

TASMANIA

---

**INDUSTRIAL RELATIONS AMENDMENT BILL  
2007**

---

**CONTENTS**

1. Short title
2. Commencement
3. Principal Act
4. Section 6 amended (Provisions relating to appointment of Commissioners)
5. Section 19 amended (Jurisdiction of Commission)
6. Section 19A inserted
  - 19A. Commission may conduct dispute resolutions
7. Part II, Division 5 inserted
  - Division 5 – Cooperation between State industrial tribunals*
  - 31A. Interpretation of Division
  - 31B. Joint proceedings
  - 31C. Commission may perform functions and exercise powers imposed and conferred under industrial law of another State
8. Section 55 amended (Making of industrial agreements)
9. Section 61 amended (Private conciliation and arbitration)
10. Section 70 amended (Rights of appeal)
11. Section 71 amended (Procedure on appeals)



**INDUSTRIAL RELATIONS AMENDMENT BILL  
2007**

*(Brought in by the Minister for Justice and Workplace  
Relations, the Honourable Steven Kons)*

**A BILL FOR**

**An Act to amend the *Industrial Relations Act 1984***

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

**1. Short title**

This Act may be cited as the *Industrial Relations Amendment Act 2007*.

**2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

**3. Principal Act**

In this Act, the *Industrial Relations Act 1984*\* is referred to as the Principal Act.

---

\*No. 21 of 1984

*Industrial Relations Amendment Act 2007*  
*Act No. of*

s. 4

---

**4. Section 6 amended (Provisions relating to appointment of Commissioners)**

Section 6 of the Principal Act is amended as follows:

(a) by omitting subsections (2) and (2A) and substituting the following subsection:

(1) Subject to sections 11 and 12, a person appointed as a Commissioner –

(a) holds office for a period of up to 7 years; and

(b) is to be appointed on such terms and conditions as are specified in the instrument of appointment; and

(c) may be re-appointed as a Commissioner.

(b) by omitting from subsection (3) “subsection (2)” and substituting “subsection (1)”.

**5. Section 19 amended (Jurisdiction of Commission)**

Section 19(2) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (aa) conduct dispute resolutions in accordance with section 19A;

**6. Section 19A inserted**

After section 19 of the Principal Act, the following section is inserted in Division 2:

**19A. Commission may conduct dispute resolutions**

- (1) A person may apply to the Commission to have a dispute resolution process conducted by the Commission in relation to a matter or matters in dispute if –
- (a) the parties to the dispute are bound by a federal workplace agreement; and
  - (b) the Commission is authorised or permitted to conduct the dispute resolution process –
    - (i) under dispute settlement procedures (within the meaning of section 353 of the Commonwealth Act) set out in the agreement; or
    - (ii) if no such dispute settlement procedures are set out in the agreement, under the federal model

*Industrial Relations Amendment Act 2007*  
*Act No. of*

s. 6

---

dispute          resolution  
process.

- (2) On any such application, the Commission may perform such functions and may exercise such powers with respect to the resolution of the dispute as are imposed or conferred on it by or under –
- (a) the federal workplace agreement concerned or federal model dispute resolution process (as the case may be); and
  - (b) the Commonwealth Act.
- (3) The Commission is to be constituted by a single member of the Commission unless the federal workplace agreement concerned, federal model dispute resolution process or Commonwealth Act (as the case may be) requires otherwise.
- (4) Subject to subsection (5), the performance of a function or the exercise of a power imposed or conferred on the Commission as referred to in subsection (2) is, for the purposes of any other provision of this Act, taken not to have been performed or exercised under this Act.
- (5) The functions or powers that the Commission is authorised or permitted to perform or exercise as referred to in this section are in addition to, and do not

*Industrial Relations Amendment Act 2007*  
*Act No. of*

s. 6

---

derogate from, any other function or power of the Commission.

(6) Nothing in this section –

(a) makes any order, determination or other decision of the Commission, in respect of the dispute, binding on the parties to the dispute unless the federal workplace agreement concerned, federal model dispute resolution process or Commonwealth Act (as the case may be) operates to make any such order, determination or decision binding on the parties; or

(b) limits the operation of section 61.

(7) In this section –

**“federal model dispute resolution process”** means the model dispute resolution process within the meaning of the Commonwealth Act;

**“federal workplace agreement”** means a workplace agreement within the meaning of the Commonwealth Act.

*Industrial Relations Amendment Act 2007*  
*Act No. of*

s. 7

---

**7. Part II, Division 5 inserted**

After section 31 of the Principal Act, the following Division is inserted in Part II:

***Division 5 – Cooperation between State industrial tribunals***

**31A. Interpretation of Division**

In this Division –

**“industrial law”** of another State means –

- (a) a law of that State corresponding, or substantially corresponding, to this Act; or
- (b) a law of that State that is declared by the regulations to be a corresponding law (whether or not the law corresponds, or substantially corresponds, to this Act);

**“industrial tribunal”** of another State means –

- (a) a tribunal established under a law of that State that has functions or powers corresponding, or substantially



*Industrial Relations Amendment Act 2007*  
*Act No. of*

s. 7

---

corresponding, to  
functions or powers  
imposed or conferred on  
the Commission by this  
Act, or

- (b) a tribunal established  
under a law of that State  
that is declared by the  
regulations to be the  
industrial tribunal of that  
State (whether or not the  
tribunal has functions or  
powers corresponding, or  
substantially  
corresponding, to  
functions or powers  
imposed or conferred on  
the Commission by this  
Act).

**31B. Joint proceedings**

- (1) A member of the Commission may  
perform or exercise, in the presence of –
- (a) a member of an industrial tribunal  
of another State; and
  - (b) the parties to any proceedings  
before an industrial tribunal of  
another State; and

*Industrial Relations Amendment Act 2007*  
*Act No. of*

s. 7

---

(c) any witness summoned by an industrial tribunal of another State –

any of the functions or powers that may be performed or exercised by the member of the Commission in relation to a matter.

(2) Evidence may be given, and submissions made, jointly for the purposes of the proceedings before the Commission and the industrial tribunal of another State.

**31C. Commission may perform functions and exercise powers imposed and conferred under industrial law of another State**

(1) Subject to subsection (3), the Commission may perform such functions and exercise such powers as may be imposed or conferred on it under the industrial law of another State.

(2) However, the performance of any such function or the exercise of any such power by the Commission is taken, for the purposes of this Act, not to be the performance of a function or the exercise of a power under this Act.

(3) Subsection (1) does not extend to any function or power, or class of functions or powers, imposed or conferred under

the industrial law of another State, that is excluded by the regulations.

**8. Section 55 amended (Making of industrial agreements)**

Section 55(5) of the Principal Act is amended by omitting “3” and substituting “5”.

**9. Section 61 amended (Private conciliation and arbitration)**

Section 61 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “a conciliation or” after “conduct”;
- (b) by inserting in subsection (1) “conciliation or” after “on the”;
- (c) by inserting in subsection (2) “a conciliation or” after “relating to”;
- (d) by inserting in subsection (2) “conciliation or” after “that”;
- (e) by inserting in subsection (3) “a conciliation or” after “conducting”.

*Industrial Relations Amendment Act 2007*  
*Act No. of*

s. 10

---

**10. Section 70 amended (Rights of appeal)**

Section 70(1)(b) of the Principal Act is amended by inserting “the mode, terms or conditions of employment or” after “respect of”.

**11. Section 71 amended (Procedure on appeals)**

Section 71 of the Principal Act is amended by omitting subsection (4) and substituting the following subsections:

- (4) If a notice of appeal is lodged under subsection (1), the Full Bench may suspend the operation of the award or decision being appealed against.
- (4A) A suspension of the operation of an award or decision –
  - (a) may be given on any conditions the Full Bench considers appropriate; and
  - (b) operates for a period determined by the Full Bench, not extending beyond the determination of the appeal; and
  - (c) may be amended or revoked by the Full Bench.