

**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: W610-06

Question:

Senator Marshall asked in writing:

What transitional arrangements are to be in respect of part-heard matters in both the Federal and State Commissions?

Answer:

1. Schedule 4 to the *Workplace Relations Amendment (Work Choices) Act 2005* (**'Amendment Act'**) contains provisions that deal with how some part-heard matters upon commencement of Schedule 1 to the Amendment Act are to be treated:
 - Certain amendments relating to termination of employment apply only in relation to terminations of employment that occur after reform commencement (**'reform commencement'** means the day upon which the amendments made by Schedule 1 to the Amendment Act come into effect). As a result, the relevant amendments will not apply to termination of employment matters that are part-heard in the federal jurisdiction at reform commencement (item 7 of Schedule 4).
 - The amendments to Subdivision E of Division 3 of Part VIA of the WR Act do not apply to part-heard applications for orders under section 170GA of the WR Act (item 9 of Schedule 4).
 - Partially complete investigations may be completed after reform commencement.

- Part-heard matters under Division 9 of Part VIB of the existing *Workplace Relations Act 1996*, or section 170NA, will continue to be dealt with after reform commencement under the pre-reform provisions (item 20 of Schedule 4).
 - If a bargaining period has been terminated before reform commencement, but arbitration under section 170MX has not commenced, the new ‘workplace determination’ provisions will apply (except in relation to Victorian referral matters) (item 20A of Schedule 4).
2. In addition to those provisions, Schedule 4 to the Amending Act provides that regulations may be made dealing with matters of a transitional, saving or application nature relating to amendments made by the Amending Act. This is intended to authorise and facilitate the inclusion of regulations regarding part heard matters in the Federal and State Commissions.
 3. Regulations relating to transitional matters will be proclaimed and registered before reform commencement.