

EXPLANATORY MEMORANDUM

EMPLOYMENT DISPUTE RESOLUTION BILL 2007

INTRODUCTION

The *Employment Dispute Resolution Bill 2007* is a new piece of legislation that develops the role of the Western Australian Industrial Relations Commission (WAIRC) in the provision of dispute resolution and mediation services.

The Federal Government's *Workplace Relations Amendment (Work Choices) Act 2005* has restricted the powers and functions of the Australian Industrial Relations Commission. The Bill provides employers, employees and organisations in both the federal and State industrial relations systems with options for resolving their disputes.

The focus of the Bill is on enabling parties to employment disputes to access the WAIRC on their own terms where they choose to avail themselves of its extensive experience in industrial dispute resolution.

The primary objective of the Bill is to create a dispute resolution framework which is informal, easily accessible, expeditious and effective.

There are three important elements of the Bill in Part 2.

1. Division 1 enables the WAIRC to provide mediation services by consent of parties;
2. Division 2 allows for the making of written referral agreements which provide for the WAIRC to deal with a dispute or disputes;
3. Division 4 enables the WAIRC to provide alternative dispute resolution pursuant to and in accordance with federal workplace agreements and the model dispute resolution process in the *Workplace Relations Act 1996* (WR Act).

Divisions 1 and 2 of Part 2 of the Bill establish a framework for dispute resolution which sits outside the State *Industrial Relations Act 1979* (IR Act) and the Commonwealth WR Act.

PART 1 – PRELIMINARY

Clause 1 – Short Title

The Act will be cited as the *Employment Dispute Resolution Act 2007* and is a new piece of legislation.

Clause 2 – Commencement

The formal part of the Act commences on the day the Act receives the Royal Assent. The substantive parts of the Act come into operation on a day, or on days, to be fixed by proclamation.

Clause 3 – Terms used in this Act

Clause 3(1) provides relevant definitions for the purposes of the Bill.

Many of the terms in the Bill are defined in accordance or consistent with their meanings in the IR Act, for example, “award”, “Chief Commissioner”, “commissioner”, “employee”, “employer” and “industrial matter”.

The term “employment dispute” is defined to mean any question, dispute or difficulty that arises out of or in the course of employment and includes any industrial matter. “Employment dispute” has an extended meaning pursuant to clause 4 for the purposes of mediation under Part 2 Division 1 of the Bill, which includes a potential employment dispute. The definition of employment dispute sets out the scope of disputes in relation to which the various dispute resolution avenues in the Bill are available.

The term “organisation” is defined to include an organisation registered under the IR Act or as defined in the WR Act.

The terms “mediation”, “mediation settlement agreement”, “referral agreement” and “referral proceeding” are defined in accordance with relevant provisions of the Bill.

Clause 3(2) provides that a matter relating to the dismissal of an employee or the denial of a contractual benefit is and remains an employment dispute even though the relationship as employee and employer has ended. This subclause replicates the effect of section 7(1a) of the IR Act.

PART 2 – DISPUTE RESOLUTION SERVICES

Part 2 contains the substantive provisions for the three avenues for dispute resolution available pursuant to the Bill.

DIVISION 1 – MEDIATION

Division 1 of Part 2 of the Bill provides an informal, convenient and non-legalistic avenue for parties to seek mediation by the WAIRC. The WAIRC will be able to conduct mediation to resolve a wide range of disputes or potential disputes related to the employment relationship. Mediation encourages the reaching of agreed outcomes to resolve disputes.

Clause 4 – Extended meaning of “employment dispute”

For the purposes of mediation, an employment dispute is defined to include a potential employment dispute. This will ensure parties are able to seek mediation at an early stage, before issues develop into disputes. Mediation will be available as a preventative measure to avoid disputes and difficulties arising.

Clause 5 – Constitution of WAIRC

This clause provides for the constitution of the WAIRC by as many commissioners as the Chief Commissioner sees fit to assign. This clause provides the Chief Commissioner with flexibility in constituting the WAIRC. For example, more than one commissioner might be assigned if co-mediation is utilised. Co-mediation is a process in which the parties are assisted by two mediators.

Clause 6 – Mediation by WAIRC

Clause 6 of the Bill confers jurisdiction on the WAIRC to act as mediator in an employment dispute. That jurisdiction is subject to the parties to the employment dispute consenting to the WAIRC acting as mediator.

Clause 7 – Request for mediation

A request by a party to an employment dispute or potential employment dispute will be required for the WAIRC to act as mediator. A request can be made by an employee or group of employees, employer or group of employers or an organisation of employees or employers. The breadth of individual, groups and organisations of employees and employers who are able to make a request reflects the intention that the WAIRC will be easily accessible and a wide range of disputes will be capable of being mediated by the WAIRC.

A request will be able to be made in whatever manner and form the Chief Commissioner approves.

Clause 8 – Representative of group

Where a request for mediation is made by a group of employees or of employers, the group may be represented by an individual appointed in the manner and form approved by the Chief Commissioner in accordance with this clause.

Clause 9 – WAIRC may refuse to act or suspend or discontinue mediation

Clause 9 of the Bill provides the WAIRC with discretion not to mediate or not to continue to mediate a dispute in certain circumstances. Those circumstances are where the WAIRC is of the opinion that the dispute should be resolved in some other manner, where proceedings have been commenced under another law or there is some other reasonable cause justifying a decision not to proceed. This clause allows the WAIRC to make an assessment of the suitability of mediation in the circumstances of the employment dispute.

Clause 10 – WAIRC's functions

Clause 10 sets out the functions of the WAIRC in acting as mediator in an employment dispute. The functions in that clause reflect the informal and facilitative nature of mediation.

Clause 10(1) provides that the WAIRC may take action appropriate to assisting the parties to resolve the dispute that is the subject of mediation.

Clause 10(2) provides that the WAIRC does not have the power, when acting as mediator, to compel a person to do anything, arbitrate or otherwise determine the rights or obligations of a party to an employment dispute or make a decision.

This subclause reflects the intent that in mediation, the WAIRC will not have a determinative role, rather, it is a role in facilitating the agreement of the parties. This is consistent with the informal nature of dispute resolution pursuant to Division 1.

If parties desire a more formal process where the WAIRC has these powers, they will be able to make a referral agreement under Part 2 Division 2 of the Bill formally setting out the functions and powers of the WAIRC in resolving an employment dispute.

Clause 10(3) requires the WAIRC to have regard to any request of a party and to endeavour to comply with a request that it considers to be practicable and consistent with expeditiously, conveniently and informally resolving the dispute. This is consistent with mediation being conducted in a way that suits the parties.

For example, a party might request that the WAIRC conduct mediation at the workplace. That request will be accommodated by the WAIRC if, in the circumstances, it is practicable and consistent with resolving the dispute expeditiously, conveniently and informally.

Clause 10(4) allows the WAIRC to make recommendations on aspects of the dispute about which the parties are unable to reach agreement. The WAIRC may only make recommendations where the parties request that the WAIRC do so. While recommendations will not be enforceable, where sought by the parties recommendations may assist in resolution of one or more issues that have not otherwise been resolved in mediation.

Clause 11 – Mediation settlement agreement

Clause 11(1) of the Bill provides that the WAIRC may register a mediation settlement agreement where:

- (a) any parties reach agreement on the employment dispute or any aspect of the dispute; and
- (b) the parties consent to the registration of the mediation settlement agreement.

Clause 11(2) provides that a mediation settlement agreement is binding on the parties and enforceable in the Industrial Magistrates Court. An industrial agreement under the IR Act is enforceable under section 83 of that Act. A mediation settlement agreement is enforceable in the same way. Among other things, section 83 of the IR Act enables the Industrial Magistrates Court to order penalties against a person.

Certainty of outcomes and enforceability of those outcomes is important to ensure the finality of dispute resolution and ensure that mediation is a viable alternative to formal litigation. Binding and enforceable outcomes are important in order to avoid escalation or re-opening of disputes.

Clause 11(3) provides that a mediation settlement agreement cannot vary the operation of an existing award, order or industrial agreement made under the IR Act.

If parties seek mediation outcomes that are able to vary the operation of an award, order or industrial agreement, they are able to make a referral agreement that provides for mediation. That is a more formal process and the WAIRC can then make an order in the terms of an agreed outcome and that order can vary the operation of an existing award, order or industrial agreement (see clause 18).

Clause 11(4) provides that once a mediation settlement agreement has been entered into, parties to the mediation settlement agreement must not make a claim under any written law in respect of the employment dispute or any aspect of the dispute that is the subject of the mediation settlement agreement. The only exception is that the parties may make a claim under a written law to enforce the mediation settlement agreement pursuant to clause 11(2).

This provision ensures that once an agreed outcome is reached, the parties are unable to re-open or litigate the employment dispute. The finality of the agreed outcome is important to the efficacy and desirability of mediation.

DIVISION 2 – RESOLUTION UNDER REFERRAL AGREEMENT

Division 2 enables the WAIRC to resolve employment disputes where the parties to a dispute have made a written agreement (referral agreement) which provides for the WAIRC to exercise dispute resolution functions in accordance with the terms of the referral agreement.

Clause 12 – Referral agreements

Clause 12 of the Bill sets out what a referral agreement is, who can make a referral agreement and when it is in force.

Pursuant to clause 12(1), a referral agreement is an agreement in writing between two or more parties which provides that a particular employment dispute or employment disputes of a particular class may be resolved by the WAIRC.

Clause 12(2) provides that the parties to a referral agreement may be two or more of the following:

- (a) an employer or group of employers;
- (b) an employee or group of employees;
- (c) an organisation of employees or of employers.

Clause 12(3) relates to referral agreements where a group of employees or of employers are party to the agreement. This clause provides for the referral agreement to address the circumstances in which an individual is entitled to act on behalf of a group.

Clause 12(4) provides for the referral agreement to specify the functions that may be performed by the WAIRC when an employment dispute is referred for resolution. Examples of the functions that may be included in a referral agreement are provided at clause 12(5) as follows:

- (a) mediation or conciliation;
- (b) arbitration;
- (c) granting a remedy or relief under Part II Division 2 of the IR Act (which relates to the general jurisdiction and powers of the WAIRC);
- (d) deciding any other issue or question arising in an employment dispute.

Clause 12(6) relates to the term of operation of a referral agreement. Clause 12(6)(a) provides that the referral agreement comes into force either on the commencement date specified in the agreement, or the date it is made if none is specified. Clause 12(6)(b) provides that the referral agreement remains in force until the expiry date provided in the agreement unless the parties agree to withdraw from the agreement prior to that date. If there is no expiry date provided in the referral agreement, the agreement expires three years after coming into force.

Clause 12(7) provides that if a referral proceeding has been commenced prior to the expiry of a referral agreement, the expiry of the referral agreement does not affect the referral proceeding. This clause ensures proceedings that are underway prior to the expiry continue in accordance with the referral agreement notwithstanding the expiry of the referral agreement.

Clause 12(8) provides that a party cannot withdraw from a referral agreement unless the other party, or parties if there is more than one other party, agree in writing to the withdrawal. This provision ensures that once a referral agreement is made, parties cannot unilaterally opt out of the referral agreement.

Clause 13 – Referral to WAIRC to perform certain functions in referral agreement

Clause 13 provides for the referral of an employment dispute where a referral agreement is in force.

Clause 13(1) provides that a party to a referral agreement may refer an employment dispute to the WAIRC for the performance by the WAIRC of functions specified in the referral agreement.

Clause 13(2) provides that the referral must be in a form that the Chief Commissioner has approved in writing.

Clause 13(3) permits the party making the referral to withdraw the referral at any time if for any reason they do not wish to proceed. This is consistent with the parties to the referral agreement having choices in determining their dispute resolution requirements.

Clause 14 – Constitution of WAIRC

Clause 14(1) provides that for the purposes of dispute resolution pursuant to a referral agreement, the WAIRC is to be constituted by a single commissioner.

However, a referral agreement may require that the WAIRC be constituted by more than one commissioner, or a referral agreement may permit the WAIRC to be constituted by more than one commissioner and the parties to the referral may request the WAIRC be constituted by more than one commissioner. If either of those circumstances applies, clause 14(2) provides that the Chief Commissioner may constitute the WAIRC in accordance with the requirement in the referral agreement or the request in the referral (as the case may be) if of the opinion that it is practicable and appropriate to do so.

Clause 14(3) provides that whilst the Chief Commissioner is to have regard to the terms of a referral agreement in constituting the WAIRC, the Chief Commissioner is not obliged to comply with the terms of a referral agreement. This clause allows the Chief Commissioner to have the final decision on how the WAIRC will be constituted. The parties will not be able to dictate the constitution of the WAIRC, although practicable and appropriate requests will ordinarily be accommodated.

Clause 15 – WAIRC's functions

Clause 15 of the Bill provides that the functions and powers of the WAIRC, in dealing with an employment dispute in accordance with a referral agreement, will primarily be those provided in the referral agreement. Some provisions of the IR Act will apply unless they are excluded by the referral agreement. This ensures that if parties omit to include basic functions, the WAIRC will not be hamstrung by their absence.

Clause 15(1) sets out the functions that the WAIRC may utilise when dealing with a referral under a referral agreement. The WAIRC may perform functions specified in the referral agreement. The WAIRC may also perform any other functions agreed by the parties or that are consistent with the functions specified in the referral agreement. A referral or referral agreement may be amended on terms agreed by the parties. Unless specifically excluded by the referral agreement, the WAIRC will be able to exercise the powers set out in section 27(1)(b), (e), (f), (h), (ha), (hb), (m) and (v) of the IR Act.

Clause 15(2) provides that sections 22B and 26(1)(a) and (b) of the IR Act apply in the performance of the WAIRC's functions pursuant to a referral agreement unless the referral agreement specifically excludes them.

Clause 15(3) requires the WAIRC to have regard to any request made by a party to the WAIRC. The provision requires the WAIRC to endeavour to comply with the request if it is of the opinion that compliance is practicable and consistent with expeditious, convenient and informal resolution of the dispute.

Clause 15(3) is consistent with the intention of the Bill to provide parties with choices for dispute resolution. For example, if a party to an employment dispute considers that dispute resolution at the workplace would be convenient and beneficial, the party can make a request and the WAIRC will be required to endeavour to comply with the request if the requirements of clause 15(3) are satisfied.

Clause 16 – WAIRC may determine scope of referral agreement

Clause 16 of the Bill enables the WAIRC to make binding determinations as to the scope or operation of a referral agreement, or the meaning of any provision of a referral agreement. This clause will enable the WAIRC to deal expeditiously with jurisdictional questions. Protracted jurisdictional disputes are not in the interest of expeditious, informal and effective dispute resolution.

Clause 17 – Representation

Clause 17 provides for representation of parties to a referral agreement whether in person or if the party is a body corporate, by a director, secretary or other officer of the body corporate.

The parties may otherwise be represented as provided in the referral agreement or, if the referral agreement is silent on representation, as the parties agree.

This clause allows the parties, in making a referral agreement, to decide whether and how they will be able to be represented taking into account the functions provided for in the referral agreement and how they envisage dispute resolution proceeding.

Clause 18 – WAIRC may register agreement in relation to dispute

Clause 18 addresses the circumstance where following the referral of an employment dispute to the WAIRC, the parties reach agreement in relation to the employment dispute or any aspect of the employment dispute.

The WAIRC may make an order under clause 18(1)(a) binding on the parties that consent to an order, in the terms of the agreement reached between the parties. Alternatively, if the WAIRC does not consider an order is required, the WAIRC may make, sign and file a memorandum of the terms of the agreement.

If the WAIRC makes an order under clause 18(1)(a), such order may vary the operation of an existing award, order or industrial agreement made under the IR Act in respect of the parties who consented to the making of the order.

Clause 19 – Decision, direction or determination of WAIRC may bind parties

Clause 19 provides that a decision, direction or determination of the WAIRC on a referral does not bind the parties unless the referral agreement empowers the WAIRC to make binding decisions, directions or determinations. This provision ensures that the WAIRC is only able to exercise powers or functions which bind the parties if the parties to the referral agreement have so provided in the referral agreement. This is consistent with the intent of allowing parties to decide their dispute resolution requirements. There are two exceptions:

- (a) determinations under clause 16 as to the scope or operation of a referral agreement, or the meaning of any provision of a referral agreement are binding. It is desirable that jurisdictional issues are able to be determinatively dealt with by the WAIRC;
- (b) orders under clause 18 that result from agreed outcomes between the parties and where the parties consent to the making of an order are binding. It is desirable that where an agreed outcome is reached, the parties should be bound by that outcome and be unable to re-open the dispute if one party subsequently changes its mind.

Clause 20 – Enforcement of decisions and directions

A decision or direction that binds the parties to an employment dispute may be enforced under section 84A of the IR Act as if the decision or direction were given under section 32 of the IR Act. Enforcement under clause 20 will proceed before the WAIRC Full Bench via section 84A of the IR Act. Among other things, section 84A of the IR Act enables the WAIRC Full Bench to order penalties against a person.

This clause is subject to regulations made under clause 31(2)(b)(ii), which enables regulations to be made that provide for or with respect to the application of the provisions of the IR Act, with any prescribed modifications, the enforcement or binding directions and decisions.

For example, a decision or direction that is enforceable under this clause includes a decision or direction made under a referral agreement that provides for binding decisions or directions to be made. An order made under clause 18 is also enforceable pursuant to clause 20 as “decision” is defined in clause 3(1) of the Bill to include an order, declaration or finding.

The inclusion in the Bill of provisions for enforcement of outcomes before the WAIRC Full Bench is consistent with referral agreements providing efficient and effective dispute resolution which finalises the dispute without resort to protracted litigation.

Clause 21 – WAIRC may refuse to act or suspend or discontinue referral

Clause 21 provides the WAIRC with discretion to refuse to act or suspend or discontinue a referral, within the range of circumstances identified.

Those circumstances are if the WAIRC is of the opinion that:

- (a) the employment dispute should be resolved in some other manner;
- (b) proceedings relating to the subject matter of the referral have been commenced under another law of the State or Commonwealth; or
- (c) there is some other reasonable cause that justifies the WAIRC doing so.

The clause addresses the possibility that arising from an employment dispute, there may be multiple jurisdictions for pursuing resolution of the dispute. It is not intended that a referral under a referral agreement is appropriate where other legal avenues are being pursued, or where other avenues are considered more appropriate by the WAIRC. Other issues such as the conduct of the parties may be relevant to the WAIRC being of the opinion that there is a reasonable cause justifying no action on the referral.

Clause 22 – Appeals

Consistent with the informality, expeditiousness and efficiency of dispute resolution under this Bill, clause 22(1) provides that no appeal will be available against a decision of the WAIRC unless the referral agreement provides for an appeal against such a decision. Unless otherwise provided in the referral agreement, dispute resolution will be final at first instance.

Clause 22(2) provides that if parties include a capacity to appeal a decision in a referral agreement, section 49 of the IR Act applies as if the decision were made under the IR Act.

Clause 23 – WAIRC must publish examples of dispute resolution functions

This clause requires the WAIRC to cause examples of dispute resolution functions that parties may include in a referral agreement to be published on the WAIRC's website. These examples will assist the parties to ascertain the services available from the WAIRC and decide what functions their referral agreement will enable.

Other than the examples in clause 12(5), the Bill does not identify the types of services the WAIRC may provide, or that the parties to a referral agreement may seek.

The publication of examples will not be exhaustive, nor will they limit the functions the parties may include in their referral agreement for provision by the WAIRC. The publication of examples is a mechanism for informing parties of some of the options available to them in making a referral agreement.

DIVISION 3 – PROVISIONS THAT RELATE TO MEDIATION AND REFERRAL PROCEEDINGS

Clause 24 – Privilege

The provisions in clause 24 encourage the settlement of disputes by providing certainty about the status of communications in dispute resolution proceedings under Part 2 Divisions 1 and 2 of the Bill. That certainty encourages open and honest discussions and meaningful negotiations, without fear that the communications will be later used against the party in other proceedings.

Clause 24(1) provides that evidence of anything said or done, of any written or oral communication or of any admission, in the course of or for the purpose of attempting to settle an employment dispute by mediation or referral proceeding, is taken to be in confidence and is not admissible in other proceedings.

Clause 24(2) provides that a document prepared in the course of, or for the purpose of, mediation or a referral proceeding, or a copy or evidence of such document, are taken to be subject to a duty of confidence and not admissible in other proceedings.

Clause 24(3) provides that subsections (1) and (2) do not apply to a proceeding to enforce a decision or direction of the WAIRC or a mediation settlement agreement. The desirability of confidentiality and inadmissibility has to be balanced against the desirability for enforceability of outcomes, and the desirability of binding and enforceable outcomes takes precedence.

Clause 24(4) provides circumstances where evidence or a document referred to in subsection (1) or (2) is admissible. Those circumstances include where the parties consent to admission or where there is a dispute in other subsequent proceedings as to whether a binding agreement settling all or any of the parties' differences was entered into and the evidence or document is relevant to that dispute.

Clause 25 – Privacy

The provisions relating to privacy of proceedings and certain evidence and documents will encourage parties to openly enter into discussions in a meaningful way consistent with resolving employment disputes.

Clause 25(1) provides that mediation or referral proceedings are to be held in private, and the WAIRC may direct who may be present.

Clause 25(2) allows the WAIRC to direct that certain evidence and documents must not be published or disclosed, or must not be published or disclosed except as ordered by the WAIRC.

Directions or orders made under clause 25 are enforceable under section 84A of the IR Act, as if the direction or order were given under section 32 of that Act: clause 25(3). Enforcement under clause 25(3) will proceed before the WAIRC Full Bench via section 84A of the IR Act. Among other things, section 84A of the IR Act enables the WAIRC Full Bench to order penalties against a person.

Clause 25(3) is subject to regulations made under clause 31(2)(b)(ii), which enables regulations to be made that provide for or with respect to the application of the provisions of the IR Act, with any prescribed modifications, the enforcement or binding directions and decisions.

DIVISION 4 – RESOLUTION UNDER COMMONWEALTH WORKPLACE AGREEMENT OR MODEL DISPUTE RESOLUTION PROCESS

Clause 26 – Terms used in this Division

Clause 26 provides relevant definitions for Part 2 Division 4 of the Bill. Definitions of “dispute settlement procedures” and “model dispute resolution process” are in accordance with the corresponding definitions in the WR Act.

Clause 27 – Application for WAIRC to conduct dispute resolution process

There are three avenues in clause 27 for parties in the federal system to seek dispute resolution by the WAIRC.

First is where the parties to an employment dispute are bound by a Commonwealth workplace agreement and that workplace agreement in its dispute settlement procedure permits or provides a role for the WAIRC in resolving disputes. Clause 27(1)(b)(i) permits a party to apply to have a dispute resolution process conducted by the WAIRC in relation to the employment dispute.

Second, if the parties to an employment dispute are bound by a Commonwealth workplace agreement which does not contain a dispute settlement procedure, then the model dispute resolution procedure will apply (by virtue of section 353(2) of the WR Act). If the model dispute resolution procedure applies and if the parties to the employment dispute agree to the WAIRC conducting the model dispute resolution process, then a party to the dispute may apply to the WAIRC for it to conduct a dispute resolution process (clause 27(1)(b)(ii)).

Third, pursuant to clause 27(2) a party to an employment dispute to which the model dispute resolution process applies under the WR Act may apply to the WAIRC for it to conduct a dispute resolution process if the parties to the employment dispute agree to the WAIRC conducting the model dispute resolution process. Clause 27(2) applies where the parties are not bound by a workplace agreement. Where the parties are bound by a workplace agreement and the model dispute resolution process applies, application would be made pursuant to clause 27(1).

Clause 28 – Constitution of WAIRC

The provisions relating to constitution of the WAIRC under this Division are comparable to those in clause 14 which relates to the constitution of the WAIRC when dealing with an employment dispute in accordance with a referral agreement.

In dealing with an application made under clause 27, the WAIRC will ordinarily be constituted by a single commissioner (clause 28(1)).

However, a workplace agreement may require that the WAIRC be constituted by more than one commissioner, or a workplace agreement may permit the WAIRC to be constituted by more than one commissioner and the parties to an application may request the WAIRC be constituted by more than one commissioner. If either of those circumstances applies, clause 28(2) provides that the Chief Commissioner may constitute the WAIRC in accordance with the requirement in the workplace agreement or request in the application if of the opinion that it is practicable and appropriate to do so.

Clause 28(3) provides that whilst the Chief Commissioner is to have regard to the terms of a workplace agreement in constituting the WAIRC, the Chief Commissioner is not obliged to comply with the terms of a workplace agreement.

Clause 29 – WAIRC's functions

Clause 29(1) provides that the WAIRC, in dealing with an application made under clause 27, has and may exercise the functions conferred or imposed under the relevant workplace agreement, the model dispute resolution process or the WR Act.

Clause 29(2) provides that sections 714, 715 and 716 of the WR Act apply to dispute resolution processes conducted by the WAIRC under Part 2 Division 4 of the Bill.

Those sections of the WR Act relate to the representation of parties in the dispute resolution process, privacy requirements and a prohibition on a dispute resolution process being conducted where the dispute is the subject of proceedings or has been settled as a result of proceedings under a State or Commonwealth law relating to equal opportunity or to the prevention of discrimination.

PART 3 – MISCELLANEOUS**Clause 30 – Application of IR Act**

Clause 30(1) ensures that the provisions of the Bill do not have any consequences for or limitations on any function of the WAIRC under the IR Act or any other written law.

Clause 30(2) provides that the following sections of the IR Act apply as if the references to “this Act” were references to the Bill:

- (a) section 3 relating to off-shore application.
- (b) sections 16 and 16A relating to powers, duties and delegations by the Chief Commissioner.
- (c) section 17 relating to acting appointments.

Clause 31 – Regulations

Clause 31 effectively extends the regulation making powers under section 113 of the IR Act to this Bill. Regulations may be made pursuant to section 113 of the IR Act to:

- (a) prescribe any matter that the Bill requires or permits to be prescribed;
- (b) prescribe any matter that is necessary or convenient to be prescribed for the purposes of the Bill;
- (c) regulate the practice and procedure to be followed in relation to any matter under the Bill;
- (d) provide for or with respect to the application of the provisions of the IR Act (with any prescribed modifications) to the:
 - (i) performance of functions under the Bill;
 - (ii) enforcement of binding directions and decisions.