

Western Australia

LEGISLATIVE COUNCIL

*(Introduced by Hon. Dee Margetts)*

**Workers' Rights Reinstatement and Protection  
Bill 2001**

**A Bill for**

**An Act to —**

- **repeal the *Workplace Agreements Act 1993***
- **amend the *Industrial Relations Act 1979***

**and for related purposes.**

The Parliament of Western Australia enacts as follows:

**1. Short title**

This Act may be cited as the *Workers' Rights Reinstatement and Protection Act 2001*.

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**2. Commencement**

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

**3. Principal Act**

5 In this Act the *Industrial Relations Act 1979* is referred to as the principal Act.

## Part 2 — *Workplace Agreements Act 1993 Repealed*

### 4. 1993 Act repealed and principal Act amended

- (1) The Workplace Agreements Act 1993 is repealed.
- (2) Part 1A and section 26A of the principal Act are repealed.

### 5. Transitional arrangements

- (1) The repeals effected by section 4 —
  - (a) do not terminate a workplace agreement then in existence which continues to apply, subject to this section, for the remainder of its stated term or 180 days, whichever is the sooner;
  - (b) do not affect the application or operation of a repealed provision to a workplace agreement under paragraph (a).
- (2) A workplace agreement that expires after this Act comes into operation cannot be renewed.

### 6. Terminated workplace agreement to revert to award conditions

- (1) A contract of employment that continues beyond the expiry, termination, or withdrawal from, a workplace agreement to which it relates, continues subject to the provisions of an applicable award or, if there is no such award, the law that governs such a contract of employment.
- (2) Where subsection (1) applies, an employee retains any term or condition of the contract of employment that exceeds a comparable award provision.

### 7. Commission to determine disputes

The interpretation and application of any provision of this Part is an “**industrial matter**” within the meaning of section 7(1) of

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the principal Act and the Industrial Relations Commission has jurisdiction accordingly.

## Part 3 — Unfair Dismissal Claims

### 8. Section 23A of principal Act amended

Section 23A of the principal Act is amended —

- 5 (a) in subsection (1)(ba) by deleting the words “subject to subsections (1a) and (4)”;
- (b) in subsection (1a) by deleting paragraph (b);
- (c) by deleting subsection (3);
- (d) in subsection (4) —
  - (i) by deleting the words “or (3)”;
  - 10 (ii) by deleting the number “6” and substituting the number “12”;
  - (iii) by inserting after “this subsection” the expression “(a)” and by adding the following —
    - 15 (b) in this subsection “**remuneration**” means the aggregate amount received and includes a benefit (whether in money or not).

### 20 9. Section 29 amended

Section 29 of the principal Act is amended by adding the following —

- 25 unless the Chief Commissioner is satisfied that any failure to comply with that requirement did not result from any neglect by the employee in which case the Chief Commissioner may permit a referral but not later than 14 days after the expiration of the 28 day period.

## **Part 4 — Power to Enter Premises; Power to Inspect Employment Records**

### **10. Section 49AB repealed and substituted**

Section 49AB of the principal Act is repealed and the following  
5 section is substituted—

“

#### **49AB. Right of entry to workplace**

- 10 (1) A representative of an organization may enter a workplace if employees at that workplace are, or are eligible to be, members of the organization.
- (2) The power under subsection (1) is to be exercised reasonably and is not to disrupt, or be used in order to disrupt, work being carried out at the time.
- 15 (3) A provision in any award, order, or industrial agreement that is inconsistent with this section is ineffective to the extent of the inconsistency.

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### **11. Section 49B amended**

Section 49B of the principal Act is amended —

- 20 (a) by repealing subsections (1)-(3) and substituting the following —

“

- 25 (1) Subject to subsection (2), a representative of an organization is entitled to inspect the time and wages records of an employee or former employee.
- (2) A power under subsection (1) cannot be exercised to inspect the time and wages records of an employee or former employee who, by

written notice to the employer, requires that the employee's or former employee's time and wages records not be made available for inspection under subsection (1).

5                   (3) A notice given under subsection (2) is ineffective unless it contains a statement that it is given without duress or threats or intimidation by, or on behalf of the employer.                   ”;

10                   (b) in subsection (4) by deleting paragraph (b).

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**Part 5 — Parts of Principal Act Repealed**

**12. Parts and Schedule of principal Act repealed**

Part IIIA, VIB, VIC and Schedule 2 of the principal Act are repealed.

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