

House of Representatives

Supplementary Order Paper

Wednesday, 17 October 2007

Employment Relations (Flexible Working Arrangements) Amendment Bill

Proposed amendments

Hon Ruth Dyson, in Committee, to move the following amendments:

Clause 3(a)

To omit the words “as to the period of their employment” (line 18 on page 2).

Clause 6A: new section 69AAB(2)

To omit *paragraphs (b) and (c)* (lines 24 to 31 on page 7) and substitute the following paragraph:

“(b) the employee, as at the date the request is made, has been employed by his or her employer for the immediately preceding 6 months.

New clause 8

To add the following clause (after line 8 on page 12):

8 New section 179B inserted

The following section is inserted after section 179A:

“179B Investigations and determinations of Authority under Part 6AA not reviewable

“(1) No investigation or determination of the Authority under **Part 6AA** is removable to any court or is liable to be challenged, appealed against, reviewed, quashed, or called in question in any court.

“(2) Without limiting **subsection (1)**,—

“(a) the Authority may not refer a question of law to the Court under section 177 if the question of law relates to an investigation of the Authority under **Part 6AA**:

- “(b) a matter before the Authority may not be removed to the Court under section 178 if the matter arises under **Part 6AA**:
- “(c) no party who is dissatisfied with a determination of the Authority under **Part 6AA** may elect, under section 179, to have the matter heard by the Court:
- “(d) no person may bring proceedings seeking a writ or order of, or in the nature of, mandamus, prohibition, or certiorari, or a declaration or injunction in relation to the Authority’s powers under **Part 6AA**:
- “(e) a determination of the Authority under **Part 6AA** may not be the subject of an application for review under Part 1 of the Judicature Amendment Act 1972.”

Explanatory note

This Supplementary Order Paper makes 3 amendments to the Employment Relations (Flexible Working Arrangements) Amendment Bill.

The first amendment relates to the purpose of the Bill as expressed in *clause 3*. The amendment omits from *paragraph (a)* the words “as to the period of their employment”. This is a drafting amendment to reflect that *new section 69AAB(2)* inserted by *clause 6A* contains other criteria.

The second amendment relates to *new section 69AAB(2)* as inserted by *clause 6A*. That provision specifies the criteria an employee must satisfy before he or she can make a request under *new Part 6AA* to alter his or her working arrangements. *Paragraph (b)* of that provision requires an employee to have been employed by his or her employer for not less than 6 months. *Paragraph (c)* of that provision contains criteria relating to the number of hours the employee was employed in the weeks and months during the 6 months immediately preceding the request. The amendment omits this paragraph and recasts *paragraph (b)* to require an employee, as at the date the request is made, to have been employed by his or her employer for the immediately preceding 6 months.

The third amendment relates to whether investigations and determinations of the Employment Relations Authority under *new Part 6AA* can be appealed against or reviewed. This amendment adds *new clause 8* which inserts *new section 179B*. The new section provides that an investigation or determination of the Authority under *new Part 6AA* cannot be challenged, appealed against, reviewed, quashed, or called in question in any court.

