

INDUSTRIAL AND RELATED LEGISLATION AMENDMENT BILL 2007

Introduction and First Reading

Bill introduced, on motion by **Mrs M.H. Roberts (Minister for Employment Protection)**, and read a first time.
Explanatory memorandum presented by the minister.

Second Reading

MRS M.H. ROBERTS (Midland - Minister for Employment Protection) [10.16 am]: I move -

That the bill be now read a second time.

The Industrial and Related Legislation Amendment Bill 2007 will amend various pieces of legislation. The primary objective of the bill is to strengthen protections for vulnerable workers. We all know that the federal government's WorkChoices legislation has been bad for workers and their families. It is incumbent on the state government to restore balance and fairness to the workplace wherever possible. The bill will amend the Children and Community Services Act 2004 to strengthen protections for children. Children are a particularly vulnerable category of workers. The states retain capacity to legislate child labour protections by virtue of section 16(3)(e) of the federal Workplace Relations Act 1996.

Firstly, the Children and Community Services Act will be amended to require constitutional corporations who employ children under certain WorkChoices arrangements to provide conditions of employment not less favourable than prescribed state award conditions. Children will be entitled to this protection where there is a state award that applies to the type of work they are performing. People who engage children as independent contractors will also be required to provide conditions of employment not less favourable than prescribed state award conditions. This will act as a deterrent to people engaging children as independent contractors to avoid employment obligations. Independent contractors do not enjoy the same protections as employees.

Secondly, the Children and Community Services Act 2004 will be amended to enable children employed by constitutional corporations to bring unfair dismissal and denied contractual benefits claims in the Western Australian Industrial Relations Commission. WorkChoices removed these protections for most children employed by constitutional corporations. The bill will simply reinstate the protections.

Finally, the bill will limit unpaid trial work involving children to one day per year. One day is considered sufficient time for a person to assess a child's suitability for paid work.

Improved occupational safety and health protections: The bill will amend the Occupational Safety and Health Act 1984 to improve safety protections for workers. The amendments are consistent with recommendations of the 2006 statutory review of the Occupational Safety and Health Act. The states retain capacity to legislate occupational safety and health protections by virtue of section 16(3)(c) of the federal Workplace Relations Act 1996. The Occupational Safety and Health Act will be amended to provide a remedy for workers who are discriminated against for raising safety concerns. Most reasonable people would agree that workers should not be dismissed or otherwise disadvantaged for raising safety concerns.

The Occupational Safety and Health Act will also be amended to provide a process for dealing with workplace bullying which creates a risk to safety or health. The Occupational Safety and Health Tribunal will be empowered to deal with claims of bullying. The focus will be on resolving claims by conciliation and proactive workplace measures.

Improved protections for injured workers: The bill will amend the Workers' Compensation and Injury Management Act 1981 to improve protections for injured workers. The states retain capacity to legislate workers' compensation protections by virtue of section 16(3)(b) of the federal Workplace Relations Act 1996. The Workers' Compensation and Injury Management Act will be amended to provide a remedy for workers who are dismissed in breach of the act. Workers will be able to seek reinstatement in the WAIRC. A key objective of the Workers' Compensation and Injury Management Act 1981 is to rehabilitate injured workers back into the workplace. This objective is seriously undermined if employers can dismiss injured workers with impunity.

Improved access to the common law: The bill will amend the Magistrates Court (Civil Proceedings) Act 2004 to improve employees' access to the common law. The Magistrates Court will be specifically empowered to deal with claims by employees concerning a breach of their contract of employment. Commissioners of the WAIRC will be required to initially mediate claims. However, if claims cannot be resolved this way, the Magistrates Court will be able to determine them in a less costly and legalistic manner than usual.

Amendments to the Industrial Relations Act: The bill will amend the Industrial Relations Act 1979 to broaden the WAIRC's powers in certain circumstances. The WAIRC will be empowered to deal with all denied contractual benefits under a contract of employment, whether or not those benefits are industrial matters. In certain circumstances the WAIRC will also be able to deal with denied contractual benefits implied into the

contract of employment by the Minimum Conditions of Employment Act 1993. The WAIRC will be empowered to hold joint sittings with other state industrial commissions on matters of significant import. For example, the various state industrial commissions could hold a combined hearing on minimum award wages. Joint sittings and determinations would help to achieve greater harmony across the state industrial relations systems.

The bill will also amend the Industrial Relations Act to clarify the validity of certain appointments made under the act, including the appointment of industrial inspectors and the Registrar of the WAIRC.

Not everyone is enjoying the fruits of Western Australia's economic boom. WorkChoices has disadvantaged many workers through the removal of core award conditions and job security. It is simply not possible to have a productive workplace without safety and fairness. The bill demonstrates the government's commitment to safer, fairer and more productive workplaces.

I commend the bill to the house.

Debate adjourned, on motion by **Mr A.J. Simpson**.