

Employee Relations (Amendment) Bill

EXPLANATORY MEMORANDUM

Clause 1 states the purpose of the Act which is to:

- (a) facilitate the setting by compulsory arbitration, if necessary, of minimum wages for each work classification within an industry sector;
- (b) make further provision with respect to the minimum entitlements of employees;
- (c) remove the power of the Employee Relations Commission to make awards;
- (d) alter the rules with respect to access to the Employee Relations Commission in cases of harsh, unjust or unreasonable dismissal;
- (e) clarify the compulsory arbitration powers of the Employee Relations Commission;
- (f) clarify certain decisions of the Employee Relations Commission in relation to enterprise bargaining in the public sector.

Clause 2 provides for the commencement of the Act. Part 1 will come into operation on the day the Act receives Royal Assent. It provides for section 12 to come into operation on 3 June 1994. Sections 5, 6, 8, 9, 10 and 11 come into operation on a day to be proclaimed. The remaining provisions will come into operation on a day or days to be proclaimed. If they are not proclaimed within twelve months of the date of assent, then they will be proclaimed twelve months after that date.

Clause 3 provides that in this Act the **Employee Relations Act 1992** is the Principal Act.

Clause 4 relates to the contents of employment agreements. If an employment agreement does not at any time comply with sub-section (4) the stand-down and dispute settling procedures set out in Schedule 5 of the Act are deemed to be incorporated into the agreement.

Clause 5 provides for the repeal of the award making powers of the Employee Relations Commission (the Commission).

Clause 6 inserts a new Part 3 into the Act which makes provision for minimum entitlements of employees under the Act.

Division 1 of Part 3 relates to "Minimum Wages". Section 20 makes provision for the declaration of industry sectors and work classifications by the Commission. Section 21 empowers the Commission to set and adjust minimum wages by compulsory arbitration. Clause 22 declares who may apply to the Commission for a minimum wages order. Clauses 23 and 24 set out the issues required to be taken into consideration by the Commission when setting and expressing a minimum wage.

Division 2 of Part 3 relates to "Minimum terms and conditions of employment". Clause 25 sets out the minimum safety-net terms and conditions of employment for employees in Victoria. Clause 26 makes it an offence for an employer not to comply with safety-net requirements of the Schedule 1 minima.

Clause 7 makes provision with respect to the harsh, unfair or unreasonable jurisdiction of the Commission. It sets out the eligibility criteria for applications to be made to the Commission.

Clause 8 sets out the general powers of the Commission with respect to arbitration of an industrial matter or dispute.

Clause 9 inserts a new provision (section 99) to clarify the compulsory arbitration powers of the Commission.

Clause 10 provides for a Ministerial Reference under section 113 of the Principal Act to implement a system of industry sectors, work classifications and minimum wages.

Clause 11 reinforces and clarifies the Schedule 1 terms and conditions of employment with respect to annual leave, sick leave and pay entitlements.

Clause 54 introduces a new Part 6. It sets out the requirements for lawful termination of employment which include the required periods of notice on termination.

Clause 12 quashes the 3 June 1994 Decision (Decision E94/0126) and subsequent orders of the Commission with respect to compulsory arbitration in enterprise bargaining in the Victorian Public Service.

Clause 13 provides for consequential amendments.

Clause 14 makes transitional provisions.