

Western Australia

## **Industrial Relations Amendment Bill 2005**

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Western Australia

LEGISLATIVE ASSEMBLY

## **Industrial Relations Amendment Bill 2005**

**A Bill for**

**An Act to amend the *Industrial Relations Act 1979*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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**1. Short title**

This is the *Industrial Relations Amendment Act 2005*.

**2. Commencement**

5 This Act comes into operation on the day after the day on which it receives the Royal Assent.

**3. The Act amended**

The amendments in this Act are to the *Industrial Relations Act 1979\**.

[\* Reprint 10 as at 8 July 2005.]

10 **4. Section 16 amended**

Section 16(1) is repealed and the following subsections are inserted instead —

“

- 15 (1) In subsections (1aa) to (1ac) —  
“**Commission**” includes the Full Bench, the Commission in Court Session and a constituent authority.
- 20 (1aa) The Chief Commissioner is responsible for matters of an administrative nature relating to the Commission and members of the Commission.
- 25 (1ab) Subject to this Act, the Chief Commissioner may allocate and reallocate the work of the Commission and may assign or appoint Commissioners for the purposes of constituting the Commission, or altering the constitution of the Commission, in relation to a matter.

(1ac) When it is continuing to deal with and deciding a matter that has been reallocated, or in relation to which its constitution has been altered, the Commission can have regard to —

- 5 (a) any record of the proceedings of the Commission in relation to the matter before the reallocation or alteration; or
- (b) any evidence taken in the proceedings before the reallocation or alteration.

10

”.

**5. Section 16A inserted**

After section 16 the following section is inserted —

“

**16A. Delegation by Chief Commissioner**

15

- (1) The Chief Commissioner may delegate to another member of the Commission any power or duty of the Chief Commissioner under another provision of this Act.
- (2) The delegation must be in writing signed by the Chief Commissioner.
- 20 (3) A person to whom a power or duty is delegated in accordance with this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that
- 25 has been delegated to the person in accordance with this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Chief Commissioner to perform a function through an officer or agent.

30

”.

**6. Section 17 amended**

After section 17(1) the following subsections are inserted —

“

- 5 (1a) Where the office of President is vacant, or is expected to become vacant, the Governor may appoint a person to be Acting President.
- 10 (1b) An Acting President appointed under subsection (1a) holds office for such period, not longer than 2 years, as is specified in the instrument of appointment and, upon the expiration of the period, is eligible for reappointment.

”.

**7. Section 18 amended**

After section 18(2) the following subsections are inserted —

“

- 15 (3) The continuation in office of a retired member of the Commission under subsection (1) does not prevent —
- 20 (a) the appointment of a person to fill the office from which the member retired; or
- (b) in the case of a retired President, the appointment of a person as Acting President under section 17(1a).
- 25 (4) The continuation in office of an acting member of the Commission under subsection (1) does not prevent —
- (a) the appointment of another person to act in the office in which the acting member acted; or
- (b) in the case of an Acting President, the appointment of a person as the President.

”.

**8. Section 25 amended**

Section 25(1) is amended by deleting “In” and inserting instead —

“ For the purposes of section 16(1ab), in ”.

5 **9. Section 98 amended**

(1) Section 98(1) is repealed and the following subsection is inserted instead —

“

10 (1) Industrial Inspectors may be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* to perform the functions conferred on them by this Act or any other written law.

”.

15 (2) Section 98(2) is amended by deleting “, the regulations and of any award, industrial agreement or order,” and inserting instead —

“ and of any instrument to which this section applies ”.

(3) Section 98(3)(a) is amended by deleting “awards or orders in force thereunder” and inserting instead —

20 “ instrument to which this section applies ”.

(4) Section 98(6) is amended as follows:

(a) by deleting “subsection (3)(a)” and inserting instead —  
“ this section ”;

25 (b) in the definition of “conveyance” by deleting “goods.” and inserting instead —

“ goods; ”;

**s. 9**

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(c) after the definition of “conveyance” by inserting —

“

**“instrument to which this section applies”** means —

- (a) an award;
- 5 (b) an industrial agreement;
- (c) an order made by the Commission; and
- (d) an employer-employee agreement or contract  
of employment to the extent, and only to the  
10 extent, that a condition is implied in that  
agreement or contract by section 5 of the  
MCE Act.

”.

(5) After section 98(6) the following subsection is inserted —

“

- 15 (7) A reference to this Act in subsection (2), (3) or (5)  
includes a reference to another written law referred to  
in subsection (1).

”.

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