

House of Representatives

Supplementary Order Paper

Wednesday, 6 October 2004

Employment Relations Law Reform Bill

Proposed amendments

Dr Wayne Mapp, in Committee, to move the following amendments:

Clause 6

To omit subsection (1C)(c) (lines 31 and 32 on page 5) and substitute the following paragraph:

“(c) protecting the commercial position of an employer from being prejudiced in any way.”

To insert in the proposed section 4(6) the word “not” after the word “is” (line 6 on page 6) .

Clause 6A

To omit new section 4A (lines 24 on page 6 to line 2 on page 7) and substitute the following new section:

“4A **No penalty for breaches of duty of good faith**

A party to an employment relationship who fails to comply with the duty of good faith in section 4(1) is not liable to any penalty under this Act.”

Clause 9

To insert, after subsection (5) (line 27 on page 8) the following subsection:

“(6) A discussion referred to in subsection (4) may only take place between no more than one representative of a union and no more than one employee at any one time.”

Clause 10

To omit new paragraph (aa) (line 31 on page 8 to line 3 on page 9) and substitute the following new paragraph:

“(aa) to provide that the duty of good faith in section 4 does not require parties bargaining for a collective agreement to conclude a collective agreement; and” .

Clause 11

To omit new paragraph (ca) (line 7 to line 12 on page 9) and substitute the following paragraph:

“(ca) even though the union and the employer have come to a standstill or reached a deadlock about a matter, they may conclude an agreement on those issues upon which they have reached agreement, and are under no obligation to continue to bargain on those matters upon which they can reach no agreement; and” .

Clause 12

To omit new section 33 (line 16 to line 21 on page 9) and substitute the following new section:

“33 **Duty of good faith does not require parties to conclude collective agreement**

The duty of good faith in section 4 does not require a union and an employer bargaining for a collective agreement to conclude a collective agreement.”

Clause 15

To omit this clause (line 27 on page 10 to line 6 on page 15).

Clause 19

To insert in the heading to section 59A, before the word “**Breach**” (line 8 on page 18) the words “**It is not a**”.

To omit from the heading to section 59A the words “, **in certain circumstances,**” (line 8 on page 18).

To omit section 59A(2) to (6) (lines 6 to 38 on page 19).

To insert from the heading to section 59B the words “**It is not a**” (line 1 on page 20).

To omit from the heading to section 59B the words “, **in certain circumstances,**” (line 1 on page 20).

To omit section 59B(2) to (6) (line 24 on page 20 to line 22 on page 21).

Clause 26

Omit new section 65A (line 12 to line 23 on page 25), and substitute the following new section:

“65A **Deduction of union fees**

An employer is under no obligation to deduct union fees from a wage or salary and pay it to any union concerned if the employee is employed under an individual employment agreement.”

Clause 28

Omit this clause (line 9 on page 26 to line 18 on page 26) and substitute the following new clause:

28 Probationary arrangements

The principal Act is amended by repealing section 67, and substituting the following section:

“67 Probationary arrangements

“(1) Parties to an employment agreement may agree as part of the agreement that an employee will serve a period of trial or probation not exceeding 90 days during which the law relating to unjustified dismissal does not apply.

“(2) However, neither the fact that trial or probation period is specified, nor is specified in respect of it, affects the application of the law relating to discrimination, sexual harassment, racial harassment, and duress to any personal grievance relating to events that occurred during the trial period.”

Clause 30

To omit this clause (line 23 on page 26 to line 2 on page 35) and substitute the following new clause:

30 New section 69A inserted

The principal Act is amended by inserting, after section 69, the following section:

“69A No special categories of employees

“(1) There are no categories of employees who enjoy special employment protections not extended to all other employees; and

“(2) Any redundancy entitlements are matter for negotiation between employers and employees, or their representatives, at the time of bargaining the employment agreement.”

Clause 35

To omit this clause (line 26 on page 35 to line 16 on page 38).

Clause 53

To omit this clause (line 9 to line 22 on page 44).

Schedule 1

To omit this schedule (line 1 on page 65 to line 7 on page 76).