

Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.21 p.m.], on behalf of the Hon. John Hatzistergos: I move:

That this bill be now read a second time.

I am pleased to bring before the House the Industrial Relations Amendment (Jurisdiction of Industrial Relations Commission) Bill 2009. The bill responds to the adverse impacts of the insidious WorkChoices regime on the New South Wales industrial relations system by transferring the work of industrial magistrates to the Industrial Relations Commission. Since the introduction of the WorkChoices legislation in March 2006, the workload of the Industrial Relations Commission has fallen significantly due to the WorkChoices laws abolishing the rights of many New South Wales workers to seek redress before the New South Wales Industrial Relations Commission. Although it is now a landmark in Australian history that the Australian people rejected the draconian WorkChoices laws, compelling the Commonwealth and New South Wales governments to work collaboratively to restore fairness and balance to employment relations, it is unlikely that the pre-WorkChoices level of work will return to the commission. Therefore, it is appropriate that the Government consolidate the industrial jurisdiction in one court and tribunal.

This Government is committed to maintaining the Industrial Relations Commission and the Industrial Court of New South Wales. The Industrial Relations Commission has a long and distinguished history in determining industrial disputes for workers in New South Wales. The commission is the legal successor of the Industrial Commission, which existed between 1927 and 1992, and the Court of Arbitration, which existed between 1901 and 1927. The Industrial Court has the status of a superior court of record and is recognised for its expertise in dealing with complex matters of employment law. A number of strategies have been progressed to address the reduced workloads currently being experienced in the Industrial Relations Commission as a result of WorkChoices. The number of members within the commission has been reduced and members have assisted other courts and tribunals, including the Supreme Court, the Administrative Decisions Tribunal and the Medical Tribunal.

Industrial magistrates manage the industrial jurisdiction of the Local Court of New South Wales. Industrial magistrates hold dual appointments as magistrates of the Local Court. The Chief Industrial Magistrate almost exclusively manages the workload of industrial magistrates. Industrial magistrates currently have both civil and criminal jurisdiction under various legislation. Industrial magistrates deal with the recovery of money owing under industrial instruments under part 2 of the Industrial Relations Act 1996, the imposition of civil penalties for breach of industrial instruments under part 1 of the Industrial Relations Act 1996, the review of notices issued by WorkCover under the Occupational Health and Safety Act 2000, and criminal prosecutions under the Occupation Health and Safety Act 2000 and other various industrial laws.

This bill transfers the jurisdiction of industrial magistrates to the Industrial Relations Commission and abolishes the positions of Chief Industrial Magistrate and industrial magistrates. The abolition of the positions of Chief Industrial Magistrate and industrial magistrates will free Chief Industrial Magistrate Hart to return to the general bench to deal with the core business of the Local Court. The transfer of jurisdiction from industrial magistrates to the Industrial Relations Commission is subject to the exception that the civil jurisdiction of industrial magistrates to deal with recovery of wages will be retained by magistrates of the Local Court in locations outside the metropolitan area. The purpose of this exception is to avoid inconvenience to parties that are geographically remote from the Industrial Court in Sydney. It is important to preserve easy access to justice for parties seeking to recover minor claims in relation to recovery of wages and salaries.

I note on this point that the Industrial Relations Commission has a significant regional presence in New South Wales; it has a permanent presence in Newcastle and Wollongong, and regularly travels to regional New South Wales to conciliate, arbitrate and adjudicate matters. This commitment to regional New South Wales will continue. I now turn to some of the more significant provisions of the bill. Item [11] in schedule 1 amends section 364 of the Industrial Relations Act to provide that designated local courts will have jurisdiction to make orders for the recovery of remuneration and other amounts payable by employers instead of an Industrial Magistrate. Item [18] in schedule 1 inserts a list of designated local courts. The list includes local courts located in 64 country and regional areas to ensure access to justice across the State.

Item [12] in schedule 1 to the bill amends section 371 of the Industrial Relations Act to make it clear that either a commissioner or a deputy president of the commission will be able to undertake conciliation on behalf of the Industrial Court and make orders to give effect to the terms of any settlement resulting from the conciliation. Item [14] in schedule 1 amends section 380 of the Act to enable the Industrial Relations Commission to refer applications for orders for the recovery of money to a designated Local Court if that is more appropriate and convenient to the parties. Item [15] in schedule 1 removes the provisions relating to the appointment of the Chief Industrial Magistrate and Industrial Magistrates under part 3 of the Industrial Relations Act 1996. Item [16] of

schedule 1 removes the criminal jurisdiction of local courts, whether or not constituted by an Industrial Magistrate, so that only the Industrial Court will have jurisdiction to deal with these prosecutions.

Item [20] in schedule 1 provides transitional provisions on the commencement of these reforms that permit pending matters before an industrial magistrate to be concluded by a magistrate of the Local Court. The abolition of industrial magistrates will allow the Industrial Relations Commission to absorb the bulk of this work while allowing local courts in country and regional areas to deal with minor civil matters. It will also enhance the role of the Industrial Relations Commission as the primary industrial law dispute resolution forum in New South Wales. The people of New South Wales have been well served by the Industrial Relations Commission of New South Wales for more than 100 years and they will continue to be well served by the Commission. I commend the bill to the House.