

House of Assembly

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South Australia

Statutes Amendment (National Industrial Relations System) Bill 2009

A BILL FOR

An Act to amend various Acts to facilitate the integration of State and federal workplace relations systems and processes.

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1 Transitional provisions

The Parliament of South Australia enacts as follows:**Part 1—Preliminary****1—Short title**

This Act may be cited as the *Statutes Amendment (National Industrial Relations System) Act 2009*.

2—Commencement

- (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act or to a provision of this Act.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Construction Industry Long Service Leave Act 1987*

4—Amendment of section 4—Interpretation

- (1) Section 4(1), definition of *agreement*—delete the definition and substitute:

agreement means—

- (a) an enterprise agreement under the *Fair Work Act 1994*; or
 - (b) an enterprise agreement under the *Fair Work Act 2009* of the Commonwealth; or
 - (c) an agreement given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth;
- (2) Section 4(1), definition of *award*, (b)—delete paragraph (b) and substitute:
- (b) an award, determination or order of Fair Work Australia under the *Fair Work Act 2009* of the Commonwealth;
 - (c) an award or determination given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth;

Part 3—Amendment of *Equal Opportunity Act 1984*

5—Amendment of section 85F—Exemptions

Section 85F(4)—delete subsection (4) and substitute:

- (4) This Division does not render unlawful—
- (a) acts done in order to comply with the provisions of—
 - (i) an award or enterprise agreement under the *Fair Work Act 1994*; or
 - (ii) a fair work instrument under the *Fair Work Act 2009* of the Commonwealth; or
 - (iii) an award or determination given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth; or
 - (b) a decision to offer employment only to a young person, or the employment of a young person, where the rate of pay for that employment is a rate less than that applicable to an adult, fixed by or in accordance with the provisions of—
 - (i) an award or enterprise agreement under the *Fair Work Act 1994*; or
 - (ii) a fair work instrument under the *Fair Work Act 2009* of the Commonwealth; or

- (iii) an award or determination given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth.

6—Amendment of section 100—Proceedings under *Fair Work Act 1994*

- (1) Section 100(2)—delete subsection (2) and substitute:
 - (2) If a person brings proceedings under—
 - (a) Chapter 3 Part 6 of the *Fair Work Act 1994*; or
 - (b) Part 3-2 of the *Fair Work Act 2009* of the Commonwealth, in respect of dismissal from employment, and those proceedings are determined, that person cannot institute or prosecute proceedings under this Act in respect of that dismissal.
- (2) Section 100(3)—delete "the proceedings under the *Fair Work Act 1994*" and substitute:

the proceedings under the *Fair Work Act 1994* or the *Fair Work Act 2009* of the Commonwealth

Part 4—Amendment of *Fair Work Act 1994*

7—Amendment of section 3—Objects of Act

Section 3(1)—after paragraph (o) insert:

and

- (p) to facilitate the establishment and operation of a national industrial relations system based on co-operative federalism through—
 - (i) the use of dual appointments to Commonwealth and State industrial authorities; and
 - (ii) the promotion and facilitation of other arrangements that assist in integrating State and federal workplace relations systems and processes.

8—Amendment of section 4—Interpretation

- (1) Section 4(1), definition of *association*, (b)—delete "the Commonwealth Act" and substitute:

the Commonwealth (Registered Organisations) Act
- (2) Section 4(1), definition of *Commonwealth Act*—delete the definition and substitute:

Commonwealth Act means the *Fair Work Act 2009* of the Commonwealth;
Commonwealth (Registered Organisations) Act means the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth;
- (3) Section 4(1), definition of *Commonwealth Commission*—delete the definition

- (4) Section 4(1)—after the definition of *examinable arrangements* insert:
- Fair Work Australia** means Fair Work Australia established under the Commonwealth Act (or an industrial authority that takes the place of Fair Work Australia under Commonwealth law);
- (5) Section 4(1), definition of *industrial authority*, (b)—after "conciliation" insert:
- , determination
- (6) Section 4(1), definition of *industrial instrument*, (b)—delete paragraph (b) and substitute:
- (b) a fair work instrument under the Commonwealth Act; or
- (c) an instrument (but not an Australian workplace agreement) given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth;
- (7) Section 4(1), definition of *Industrial Registrar* or *Registrar* (b)—delete "an officer" and substitute:
- a person
- (8) Section 4(1), definition of *organisation*—delete "the Commonwealth Act" and substitute:
- the Commonwealth (Registered Organisations) Act

9—Amendment of section 29—The President

- (1) Section 29—after subsection (4) insert:
- (4a) The President must perform his or her functions, and exercise his or her powers, in a manner that facilitates and encourages co-operation between the Commission and Fair Work Australia or other prescribed Commonwealth industrial authorities.
- (4b) Without limiting subsection (4a), the President may—
- (a) consult with the heads and principal officers of prescribed Commonwealth industrial authorities; and
- (b) exchange information and discuss matters of mutual interest in relation to workplace relations with the heads and principal officers of prescribed Commonwealth industrial authorities; and
- (c) take steps to encourage and facilitate the assigning of matters of mutual interest or relevance under this Act and the Commonwealth Act to persons who hold appointments under both Acts.
- (2) Section 29—after subsection (5) insert:
- (6) In this section—
- prescribed Commonwealth industrial authority** means a Commonwealth board, court, tribunal or other body prescribed by the regulations for the purposes of this definition;

principal officer, in relation to a prescribed Commonwealth industrial authority, means a registrar, general manager or other chief officer of the prescribed Commonwealth industrial authority.

10—Amendment of section 37—Concurrent appointments

Section 37—after subsection (3) insert:

- (3a) In conjunction with the making of a concurrent appointment under subsection (3)—
 - (a) the requirements of section 34(2) will not apply in relation to the appointment; and
 - (b) the member of the Commission appointed under that subsection will not be taken into account for the purposes of section 34(3).

11—Amendment of section 79—Approval of enterprise agreement

- (1) Section 79(1)(e)(iii)—delete "or the Commonwealth Act"
- (2) Section 79(5)(e)—delete "or the Commonwealth Act"

12—Amendment of section 92—Retrospectivity

- (1) Section 92(2)(b)(ii)—delete "an award or agreement" and substitute:
a fair work instrument
- (2) Section 92(2)(c)—delete "or declaration of the Commonwealth Commission" and substitute:
or determination of Fair Work Australia

13—Amendment of section 100—Adoption of principles affecting determination of remuneration and working conditions

Section 100(1)—delete "or declaration of the Commonwealth Commission" and substitute:
or determination of Fair Work Australia

14—Amendment of section 119—Eligibility for registration

Section 119(2)—delete "the Commonwealth Act" and substitute:
the Commonwealth (Registered Organisations) Act

15—Amendment of section 122—Registration of associations

Section 122(1)(f)—delete "the Commonwealth Act" and substitute:
the Commonwealth (Registered Organisations) Act

16—Amendment of section 125—Alteration of rules of registered association

Section 125(5)(b)—delete "the Commonwealth Act" and substitute:
the Commonwealth (Registered Organisations) Act

17—Amendment of section 131—Eligibility for registration

Section 131(1)—delete "the Commonwealth Act" and substitute:
the Commonwealth (Registered Organisations) Act

18—Amendment of section 135—De-registration

- (1) Section 135(4)—delete "the Commonwealth Act" and substitute:
the Commonwealth (Registered Organisations) Act
- (2) Section 135(5)—delete "the Commonwealth Act" and substitute:
the Commonwealth (Registered Organisations) Act

19—Amendment of section 136—Federation

Section 136(1)—delete "the Commonwealth Act" and substitute:
the Commonwealth (Registered Organisations) Act

20—Amendment of section 140—Powers of officials of employee associations

Section 140(5)—delete subsection (5)

21—Amendment of section 141—Register of members and officers of associations

Section 141(7)—delete "the Commonwealth Act" and substitute:
the Commonwealth (Registered Organisations) Act

22—Amendment of section 167—Extension of time

Section 167(3)(a)—delete "the Commonwealth Commission" and substitute:
Fair Work Australia

23—Amendment of section 185—Costs

Section 185—after its present contents (now to be designated as subsection (1)) insert:

- (2) In connection with the operation of subsection (1)(b)—
 - (a) costs need not be awarded so as to follow the event; and
 - (b) the Court, in considering whether to award costs and, if so, the extent of the award, must take into account—
 - (i) the conduct of the parties; and
 - (ii) the relative positions and circumstances of the appellant and the respondent (and of the successful and unsuccessful parties); and
 - (iii) the nature of the question in dispute and whether the proceedings have a broader impact than simply inter-parte proceedings between individual parties, and may take into account such other matters as the Court thinks fit to ensure a just outcome in the circumstances of the case.

24—Amendment of section 210—Powers on appeal

Section 210—after subsection (2) insert:

- (3) In connection with the operation of subsection (2)—
 - (a) costs need not follow the event; and
 - (b) the Full Commission, in considering whether to award costs and, if so, the extent of the award, must take into account—
 - (i) the conduct of the parties; and
 - (ii) the relevant positions and circumstances of the appellant and the respondent (and of the successful and unsuccessful parties); and
 - (iii) the nature of the question in dispute and whether the proceedings have a broader impact than simply inter-parte proceedings between individual parties, and may take into account such other matters as the Full Commission thinks fit in order to ensure a just outcome in the circumstances of the case.

25—Amendment of section 215—Co-operation between industrial authorities

- (1) Section 215(3)—delete "the Commonwealth Commission" and substitute:

Fair Work Australia
- (2) Section 215(4)—delete "the Registrar of the Commonwealth Commission" and substitute:

the General Manager of Fair Work Australia
- (3) Section 215(4)—after "the Registrars" insert:

and senior officials

26—Amendment of section 216—Reference of industrial matters to Fair Work Australia

- (1) Section 216(1)—delete subsection (1) and substitute:
 - (1) The President of the Commission may, on his or her own initiative, request the President of Fair Work Australia to nominate a member of Fair Work Australia to deal with the whole or a part of an industrial matter.
- (2) Section 216(2)—delete "the Commonwealth Commission" and substitute:

Fair Work Australia
- (3) Section 216(3)—delete "the Commonwealth Commission" and substitute:

Fair Work Australia
- (4) Section 216(4)—delete "the Commonwealth Commission" and substitute:

Fair Work Australia

- (5) Section 216(5)—delete "the Commonwealth Commission" and substitute:
Fair Work Australia

27—Repeal of section 222

Section 222—delete the section

28—Amendment of section 237—Regulations

- (1) Section 237(1)—delete subsection (1) and substitute:
- (1) The Governor may make such regulations as are contemplated by this Act or as are necessary or expedient for the purposes of this Act.
 - (1a) Without limiting the generality of subsection (1), regulations may make provision for any matter, including matters of a saving or transitional nature, relevant to the interaction between this Act and an Act of the Commonwealth.
- (2) Section 237—after subsection (2) insert:
- (3) A regulation under this Act—
 - (a) may make different provision according to the matters or circumstances to which they are expressed to apply;
 - (b) may be of general or limited application;
 - (c) may provide that any matters or thing is to be determined, dispensed with, regulated or prohibited according to the discretion of the Minister or any other person or body prescribed by the regulations.

29—Amendment of Schedule 1—Transitional provisions

Schedule 1—after clause 17 insert:

18—National industrial relations system

- (1) In this clause—
designated day means the day on which a Commonwealth law in the terms, or substantially in the terms, set out in the tabled text under the *Fair Work (Commonwealth Powers) Act 2009* comes into operation.
- (2) This Act will operate in relation to—
- (a) any matter arising under this Act before the designated day (including a matter that is not in the nature of a right or that is procedural in nature); and
 - (b) any matter arising, directly or indirectly, out of such a matter,
- insofar as the matter is not dealt with under the *Fair Work Act 2009* of the Commonwealth on or after the designated day.

- (3) Nothing in this clause is intended to limit or affect the operation of this Act—
- (a) in relation to industrial or other matters that are not affected by a law of the Commonwealth relating to matters referred to the Parliament of the Commonwealth under the *Fair Work (Commonwealth Powers) Act 2009*; or
 - (b) in any other respect (except to the extent that this Act cannot apply by virtue of a law of the Commonwealth).

30—Insertion of Schedules 2 and 2A

After Schedule 1 insert:

Schedule 2—Continuity of industrial arrangements—government business enterprises

1—Preliminary

In this Schedule—

federal industrial instrument means any award, agreement determination, order or other form of instrument that relates to 1 or more industrial matters under the National Fair Work legislation, other than an Australian workplace agreement, a pre-reform AWA or an Individual Transitional Employment Agreement;

GBE means an agency or instrumentality of the Crown declared by proclamation to be a government business enterprise for the purposes of this Schedule;

GBE employee means a person employed or appointed by a GBE;

National Fair Work legislation means—

- (a) the Commonwealth Act; or
- (b) the *Fair Work (Transitional and Consequential Amendments) Act 2009* of the Commonwealth;

relevant day means, in relation to each GBE, a day fixed by the Governor by proclamation as being the relevant day for the purposes of the application of this Schedule to the GBE.

2—Operation of federal industrial instruments

- (1) A federal industrial instrument that, on the relevant day in relation to a particular GBE, relates (or purports to relate) to the GBE employees of that GBE (being a federal industrial instrument in operation (or purportedly in operation) immediately before the relevant day), will, on the relevant day, be taken to be an award or enterprise agreement (as the case may require in order to achieve the greatest degree of correspondence) under this Act (insofar as it relates to those employees and any other relevant parties)—
 - (a) with the same terms and provisions as the relevant instrument under the relevant Act of the Commonwealth; but
 - (b) subject to any modification or exclusion prescribed by regulations made for the purposes of this subclause and subject to the operation of subclauses (2), (3), (4) and (5).
- (2) The regulations may prescribe rules that are to be applied for the purposes of achieving the greatest degree of correspondence envisaged by subclause (1).
- (3) If an award or enterprise agreement is taken to exist under this Act by virtue of the operation of subclause (1)—
 - (a) the award or enterprise agreement will be taken to be made or approved under this Act on the relevant day; and
 - (b) this Act will apply in relation to the award or enterprise agreement subject to such modifications or exclusions as may be prescribed by regulations made for the purposes of this subclause; and
 - (c) the Commission may, on application by the Minister, or on application by a person or body recognised by regulations made for the purposes of this subclause, vary or revoke any term or provision of the award or enterprise agreement if the Commission is satisfied that it is fair and reasonable to do so in the circumstances.
- (4) The Commission may, in varying an award or enterprise agreement under subclause (3)(c) (after taking into account what is fair and reasonable in the circumstances), confer an exemption from the operation of any provision of this Act (being an exemption that has effect subject to such conditions (if any) as the Commission thinks fit to impose).
- (5) Despite a preceding subclause, if an award or enterprise agreement taken to exist under this clause would, but for this subclause, provide for remuneration or other conditions of employment that are inferior to the standards that apply under Chapter 3 Part 1 Division 2, the award or enterprise agreement will be taken to be modified to the extent necessary to meet those standards.

- (6) An award or enterprise agreement taken to exist under this clause will, unless it has been superseded or rescinded in the meantime, expire at the end of the period of 2 years from the relevant day.

3—Ability to carry over matters

The Commission may, in connection with the operation of this Schedule, or any matter arising, directly or indirectly, out of the operation of this Schedule—

- (a) accept, recognise, adopt or rely on any step taken under, or for the purposes of, the National Fair Work legislation; and
- (b) accept or rely on any matter or thing (including in the nature of evidence presented for the purposes of any proceedings) that has been presented, filed or provided under, or for the purposes of, the National Fair Work legislation; and
- (c) give effect in any other way to any other thing done under, or for the purposes of, the National Fair Work legislation.

Schedule 2A—Continuity of industrial arrangements—local government sector

1—Preliminary

In this Schedule—

designated day means the day on which this Schedule comes into operation;

federal enterprise agreement means an enterprise agreement under the Commonwealth Act;

federal industrial instrument means any award, agreement, determination, order or other form of instrument that relates to 1 or more industrial matters under the National Fair Work legislation, other than an Australian workplace agreement, a pre-reform AWA or an Individual Transitional Employment Agreement;

local government sector employee has the same meaning as in the *Fair Work (Commonwealth Powers) Act 2009*;

National Fair Work legislation means—

- (a) the Commonwealth Act; or
- (b) the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth;

State industrial instrument means—

- (a) an enterprise agreement approved (or purportedly reached) under this Act; or

- (b) an agreement reached (or purportedly approved) as a result of a referral of a matter to the Commission under Schedule 1 of the *Commercial Arbitration and Industrial Referral Agreements Act 1986*.

2—State industrial instruments

A State industrial instrument—

- (a) that relates (or purports to relate) to local government sector employees; and
- (b) that is in operation (or purportedly in operation) immediately before the designated day,

is to be taken to be, and to have always been, valid and effectual for the purposes of the law of the State.

3—Federal industrial instruments—immediate changeover

(1) A federal industrial instrument—

- (a) that relates (or purports to relate) to local government sector employees; and
- (b) that is in operation (or purportedly in operation) immediately before the designated day; and
- (c) in the case of an award—that is brought within the ambit of this clause by proclamation,

will, on the designated day, be taken to be an award or enterprise agreement (as the case may require in order to achieve the greatest degree of correspondence) under this Act (insofar as it relates to those employees and any other relevant parties)—

- (d) with the same terms and provisions as the relevant instrument under the relevant Act of the Commonwealth; but
 - (e) subject to any modification or exclusion prescribed by regulations made for the purposes of this subclause and subject to the operation of subclauses (2), (3), (4) and (5).
- (2) The regulations may prescribe rules that are to be applied for the purposes of achieving the greatest degree of correspondence envisaged by subclause (1).
- (3) If an award or enterprise agreement is taken to exist under this Act by virtue of the operation of subclause (1)—
- (a) the award or enterprise agreement will be taken to be made or approved under this Act on the designated day; and
 - (b) this Act will apply in relation to the award or enterprise agreement subject to such modifications or exclusions as may be prescribed by regulations made for the purposes of this subclause; and

- (c) the Commission may, on application by the Minister, or on application by a person or body recognised by regulations made for the purposes of this subclause, vary or revoke any term or provision of the award or enterprise agreement if the Commission is satisfied that it is fair and reasonable to do so in the circumstances.
- (4) The Commission may, in varying an award or enterprise agreement under subclause (3)(c) (after taking into account what is fair and reasonable in the circumstances), confer an exemption from the operation of any provision of this Act (being an exemption that has effect subject to such conditions (if any) as the Commission thinks fit to impose).
- (5) Despite a preceding subclause, if an award or enterprise agreement taken to exist under this clause would, but for this subclause, provide for remuneration or other conditions of employment that are inferior to the standards that apply under Chapter 3 Part 1 Division 2, the award or enterprise agreement will be taken to be modified to the extent necessary to meet those standards.
- (6) An award or enterprise agreement taken to exist under this clause will, unless it has been superseded or rescinded in the meantime, expire at the end of the period of 2 years from the designated day.

4—Federal enterprise agreements—later changeover

- (1) If—
 - (a) an application for approval of a federal enterprise agreement that relates to local government sector employees has been made under section 185 of the Commonwealth Act before the designated day but not approved by Fair Work Australia by that day; and
 - (b) Fair Work Australia then approves the federal enterprise agreement under the Commonwealth Act on or after the designated day,then the federal enterprise agreement will, on its approval by Fair Work Australia, be taken to be an enterprise agreement that has been approved by this Act—
 - (c) with the same terms and provisions as the federal enterprise agreement; but
 - (d) subject to any modification or exclusion prescribed by regulations made for the purposes of this subclause and subject to the operation of subclauses (2), (3) and (4).
- (2) If an enterprise agreement is taken to be approved under this Act by virtue of the operation of subclause (1)—
 - (a) this Act will apply in relation to the enterprise agreement subject to such modifications or exclusions as may be prescribed by regulations made for the purposes of this subclause; and

- (b) the Commission may, on application by the Minister, or on application by a person or body recognised by regulations made for the purposes of this subclause, vary any term or provision of the enterprise agreement if the Commission is satisfied that it is fair and reasonable to do so in the circumstances.
- (3) The Commission may, in varying an enterprise agreement under subclause (2)(b) (after taking into account what is fair and reasonable in the circumstances), confer an exemption from the operation of any provision of this Act (being an exemption that has effect subject to such conditions (if any) as the Commission thinks fit to impose).
- (4) Despite a preceding subclause, if an enterprise agreement taken to be approved under this clause would, but for this subclause, provide for remuneration or other conditions of employment that are inferior to the standards that apply under Chapter 3 Part 1 Division 2, the enterprise agreement will be taken to be modified to the extent necessary to meet those standards.
- (5) An enterprise agreement taken to be approved under this clause will, unless it has been superseded or rescinded in the meantime, expire at the end of the period of 2 years from the date of approval of the federal enterprise agreement.

5—Ability to carry over matters

The Commission may, in connection with the operation of this Schedule, or any matter arising, directly or indirectly, out of the operation of this Schedule—

- (a) accept, recognise, adopt or rely on any step taken under, or for the purposes of, the National Fair Work legislation; and
- (b) accept or rely on any matter or thing (including in the nature of evidence presented for the purposes of any proceedings) that has been presented, filed or provided under, or for the purposes of, the National Fair Work legislation; and
- (c) give effect in any other way to any other thing done under, or for the purposes of, the National Fair Work legislation.

Part 5—Amendment of *Housing and Urban Development (Administrative Arrangements) Act 1995*

31—Amendment of section 17—Staff

Section 17—after subsection (3) insert:

- (4) *HomeStart Finance* (a statutory corporation under this Act) is declared not to be a national system employer for the purposes of the *Fair Work Act 2009* of the Commonwealth.
- (5) The Governor may, by proclamation, fix a day on which subsection (4) will expire.

Part 6—Amendment of *Local Government Act 1999*

32—Insertion of section 302A

After section 302 insert:

302A—Local government sector employees

- (1) A local government sector employer brought within the ambit of this subsection by the regulations (either by being specifically prescribed or by being a member of a prescribed class) is declared not to be a national system employer for the purposes of the *Fair Work Act 2009* of the Commonwealth.
- (2) In this section—
local government sector employer means—
 - (a) a council; or
 - (b) a subsidiary or a regional subsidiary; or
 - (c) any other entity established under this Act; or
 - (d) the LGA; or
 - (e) any other entity established by a body referred to in a preceding paragraph.

Part 7—Amendment of *Long Service Leave Act 1987*

33—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *agreement*, (b)—delete paragraph (b) and substitute:
 - (b) an enterprise agreement under the *Fair Work Act 2009* of the Commonwealth; or
 - (c) an agreement given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth;
- (2) Section 3(1), definition of *award*, (b)—delete paragraph (b) and substitute:
 - (b) an award, determination or order of Fair Work Australia under the *Fair Work Act 2009* of the Commonwealth; or
 - (c) an award or determination given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth;
- (3) Section 3(1), definition of *enterprise agreement*—delete the definition and substitute:
enterprise agreement means an enterprise agreement under the *Fair Work Act 1994*;
- (4) Section 3(1), definition of *inspector*—delete "*Industrial and Employee Relations Act 1994*" and substitute:
Fair Work Act 1994

- (5) Section 3(1), definition of *registered association*—delete the definition and substitute:

registered association means—

- (a) an association registered under the *Fair Work Act 1994*; or
- (b) an organisation registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth;

- (6) Section 3(1), definition of *related corporations*, (a)—delete "the *Corporations Law*" and substitute:

the *Corporations Act 2001* of the Commonwealth

34—Amendment of section 13—Failure to grant leave

Section 13(5)—delete "*Industrial and Employee Relations Act 1994*" and substitute:

Fair Work Act 1994

35—Amendment of section 16—Act not to apply to certain workers

Section 16(b)—delete paragraph (b) and substitute:

- (b) under a fair work instrument under the *Fair Work Act 2009* of the Commonwealth; or
- (c) under an instrument given continuing effect under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* of the Commonwealth.

Part 8—Amendment of *Motor Accident Commission Act 1992*

36—Amendment of section 29A—Staff

Section 29A—after subsection (2) insert:

- (3) The Commission is declared not to be a national system employer for the purposes of the *Fair Work Act 2009* of the Commonwealth.

Part 9—Amendment of *Occupational Health, Safety and Welfare Act 1986*

37—Amendment of section 4—Interpretation

Section 4(1), definition of *registered association*, (a)—delete paragraph (a) and substitute:

- (a) an association registered under the *Fair Work Act 1994* or an organisation registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth; or

Part 10—Amendment of *Petroleum (Submerged Lands) Act 1982*

38—Amendment of Schedule 7—Occupational health and safety

- (1) Schedule 7, clause 3, definition of *registered organisation*—delete the definition and substitute:

registered organisation means an organisation registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth;

- (2) Schedule 7, clause 3, definition of *reviewing authority*—delete the definition and substitute:

reviewing authority means Fair Work Australia;

Part 11—Amendment of *Public Corporations Act 1993*

39—Insertion of section 38B

After section 38A insert:

38B—Exclusion of operation of Commonwealth industrial relations legislation in specified cases

- (1) The following entities are declared not to be national system employers for the purposes of the *Fair Work Act 2009* of the Commonwealth:
- (a) the *Adelaide Convention Centre Corporation*;
 - (b) the *Adelaide Entertainments Corporation*;
 - (c) the *Land Management Corporation*.
- (2) The Governor may, by proclamation, fix a day on which a paragraph under subsection (1) will expire.

Part 12—Amendment of *Rail Safety Act 2007*

40—Amendment of section 4—Interpretation

Section 4—definition of *registered association*, (a)—delete paragraph (a) and substitute:

- (a) an association registered under the *Fair Work Act 1994* or an organisation registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth; or

Part 13—Amendment of *South Australian Forestry Corporation Act 2000*

41—Amendment of section 15—Staff

Section 15—after subsection (4) insert:

- (5) The Corporation is declared not to be a national system employer for the purposes of the *Fair Work Act 2009* of the Commonwealth.

Part 14—Amendment of *Stamp Duties Act 1923*

42—Amendment of Schedule 2—Stamp duties and exemptions

- (1) Schedule 2, clause 3(2), item 5—delete "under Schedule 1 of the *Workplace Relations Act 1996*" and substitute:

of 2 or more organisations under the *Fair Work (Registered Organisations) Act 2009*

- (2) Schedule 2, clause 4(2), item 4—delete "under Schedule 1 of the *Workplace Relations Act 1996*" and substitute:

of 2 or more organisations under the *Fair Work (Registered Organisations) Act 2009*

Part 15—Amendment of *State Lotteries Act 1966*

43—Amendment of section 13—Powers and functions of Commission

Section 13—after subsection (3) insert:

- (4) The Commission is declared not to be a national system employer for the purposes of the *Fair Work Act 2009* of the Commonwealth.

Part 16—Amendment of *Superannuation Funds Management Corporation of South Australia Act 1995*

44—Amendment of section 31—Staff of Corporation

Section 31—after subsection (2) insert:

- (3) The Corporation is declared not to be a national system employer for the purposes of the *Fair Work Act 2009* of the Commonwealth.

Part 17—Amendment of *West Beach Recreation Reserve Act 1987*

45—Amendment of section 15—Officers and employees

Section 15—after subsection (3) insert:

- (4) The Trust is declared not to be a national system employer for the purposes of the *Fair Work Act 2009* of the Commonwealth.

Part 18—Amendment of *WorkCover Corporation Act 1994*

46—Insertion of section 22A

After section 22 insert:

22A—Exclusion of operation of Commonwealth industrial relations legislation

The Corporation is declared not to be a national system employer for the purposes of the *Fair Work Act 2009* of the Commonwealth.

Part 19—Amendment of *Workers Rehabilitation and Compensation Act 1986*

47—Amendment of section 3—Interpretation

Section 3(1), definition of *industrial association*, (b)—delete paragraph (b) and substitute:

- (b) an organisation registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth; or

Schedule 1—Transitional provisions

1—Transitional provisions

- (1) A reference in any Act or statutory instrument to the Australian Industrial Relations Commission will be taken to be a reference to Fair Work Australia.
- (2) A reference in an Act or statutory instrument to the *Industrial Relations Act 1988* or the *Workplace Relations Act 1996* of the Commonwealth, insofar as the reference relates to associations or organisations registered under either Act, will, unless the contrary intention appears, be construed as a reference to the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth.