

Authorised Version No. 010
Fair Work (Commonwealth Powers) Act
2009

No. 24 of 2009

Authorised Version incorporating amendments as at
17 October 2012

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1 Purposes	1
2 Commencement	2
PART 2—REFERENCE OF MATTERS	3
3 Definitions	3
3A Fundamental workplace relations principles	10
4 Reference of matters	11
5 Matters excluded from a reference	12
6 Termination of reference	16
7 Effect of termination of amendment reference or transition reference before initial reference	16
7A Period for termination of references	17
PART 3—REPEAL OF THE COMMONWEALTH POWERS (INDUSTRIAL RELATIONS) ACT 1996	19
8 Repeal of the Commonwealth Powers (Industrial Relations) Act 1996	19
PARTS 4–8—<i>Repealed</i>	20
9–41 <i>Repealed</i>	20
SCHEDULE—Text to be Included in the Provisions of the Commonwealth Fair Work Act	21
Division 2A—Application of this Act in a referring State	21
30A Meaning of terms used in this Division	21
30B Meaning of referring State	24
30C Extended meaning of national system employee	26

<i>Section</i>	<i>Page</i>
30D Extended meaning of national system employer	27
30E Extended ordinary meanings of <i>employee</i> and <i>employer</i>	27
30F Extended meaning of <i>outworker entity</i>	28
30G General protections	29
30H Division only has effect if supported by reference	29
30J Application of the Acts Interpretation Act 1901	29
<hr style="border-top: 3px double #000;"/>	
ENDNOTES	30
1. General Information	30
2. Table of Amendments	31
3. Explanatory Details	32

Authorised Version No. 010
Fair Work (Commonwealth Powers) Act
2009

No. 24 of 2009

Authorised Version incorporating amendments as at
17 October 2012

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The purposes of this Act are—

- (a) to refer certain matters relating to workplace relations to the Commonwealth Parliament for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth; and
- (b) to repeal the **Commonwealth Powers (Industrial Relations) Act 1996** and the **Victorian Workers' Wages Protection Act 2007**; and
- (c) to consequentially amend the **Long Service Leave Act 1992**, the **Public Sector Employment (Award Entitlements) Act 2006**, the **Outworkers (Improved Protection) Act 2003**, the **Public Holidays Act 1993**, the **Occupational Health and Safety Act 2004**, the **Public Administration Act 2004** and the **Parliamentary Administration Act 2005**.

2 Commencement

- (1) This Part and Part 2 come into operation on the day on which this Act receives the Royal Assent.
 - (2) The remaining provisions of this Act come into operation on a day or days to be proclaimed.
-

PART 2—REFERENCE OF MATTERS

3 Definitions

(1) In this Part—

amendment reference means the reference under section 4(1)(b);

Commonwealth Fair Work Act means the Fair Work Act 2009 of the Commonwealth;

* * * * *

S. 3(1) def. of *essential services* repealed by No. 74/2009 s. 3(4).

excluded subject matter means—

- (a) a State subject matter; or
- (b) rights or remedies incidental to a matter referred to in paragraph (a)—

except to the extent that the Commonwealth Fair Work Act as originally enacted so deals with the matter (directly or indirectly), or requires or permits instruments made or given effect under the Commonwealth Fair Work Act so to deal with the matter;

express amendment of the Commonwealth Fair Work Act means the direct amendment of the text of that Act (whether by the insertion, omission, repeal, substitution or relocation of words or matter) but does not include the enactment by a Commonwealth Act of a provision that has or will have substantive effect otherwise than as part of the text of the Commonwealth Fair Work Act;

S. 3(1) def. of
*fundamental
workplace
relations
principles*
inserted by
No. 74/2009
s. 3(3).

fundamental workplace relations principles
means the principles set out in section 3A;

initial reference means the reference under
section 4(1)(a);

initial referred provisions means the scheduled
text, to the extent to which that text deals
with matters that are included in the
legislative powers of the Parliament of the
State;

law enforcement officer means any of the
following—

- (a) a member of the force within the
meaning of the **Police Regulation Act
1958**;
- (b) a police reservist appointed under
Part VI of the **Police Regulation Act
1958**;
- (c) a protective services officer appointed
under Part VIA of the **Police
Regulation Act 1958**;
- (d) a police recruit appointed under
section 8A of the **Police Regulation
Act 1958**;

public sector has the meaning in the **Public
Administration Act 2004** and, in addition,
includes any person in the service of the
State;

public sector body has the same meaning as in the
Public Administration Act 2004;

reference means—

- (a) the initial reference; or
- (b) the amendment reference; or
- (c) the transition reference;

referred subject matters means any of the following—

- (a) terms and conditions of employment including any of the following—
 - (i) minimum terms and conditions of employment (including employment standards and minimum wages);
 - (ii) terms and conditions of employment contained in instruments (including instruments such as awards, determinations and enterprise-level agreements);
 - (iii) bargaining in relation to terms and conditions of employment;
 - (iv) the effect of transfer of business on terms and conditions of employment;
- (b) terms and conditions under which an outworker entity may arrange for work to be performed for the entity (directly or indirectly), if the work is of a kind that is often performed by outworkers;
- (c) rights and responsibilities of persons, including employees, employers, independent contractors, outworkers, outworker entities, associations of employees or associations of employers, being rights and

S. 3(1) def. of
*referred
subject
matters*
amended by
No. 74/2009
s. 3(1).

responsibilities relating to any of the following—

- (i) freedom of association in the context of workplace relations, and related protections;
 - (ii) protection from discrimination relating to employment;
 - (iii) termination of employment;
 - (iv) industrial action;
 - (v) protection from payment of fees for services related to bargaining;
 - (vi) sham independent contractor arrangements;
 - (vii) standing down employees without pay;
 - (viii) union rights of entry and rights of access to records;
- (d) compliance with, and enforcement of, the Commonwealth Fair Work Act;
 - (e) the administration of the Commonwealth Fair Work Act;
 - (f) the application of the Commonwealth Fair Work Act;
 - (g) matters incidental or ancillary to the operation of the Commonwealth Fair Work Act or of instruments made or given effect under the Commonwealth Fair Work Act—

but does not include any excluded subject matter;

referred transition matters means the matters of the making of laws with respect to the transition from the regime provided for by—

- (a) the Workplace Relations Act 1996 of the Commonwealth; or
- (b) a law of this State relating to workplace relations—

to the regime provided for by the Commonwealth Fair Work Act;

scheduled text means the text set out in the Schedule;

State subject matters means the following subject matters—

- (a) a matter dealt with in the **Equal Opportunity Act 2010**;
- (b) superannuation;
- (c) workers compensation;
- (d) occupational health and safety;
- (e) matters relating to outworkers (within the ordinary meaning of the term);
- (f) child labour;
- (g) training arrangements;
- (h) long service leave;
- (i) leave for victims of crime;
- (j) attendance for service on a jury, or for emergency service duties;
- (k) declaration, prescription or substitution of public holidays;

S. 3(1) def. of *State subject matters* amended by Nos 74/2009 s. 3(2), 64/2010 s. 20.

-
- (l) the following matters relating to the provision of essential services or to situations of emergency—
- (i) directions to perform work (including to perform work at a particular time or place, or in a particular way);
 - (ii) directions not to perform work (including not to perform work at a particular time or place, or in a particular way);
- (m) regulation of any of the following—
- (i) employee associations;
 - (ii) employer associations;
 - (iii) members of employee associations or employer associations;
- (n) workplace surveillance;
- (o) business trading hours;
- (p) claims for enforcement of contracts of employment, except so far as a law of the State provides for the variation or setting aside of rights and obligations arising under a contract of employment, or another arrangement for employment, that a court or tribunal finds is unfair;

state of emergency means—

- (a) any state of emergency or emergency situation that is declared under an Act and includes any of the following—
 - (i) a state of emergency declared under the **Essential Services Act 1958**;

-
- (ii) a state of emergency declared under the **Public Safety Preservation Act 1958**;
 - (iii) a proclamation under the **Fuel Emergency Act 1977** declaring that a state of emergency exists in relation to fuel;
- (b) any declaration or proclamation under the **Public Administration Act 2004** that authorises a public sector body Head to take any of the following actions—
- (i) assign any duties to an employee;
 - (ii) require an employee to perform duties with another public sector body;
 - (iii) require an employee to perform duties at a place other than the employee's usual place of work;
 - (iv) direct an employee not to attend for duty;
- (c) any other similar declaration or proclamation;

transition reference means the reference under section 4(1)(c).

- (2) For the purpose of a reference of matters under this Act—
- (a) the Chief Commissioner of Police under the **Police Regulation Act 1958** is taken to be the employer of any law enforcement officer; and
 - (b) any law enforcement officer is taken to be an employee in the public sector.

s. 3A

S. 3(3)
substituted by
No. 74/2009
s. 3(5).

- (3) Words or phrases in the definition of *referred subject matters* or in the definition of *State subject matters* that are defined in the Commonwealth Fair Work Act (other than in Division 2A of Part 1–3 of the Commonwealth Fair Work Act) have the meaning set out in the Commonwealth Fair Work Act as in force on 1 July 2009.

S. 3A
inserted by
No. 74/2009
s. 4.

3A Fundamental workplace relations principles

The following are the fundamental workplace relations principles under this Act—

- (a) that the Commonwealth Fair Work Act should provide for, and continue to provide for, the following—
- (i) a strong, simple and enforceable safety net of minimum employment standards;
 - (ii) genuine rights and responsibilities to ensure fairness, choice and representation at work, including the freedom to choose whether or not to join and be represented by a union or participate in collective activities;
 - (iii) collective bargaining at the enterprise level with no provision for individual statutory agreements;
 - (iv) fair and effective remedies available through an independent umpire;
 - (v) protection from unfair dismissal;
- (b) that there should be, and continue to be, in connection with the operation of the Commonwealth Fair Work Act, the following—

- (i) an independent tribunal system;
- (ii) an independent authority able to assist employers and employees within a national workplace relations system.

4 Reference of matters

- (1) Subject to section 5, the following matters are referred to the Parliament of the Commonwealth—
 - (a) the matters to which the initial referred provisions relate, but only to the extent of the making of laws with respect to those matters by including the provisions set out in the scheduled text in the Commonwealth Fair Work Act, as originally enacted, in the terms, or substantially in the terms, set out in the scheduled text;
 - (b) the referred subject matters, but only to the extent of making laws with respect to any such matter by making express amendments of the Commonwealth Fair Work Act;
 - (c) the referred transition matters.
- (2) The reference of a matter under subsection (1) has effect only—
 - (a) if and to the extent that the matter is not included in the legislative powers of the Parliament of the Commonwealth (otherwise than by a reference for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth); and
 - (b) if and to the extent that the matter is included in the legislative powers of the Parliament of the State.
- (3) The operation of each paragraph of subsection (1) is not affected by any other paragraph.

-
- (4) For the avoidance of doubt, it is the intention of the Parliament of the State that the Commonwealth Fair Work Act may be expressly amended, or have its operation otherwise affected, at any time after the commencement of this Act by provisions of Commonwealth Acts whose operation is based on legislative powers that the Parliament of the Commonwealth has apart from under the references under subsection (1).
- (5) Despite any other provision of this section a reference under subsection (1) has effect for a period—
- (a) beginning when this section commences; and
 - (b) ending at the end of the day fixed under section 6 as the day on which the reference is to terminate—
- but no longer.

5 Matters excluded from a reference

- (1) A matter referred by section 4(1) does not include—
- (a) matters pertaining to the number, identity or appointment (other than terms and conditions of appointment) of employees in the public sector who are not law enforcement officers;
 - (b) matters pertaining to the number or identity of employees in the public sector dismissed or to be dismissed on grounds of redundancy;
 - (c) matters pertaining to Ministers, members of the Parliament, judicial officers or members of administrative tribunals;
 - (d) matters pertaining to persons holding office in the public sector to which the right to appoint is vested in the Governor in Council or a Minister (including the Premier);

-
- (e) matters pertaining to persons employed as executives within the meaning of the **Public Administration Act 2004** or persons employed at higher managerial levels in the public sector;
 - (f) matters pertaining to persons employed as Ministerial officers under Part 6 of the **Public Administration Act 2004**;
 - (g) matters pertaining to persons holding office as Parliamentary officers (but not persons employed as Parliamentary officers under Division 3 of Part 3 of the **Parliamentary Administration Act 2005**) or persons employed as Department Heads within the meaning of the **Parliamentary Administration Act 2005**, including the Secretary of the Department of Parliamentary Services;
 - (h) matters pertaining to—
 - (i) the transfer of employees between public sector bodies; or
 - (ii) the redundancy of employees of a public sector body—as a result of a restructure by or under an Act;
 - (i) the following matters relating to provision of essential services or to a state of emergency—
 - (i) directions to employees of a public sector body to perform work (including to perform work at a particular time or place, or in a particular way), being directions that are given under the Act under which the relevant proclamation or declaration is made;

-
- (ii) directions to employees of a public sector body not to perform work (including not to perform work at a particular time or place, or in a particular way), being directions that are given under the Act under which the relevant proclamation or declaration is made;
- (j) matters that would allow or require a public sector employer within the meaning of the **Public Sector Employment (Award Entitlements) Act 2006** to provide a term or condition of employment in breach of section 10 of that Act;
- (k) matters that would allow or require a public sector employer within the meaning of the **Public Sector Employment (Award Entitlements) Act 2006** to offer an employee within the meaning of that Act, or to accept an offer from an employee of, a statutory industrial agreement within the meaning of that Act that provides any terms or conditions of employment that are materially different from the terms and conditions of employment that would otherwise apply to the employee in employment with the employer under a collective agreement or that would apply to the employee under the terms of a relevant award or a designated preserved award within the meaning of that Act.
- (2) In addition to the matters set out in subsection (1), a matter referred by section 4(1) does not include—

-
- (a) matters pertaining to the number, identity or appointment (including terms and conditions of appointment, to the extent provided for in paragraph (b)) of law enforcement officers;
- (b) matters pertaining to probation, promotion, transfer from place to place or position to position, physical or mental fitness, uniform, equipment, discipline or termination of employment of law enforcement officers except—
- (i) matters pertaining to the payment of allowances and reimbursement of expenses and pertaining to notice of termination of employment and payment in lieu of notice of termination of employment; and
- (ii) to the extent that Divisions 1 and 2 of Part 6-4 of the Commonwealth Fair Work Act, as originally enacted, deal with the matters.
- (3) In this section, *essential services* means any of the following—
- (a) any matter in respect of which a proclamation has been made under Part 6 of the **Electricity Industry Act 2000**;
- (b) any matter in respect of which a proclamation has been made under Part 9 of the **Gas Industry Act 2001**;
- (c) any vital State project that is declared to be so under the **Vital State Projects Act 1976**;
- (d) any vital industry that is declared to be so under the **Vital State Industries (Works and Services) Act 1992**.

S. 5(3)
inserted by
No. 74/2009
s. 5.

6 Termination of reference

- (1) The Governor in Council may, at any time, by proclamation published in the Government Gazette, fix a day as the day on which—
 - (a) the references are to terminate; or
 - (b) the amendment reference is to terminate; or
 - (c) the transition reference is to terminate.
- (2) The Governor in Council may, by proclamation published in the Government Gazette, revoke a proclamation published under subsection (1), in which case the revoked proclamation is taken (for the purposes of section 4) never to have been published.
- (3) A revoking proclamation has effect only if published before the day fixed under subsection (1).
- (4) The revocation of a proclamation published under subsection (1) does not prevent publication of a further proclamation under that subsection.
- (5) If the amendment reference and the transition reference have been terminated, the expression *the references* in subsection (1) refers only to the initial reference.

S. 6(5)
inserted by
No. 74/2009
s. 6.

7 Effect of termination of amendment reference or transition reference before initial reference

- (1) If the amendment reference or the transition reference terminates before the initial reference, the termination of the amendment reference or transition reference does not affect—
 - (a) laws that were made under that reference before that termination (whether or not they have come into operation before that termination); or

- (b) the continued operation in the State of the Commonwealth Fair Work Act as in operation immediately before that termination or as subsequently amended or affected by—
- (i) laws referred to in paragraph (a) that come into operation after that termination; or
 - (ii) provisions referred to in section 4(4).
- (2) Accordingly, the amendment reference or transition reference continues to have effect for the purposes of subsection (1) unless the initial reference is terminated.

* * * * *

S. 7(3)
repealed by
No. 74/2009
s. 7.

7A Period for termination of references

- (1) Subject to subsection (2), a day fixed by a proclamation under section 6(1) must be no earlier than the first day after the end of the period of 6 months beginning on the day on which the proclamation is published.
- (2) If—
- (a) a proclamation under section 6(1) only provides for the termination of the amendment reference; and
 - (b) the Governor in Council, as part of the proclamation by which the termination is to be effected, declares that, in the opinion of the Governor in Council, the Commonwealth Fair Work Act—

S. 7A
inserted by
No. 74/2009
s. 8.

-
- (i) is proposed to be amended (by an amendment introduced into the Parliament of the Commonwealth by a Commonwealth Minister); or
- (ii) has been amended—
in a manner that is inconsistent with one or more of the fundamental workplace relations principles—
the day fixed by the proclamation under section 6(1)(b) may be earlier than the day that applies under subsection (1) but must be no earlier than the first day after the end of the period of 3 months beginning on the day on which the proclamation is published.
- (3) If the Governor in Council terminates the amendment reference and fixes a day under subsection (2), the Minister must, as soon as practicable after the publication of the relevant proclamation, prepare a report on the matter and cause copies of that report to be laid before both Houses of Parliament.
-

Fair Work (Commonwealth Powers) Act 2009
No. 24 of 2009
Part 3—Repeal of the Commonwealth Powers (Industrial Relations) Act
1996

s. 8

**PART 3—REPEAL OF THE COMMONWEALTH POWERS
(INDUSTRIAL RELATIONS) ACT 1996**

**8 Repeal of the Commonwealth Powers (Industrial
Relations) Act 1996**

**The Commonwealth Powers (Industrial
Relations) Act 1996 is repealed.**

See:
Act No.
59/1996
and
amending
Act Nos
18/2003,
15/2006 and
80/2006.
LawToday:
www.
legislation.
vic.gov.au

Fair Work (Commonwealth Powers) Act 2009
No. 24 of 2009

s. 9

Pts 4–8
(Headings
and ss 9–41)
repealed by
No. 24/2009
s. 41.

* * * * *

SCHEDULE

TEXT TO BE INCLUDED IN THE PROVISIONS OF THE COMMONWEALTH FAIR WORK ACT

Division 2A—Application of this Act in a referring State

30A Meaning of terms used in this Division

In this Division:

amendment includes the insertion, omission, repeal, substitution, addition or relocation of words or matter.

excluded subject matter means:

- (a) a matter dealt with in a law referred to in subsection 27(1A) of this Act as originally enacted; or
- (b) a non-excluded matter within the meaning of subsection 27(2) of this Act as so enacted (other than paragraph 27(2)(p) of this Act as so enacted); or
- (c) rights or remedies incidental to a matter referred to in paragraph (a) or (b) of this definition;

except to the extent that this Act as so enacted deals with the matter (directly or indirectly), or requires or permits instruments made or given effect under this Act so to deal with the matter.

express amendment means the direct amendment of this Act, but does not include the enactment by a Commonwealth Act of a provision that has, or will have, substantive effect otherwise than as part of the text of this Act.

law enforcement officer is a member of a police force, a police reservist, a police recruit or a protective services officer.

referral law, of a State, means the law of the State that refers matters, as mentioned in subsection 30B(1), to the Parliament of the Commonwealth.

referred provisions means the provisions of this Division to the extent to which they deal with matters that are included in the legislative powers of the Parliaments of the States.

referred subject matters means any of the following:

- (a) terms and conditions of employment, including any of the following:
 - (i) minimum terms and conditions of employment, (including employment standards and minimum wages);
 - (ii) terms and conditions of employment contained in instruments (including instruments such as awards, determinations and enterprise-level agreements);
 - (iii) bargaining in relation to terms and conditions of employment;
 - (iv) the effect of a transfer of business on terms and conditions of employment;
- (b) terms and conditions under which an outworker entity may arrange for work to be performed for the entity (directly or indirectly), if the work is of a kind that is often performed by outworkers;

-
- (c) rights and responsibilities of employees, employers, independent contractors, outworkers, outworker entities, associations of employees or associations of employers, being rights and responsibilities relating to any of the following:
- (i) freedom of association and related protections;
 - (ii) protection from discrimination relating to employment;
 - (iii) termination of employment;
 - (iv) industrial action;
 - (v) protection from payment of fees for services related to bargaining;
 - (vi) sham independent contractor arrangements;
 - (vii) standing down employees without pay;
 - (viii) rights of entry and rights of access to records;
- (d) compliance with, and enforcement of, this Act;
- (e) the administration of this Act;
- (f) the application of this Act;
- (g) matters incidental or ancillary to the operation of this Act or of instruments made or given effect under this Act;

but does not include any excluded subject matter.

referring State: see section 30B.

Sch.

State public sector employee, of a State, means:

- (a) an employee of a State public sector employer of the State; or
- (b) any other employee in the State of a kind specified in the regulations;

and includes a law enforcement officer to whom subsection 30E(1) applies.

State public sector employer, of a State, means an employer that is:

- (a) the State; or
- (b) a body (whether incorporated or unincorporated) established for a public purpose by or under a law of the State, by the Governor of a State or by a Minister of the State; or
- (c) a body corporate in which the State has a controlling interest; or
- (d) any other employer in the State of a kind specified in the regulations;

and includes a holder of an office to whom subsection 30E(2) applies.

30B Meaning of referring State

Reference of matters by State Parliament to Commonwealth Parliament

- (1) A State is a ***referring State*** if the Parliament of the State has referred the matters covered by subsections (3), (4) and (5) in relation to the State to the Parliament of the Commonwealth for the purposes of paragraph 51(xxxvii) of the Constitution:
 - (a) if and to the extent that the matters are not otherwise included in the legislative powers of the Parliament of the Commonwealth

(otherwise than by a reference under paragraph 51(xxxvii) of the Constitution);
and

- (b) if and to the extent that the matters are included in the legislative powers of the Parliament of the State.

This subsection has effect subject to subsection (6).

- (2) A State is a *referring State* even if:
- (a) the State's referral law provides that the reference to the Parliament of the Commonwealth of any or all of the matters covered by subsections (3), (4) and (5) is to terminate in particular circumstances; or
 - (b) the State's referral law provides that particular matters relating to State public sector employees, or State public sector employers, of the State are not included in any or all of those matters.

Reference covering referred provisions

- (3) This subsection covers the matters to which the referred provisions relate to the extent of making laws with respect to those matters by amending this Act, as originally enacted, to include the referred provisions.

Reference covering amendments

- (4) This subsection covers the referred subject matters to the extent of making laws with respect to those matters by making express amendments of this Act.

Reference covering transitional matters

- (5) This subsection covers making laws with respect to the transition from the regime provided for by:
- (a) the Workplace Relations Act 1996; or

Sch.

(b) a law of a State relating to workplace relations;

to the regime provided for by this Act.

Effect of termination of reference

(6) Despite anything to the contrary in a referral law of a State, a State ceases to be a *referring State* if any or all of the following occurs:

- (a) the reference by the Parliament of the State to the Parliament of the Commonwealth of the matters covered by subsection (3) terminates;
- (b) the reference by the Parliament of the State to the Parliament of the Commonwealth of the matters covered by subsection (4) terminates;
- (c) the reference by the Parliament of the State to the Parliament of the Commonwealth of the matters covered by subsection (5) terminates.

30C Extended meaning of national system employee

(1) A *national system employee* includes:

- (a) any individual in a referring State so far as he or she is employed, or usually employed, as described in paragraph 30D(1)(a), except on a vocational placement; and
- (b) a law enforcement officer of the State to whom subsection 30E(1) applies.

(2) This section does not limit the operation of section 13 (which defines a national system employee).

Note: Section 30H may limit the extent to which this section extends the meaning of *national system employee*.

30D Extended meaning of national system employer

- (1) A *national system employer* includes:
- (a) any person in a referring State so far as the person employs, or usually employs, an individual; and
 - (b) a holder of an office to whom subsection 30E(2) applies.
- (2) This section does not limit the operation of section 14 (which defines a national system employer).

Note: Section 30H may limit the extent to which this section extends the meaning of *national system employer*.

30E Extended ordinary meanings of *employee* and *employer*

- (1) A reference in this Act to an employee with its ordinary meaning includes a reference to a law enforcement officer of a referring State if the State's referral law so provides for the purposes of that law.
- (2) A reference in this Act to an employer with its ordinary meaning includes a reference to a holder of an office of a State if the State's referral law provides, for the purposes of that law, that the holder of the office is taken to be the employer of a law enforcement officer of the State.
- (3) This section does not limit the operation of section 15 (which deals with references to employee and employer with their ordinary meanings).

Note: Section 30H may limit the extent to which this section extends the meanings of *employee* and *employer*.

30F Extended meaning of *outworker entity*

- (1) An *outworker entity* includes a person, other than in the person's capacity as a national system employer, so far as:
- (a) the person arranges for work to be performed for the person (either directly or indirectly); and
 - (b) the work is of a kind that is often performed by outworkers; and
 - (c) one or more of the following applies:
 - (i) at the time the arrangement is made, one or more parties to the arrangement is in a referring State;
 - (ii) the work is to be performed in a referring State;
 - (iii) the person referred to in paragraph (a) carries on an activity (whether of a commercial, governmental or other nature) in a referring State, and the work is reasonably likely to be performed in that State;
 - (iv) the person referred to in paragraph (a) carries on an activity (whether of a commercial, governmental or other nature) in a referring State, and the work is to be performed in connection with that activity.
- (2) This section does not limit the operation of the definition of *outworker entity* in section 12.

Note: Section 30H may limit the extent to which this section extends the meaning of *outworker entity*.

30G General protections

- (1) Part 3-1 (which deals with general protections) applies to action taken in a referring State.
- (2) This section applies despite section 337 (which limits the application of Part 3-1), and does not limit the operation of sections 338 and 339 (which set out the application of that Part).

Note: Section 30H may limit the extent to which this section extends the application of Part 3-1.

30H Division only has effect if supported by reference

A provision of this Division has effect in relation to a referring State only to the extent that the State's referral law refers to the Parliament of the Commonwealth the matters mentioned in subsection 30B(1) that result in the Parliament of the Commonwealth having sufficient legislative power for the provision so to have effect.

30J Application of the Acts Interpretation Act 1901

- (1) The *Acts Interpretation Act 1901*, as in force on the day on which this Division commences, applies to this Act.
 - (2) Amendments of the *Acts Interpretation Act 1901* made after that day do not apply to this Act.
-
-

ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 3 June 2009

Legislative Council: 4 June 2009

The long title for the Bill for this Act was "A Bill for an Act to refer certain matters to the Commonwealth regarding workplace relations, to repeal the **Commonwealth Powers (Industrial Relations) Act 1996** and the **Victorian Workers' Wages Protection Act 2007**, to amend the **Long Service Leave Act 1992**, the **Public Sector Employment (Award Entitlements) Act 2006**, the **Outworkers (Improved Protection) Act 2003**, the **Public Holidays Act 1993**, the **Occupational Health and Safety Act 2004**, the **Public Administration Act 2004** and the **Parliamentary Administration Act 2005** and for other purposes."

The **Fair Work (Commonwealth Powers) Act 2009** was assented to on 17 June 2009 and came into operation as follows:

Sections 1–7 on 17 June 2009: section 2(1); Schedule on 23 June 2009: Special Gazette (No. 196) 23 June 2009 page 1; rest of Act (except Part 3) on 1 July 2009: Special Gazette (No. 227) 1 July 2009 page 1; Part 3 on 2 July 2009: Special Gazette (No. 230) 2 July 2009 page 1.

2. Table of Amendments

This Version incorporates amendments made to the **Fair Work (Commonwealth Powers) Act 2009** by Acts and subordinate instruments.

Fair Work (Commonwealth Powers) Act 2009, No. 24/2009

Assent Date: 17.6.09
Commencement Date: S. 41 on 1.7.10: s. 41
Current State: This information relates only to the provision/s amending the **Fair Work (Commonwealth Powers) Act 2009**

Fair Work (Commonwealth Powers) Amendment Act 2009, No. 74/2009

Assent Date: 1.12.09
Commencement Date: Ss 3–8 on 1.1.10: Government Gazette 17.12.09 p. 3338
Current State: This information relates only to the provision/s amending the **Fair Work (Commonwealth Powers) Act 2009**

Justice Legislation Further Amendment Act 2010, No. 64/2010

Assent Date: 28.9.10
Commencement Date: S. 20 on 1.10.11: s. 2(9)
Current State: This information relates only to the provision/s amending the **Fair Work (Commonwealth Powers) Act 2009**

Endnotes

3. Explanatory Details

No entries at date of publication.