992

Clause 12 repeals the **Annual Leave Payments Act 1992**.

SCHEDULES

Schedule 1 contains amendments to the **Employee Relations Act 1992**.

Schedule 2 contains consequential amendments to other Acts.

Schedule 3 contains transitional provisions.

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