

2002-2003-2004

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As read a third time

**Workplace Relations Amendment
(Choice in Award Coverage) Bill 2004**

No. , 2004

A Bill for an Act to amend the *Workplace Relations Act 1996*, and for related purposes

Contents

1	Short title	1
2	Commencement	1
3	Schedule(s)	2
Schedule 1—Federal awards		3
Part 1—Amendments		3
<i>Workplace Relations Act 1996</i>		3
Part 2—Application of amendments		6

1 THIS Bill originated in the House of
2 Representatives; and, having this day passed,
3 is now ready for presentation to the Senate
4 for its concurrence.

5 I.C. HARRIS
6 *Clerk of the House of Representatives*

7 House of Representatives
8 11 February 2004
9

10 **A Bill for an Act to amend the *Workplace Relations***
11 ***Act 1996, and for related purposes***

12 The Parliament of Australia enacts:

13 **1 Short title**

14 This Act may be cited as the *Workplace Relations Amendment*
15 *(Choice in Award Coverage) Act 2004*.

16 **2 Commencement**

17 (1) Each provision of this Act specified in column 1 of the table
18 commences, or is taken to have commenced, on the day or at the
19 time specified in column 2 of the table.
20

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	
2. Schedule 1	A single day to be fixed by Proclamation, subject to subsection (3)	

- 1 Note: This table relates only to the provisions of this Act as originally
2 passed by the Parliament and assented to. It will not be expanded to
3 deal with provisions inserted in this Act after assent.
- 4 (2) Column 3 of the table is for additional information that is not part
5 of this Act. This information may be included in any published
6 version of this Act.
- 7 (3) If a provision covered by item 2 of the table does not commence
8 within the period of 6 months beginning on the day on which this
9 Act receives the Royal Assent, it commences on the first day after
10 the end of that period.

11 3 Schedule(s)

12 Each Act that is specified in a Schedule to this Act is amended or
13 repealed as set out in the applicable items in the Schedule
14 concerned, and any other item in a Schedule to this Act has effect
15 according to its terms.

1
2 **Schedule 1—Federal awards**

3 **Part 1—Amendments**

4 ***Workplace Relations Act 1996***

5 **1 Subsection 101(1)**

6 After “subsection (2)”, insert “and sections 101A and 101B”.

7 **2 After section 101**

8 Insert:

9 **101A When Commission must not make findings under section 101**

10 If a party (the *initiator*) notifies an alleged industrial dispute under
11 section 99 on the grounds that another party has not agreed to the
12 demands set out in a log of claims that the initiator served on the
13 other party, then the Commission must not make any findings
14 under section 101 in relation to that dispute unless the Commission
15 is satisfied that:

- 16 (a) the log of claims was accompanied by a notice containing
17 information of the kind prescribed by the regulations when it
18 was served; and
19 (b) the dispute was notified under section 99 at least 28 days
20 after the log of claims was served; and
21 (c) at least 28 days before the day fixed for the initial
22 proceedings in relation to the dispute, the initiator served
23 each person alleged to be a party to the dispute with a notice
24 specifying the time and place fixed for the proceedings; and
25 (d) the log of claims does not include any demand that:
26 (i) requires conduct that would contravene Part XA; or
27 (ii) an objectionable provision (within the meaning of
28 section 298Z) be included in an award or agreement; or
29 (iii) does not pertain to the relationship between employers
30 and employees.

1 **101B Findings in relation to employers in small business**

- 2 (1) This section applies if an organisation of employees notifies an
3 alleged industrial dispute under section 99 on the grounds that one
4 or more employers (each of which is a *notified employer*) have not
5 agreed to the demands set out in a log of claims that the
6 organisation served on those employers.
- 7 (2) Before making any findings under section 101 in relation to that
8 dispute, the Commission must give each notified employer a notice
9 in writing requesting that the employer inform the Commission,
10 within the period specified in the notice, whether the employer
11 employed less than 20 people on the service day.
- 12 (3) The Commission must not, in relation to the making of any
13 findings under section 101 in relation to that dispute, determine
14 that a notified employer, who informed the Commission under
15 subsection (2) that the employer employed less than 20 people on
16 the service day, is a party to that dispute unless:
17 (a) the Commission is not satisfied that the employer employed
18 less than 20 people on the service day; or
19 (b) the Commission is satisfied that the employer employs a
20 member of that organisation.
- 21 (4) Before making an award in relation to that dispute, the
22 Commission must give each notified employer:
23 (a) determined to be a party to the dispute; and
24 (b) who informed the Commission under subsection (2) that the
25 employer employed less than 20 people on the service day;
26 and
27 (c) who the Commission is satisfied employed less than 20
28 people on the service day;
29 a notice in writing inviting the employer to make written comments
30 on the proposed award within the period specified in the notice.
- 31 (5) In this section, *service day*, in relation to a notified employer,
32 means the day the log of claims was served on the employer.
- 33 (6) For the purposes of this section, in working out if a notified
34 employer employed less than 20 people on the service day, include
35 any casual employee who had been engaged on a regular and

1 systematic basis for a sequence of periods of employment of at
2 least 12 months (but do not include any other casual employee).

3 **101C Certificate to the effect that an employee is a member of an**
4 **organisation**

- 5 (1) If a Registrar is satisfied, on application by an organisation of
6 employees for the purposes of section 101B, that an employee of
7 an employer is a member of that organisation, the Registrar may
8 issue a certificate to that effect.
- 9 (2) The certificate must not identify any of the employees concerned.
10 However, it must identify the organisation and the employer.
- 11 (3) The certificate is, for all purposes of this Act, evidence of the
12 matters in the certificate.

1

2 **Part 2—Application of amendments**

3 **4 Application of items 1, 2 and 3**

4 The amendments made by items 1, 2 and 3 apply in relation to an
5 alleged industrial dispute that is notified after the commencement of
6 this Schedule.

7

(234/02)
