

PARLIAMENT OF VICTORIA

**Fair Work (Commonwealth Powers) Amendment
Bill 2017**

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PARLIAMENT OF VICTORIA

Introduced in the Assembly

Fair Work (Commonwealth Powers) Amendment Bill 2017

A Bill for an Act to amend the **Fair Work (Commonwealth Powers) Act 2009** and for other purposes.

The Parliament of Victoria enacts:

1 Purpose

The purpose of this Act is to amend the **Fair Work (Commonwealth Powers) Act 2009**—

- 5
- (a) to provide for certain public sector employees to enter into enterprise bargaining agreements about matters pertaining to the number, identity or appointment (other than terms and conditions of appointment) of those employees; and
- 10

(b) to provide for some other aspects of the provisions of the Fair Work Act 2009 of the Commonwealth to apply to those matters; and

5 (c) to provide for other minor related matters.

2 Commencement

(1) This Act comes into operation on a day to be proclaimed.

10 (2) If this Act does not come into operation before 31 December 2017, it comes into operation on that day.

3 Reference of matters

15 In section 4(1) of the **Fair Work (Commonwealth Powers) Act 2009**, for "Subject to section 5" **substitute** "Subject to sections 5 and 5A".

4 Amendment of matters excluded from reference

20 In section 5(1)(a) of the **Fair Work (Commonwealth Powers) Act 2009**, after "who are not law enforcement officers" **insert** ", except to the extent that those matters are referred to the Parliament of the Commonwealth by section 5A".

5 New section 5A inserted

25 After section 5 of the **Fair Work (Commonwealth Powers) Act 2009** **insert**—

"5A Further reference of matters

30 (1) Despite section 5(1)(a), matters referred by section 4(1) include section 5(1)(a) matters to the extent of—

- 5
- (a) an enterprise agreement being made or proposed to be made that includes a term dealing with a section 5(1)(a) matter; and
- 10
- (b) a workplace determination being made or proposed to be made that includes an agreed term (but no term other than an agreed term) dealing with a section 5(1)(a) matter.
- 15
- (2) Despite subsection (1), matters referred by section 4(1) do not include section 5(1)(a) matters to the extent of the Fair Work Commission dealing with bargaining disputes about section 5(1)(a) matters by arbitration (however described) under section 240 of the Commonwealth Fair Work Act.
- 20
- (3) Despite subsection (1), matters referred by section 4(1) do not include section 5(1)(a) matters to the extent of—
- 25
- (a) a new employer or transferring employee being or becoming covered by a transferable instrument under section 313 of the Commonwealth Fair Work Act, to the extent that the transferable instrument contains a term dealing with a section 5(1)(a) matter; and
- 30
- (b) a new employer or a non-transferring employee being or becoming covered by a transferable instrument under section 314 of the Commonwealth Fair Work Act, to the extent that the transferable instrument contains a term dealing with a section 5(1)(a) matter; and
- 35

- 5 (c) the Fair Work Commission making an order that an enterprise agreement covers or will cover a transferring employee under section 318(1)(b) of the Commonwealth Fair Work Act, to the extent that the enterprise agreement contains a term dealing with a section 5(1)(a) matter; and
- 10 (d) the Fair Work Commission making an order that a transferable instrument covers or will cover a non-transferring employee under section 319(1)(b) of the Commonwealth Fair Work Act, to the extent that the transferable instrument contains a term dealing with a section 5(1)(a) matter.
- 15
- (4) In this section—
- 20 ***agreed term***, for a workplace determination, has the same meaning as in Part 2-5 of the Commonwealth Fair Work Act;
- section 5(1)(a) matter*** means a matter described in section 5(1)(a).
- (5) In this section—
- 25 ***enterprise agreement, Fair Work Commission*** and ***workplace determination*** have the same meaning as in section 12 of the Commonwealth Fair Work Act.
- (6) In this section—
- 30 ***new employer, non-transferring employee, transferable instrument*** and ***transferring employee*** have the same meaning as in Part 2-8 of the Commonwealth Fair Work Act."

6 Repeal of amending Act

This Act is **repealed** on 31 December 2018.

Note

5 The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.