

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

**2005-2006 SUPPLEMENTARY BUDGET SENATE ESTIMATES HEARING
2 and 3 NOVEMBER 2005**

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

QUESTIONS ON NOTICE

Outcome 2: Higher productivity, higher pay workplace

Output Group 2.1: Workplace relations policy and analysis

Output 2.1.2: Workplace relations legislation development

Question Number: W575-06

Question:

Senator Campbell asked at *Hansard* page 53/54:

Could the department provide a list of all current workplace industrial relations legislation existing in Australia, including which jurisdiction/s they cover and identifying which will be overridden by the bill?

Answer:

There are a large number of pieces of legislation that are employment related and that affect the operations of businesses in respect of the employment of employees. For example, each jurisdiction has occupational health and safety, workers' compensation and anti-discrimination legislation. In addition, many pieces of legislation, the dominant purpose of which is not employment-related, contain provisions which affect the relationship between employer and employee (for example, a provision of an Ombudsman Act prohibiting termination of employment for making a complaint to the Ombudsman in relation to the employer).

Each of the States except Victoria has an Act dealing generally with industrial relations - see Item 2, Schedule 1 of the Workplace Relations Amendment (Work Choices) Act 2005 which would insert a definition of 'State or Territory industrial law' in s 4(1) of the *Workplace Relations Act 1996* (Cth)).

The general rules governing the interaction of the amended Workplace Relations Act with State and Territory legislation are set out in s 7C of the Act.

In essence, the Workplace Relations Act will exclude the operation of State and Territory laws that deal with matters typically dealt with in State industrial relations Acts.

On the other hand, the Workplace Relations Act will not exclude the operation of many of the employment-related laws that are not typically contained in State industrial relations Acts, such as superannuation, workers' compensation and occupational health and safety. Also, State and Territory laws that are excluded by s 7C are excluded only in their application to employers and employees covered by the Workplace Relations Act (for example, constitutional corporation employers and ACT and NT employers and their employees). The laws will continue to operate in relation to employers and employees not covered by the Workplace Relations Act and in circumstances where they do not affect an employment relationship.

We are therefore unable to provide this information as to do so would involve an unreasonable diversion of the department's resources.