

EMPLOYMENT DISPUTE RESOLUTION BILL 2007

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Sue Ellery (Minister for Child Protection)**, read a first time.

Second Reading

HON SUE ELLERY (South Metropolitan - Minister for Child Protection) [9.46 pm]: I move -

That the bill be now read a second time.

The Employment Dispute Resolution Bill 2007 is a new piece of legislation that develops the role of the Western Australian Industrial Relations Commission in the provision of dispute resolution and mediation services. The federal government's WorkChoices legislation has restricted the powers and functions of the Australian Industrial Relations Commission. The bill will provide alternative dispute resolution options to employers, employees and organisations in both the federal and state industrial relations systems. The bill will enable parties to employment disputes to avail themselves of the WAIRC's extensive experience in industrial dispute resolution.

The primary objective of the bill is to create a dispute resolution framework that will be informal, easily accessible, expedient and efficient. It will establish a framework for dispute resolution that sits outside the state Industrial Relations Act 1979 and the commonwealth Workplace Relations Act 1996. The bill will be particularly appealing to small businesses that are otherwise confined by the federal system. It will also appeal to employers, employees and organisations who want to determine their own dispute resolution requirements.

Division 1 of part 2 of the bill provides an informal avenue for parties to request the Western Australian Industrial Relations Commission to mediate an employment dispute. The WAIRC will be able to provide mediation services only if all parties consent to mediation. The WAIRC will be able to conduct mediation on a wide range of employment disputes or potential disputes. Employment disputes are defined to include any question, dispute or difficulty that arises out of or in the course of employment. In conducting mediation, the WAIRC will not be able to compel a person to do anything, arbitrate or otherwise determine the rights or obligations of a party. Mediation will encourage agreed outcomes to resolve disputes. When parties reach an agreed outcome, the WAIRC will be able to register the agreed outcome as a mediation settlement agreement. Mediation settlement agreements will be enforceable in the Industrial Magistrates Court. Mediation will be informal, convenient and non-legalistic, and the expertise of the WAIRC will be provided at no cost to the parties.

Division 2 of part 2 responds to the limitations WorkChoices has imposed upon parties to disputes. WorkChoices limits the way in which dispute resolutions are conducted, and the functions and powers of dispute resolution providers. Written referral agreements will give these choices back to the parties to a dispute. The parties will be able to determine the parameters for the resolution of their disputes by the WAIRC. Alternatively, parties might seek the assistance of the WAIRC pursuant to a referral agreement if the WAIRC does not otherwise have jurisdiction to deal with a particular dispute. A referral agreement can relate to a specific dispute and its resolution, or it can relate to disputes between the parties of a particular class as specified in the agreement. Parties to the referral agreement will be able to set out what role the WAIRC will have, pursuant to the referral agreement. That is, the parties will decide whether the WAIRC is able to mediate, conciliate or arbitrate disputes. The WAIRC will be able to make binding determinations about the scope or meaning of the referral agreement in order to curtail jurisdictional arguments that can prolong the resolution of disputes. The WAIRC will also be able to make consent orders when disputes are resolved. These orders will be able to vary the operation of an existing state award, order or industrial agreement; otherwise the WAIRC will be able to make binding orders or decisions only when the referral agreement empowers it to do so.

Division 4 of part 2 of the bill enables the WAIRC to act as a provider of alternative dispute resolution services in the federal system. There are two avenues for parties in the federal system to seek the assistance of the WAIRC under these provisions. Firstly, parties to a federal workplace agreement must include in the workplace agreement a dispute resolution procedure. This bill will enable a federal workplace agreement to include a dispute resolution procedure that allows the WAIRC to deal with disputes over the application of the agreement. Secondly, the federal Workplace Relations Act 1996 has a model dispute resolution process that applies in a variety of circumstances, including situations in which there are disputes over the application of an award, or a workplace agreement does not include the required dispute resolution procedure. The model dispute resolution procedure allows parties to agree on a dispute resolution provider. If parties do not agree on a provider, they are unable to access the Australian Industrial Relations Commission for two weeks. This bill will allow parties to go directly to the WAIRC in accordance with the Workplace Relations Act 1996.

The bill is about giving parties the option to utilise the expertise and skills of the WAIRC. In contrast, the federal government has restricted dispute resolution avenues for employers and employees. This government believes that parties should be able to choose where and how they have their workplace disputes resolved. The bill will give parties the option of efficient and effective dispute resolution. I commend the bill to the house.

Debate adjourned, pursuant to standing orders.