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LawTalk Blog



How will changes to the South Australian Employment Tribunal affect you?

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Until now, the South Australian Employment Tribunal (“SAET”) has dealt exclusively with workers compensation matters. That’s now changed.

In recent years, the workers compensation system in South Australia has undergone some drastic changes. Not only did the workers compensation laws completely change in mid-2015 but a new Tribunal was developed to hear and determine disputes concerning workers’ entitlements. This Tribunal is named the South Australian Employment Tribunal.

Types of matters the Tribunal has been dealing with include disputes regarding rejection of workers compensation claims, disputes concerning entitlements to lump-sum compensation, disputes involving the discontinuance of workers’ payments, etc.

In December 2016 a law was debated in the South Australian Parliament to expand the role and duties of the Tribunal.

This law is the *Statutes Amendment (South Australian Employment Tribunal) Act 2016*. The expanded jurisdiction of the Tribunal commenced on 1 July 2017.

The SAET was initially designed to be cost efficient, uncomplicated and a ‘one stop shop’ for different types of employment matters (not just workers compensation). In other words, this new legislative change to the Tribunal has been expected for a long time. Before the change, a worker with an array of employment issues would need to rely on disparate Tribunals/Courts to seek

redress.

Let's consider the following scenario of a worker with employment issues

Assume a young woman was working for a café. During the course of her employment, she feels that she is not being paid correctly and her boss has not been making superannuation contributions. The boss has also been making inappropriate sexual comments about her.

As a result of this, she suffers anxiety and depression and needs to leave that job at the café.

In this specific case, the worker may have a right to claim for an underpayment of wages, sue for sexual harassment and pursue a workers compensation claim. Prior to July 2017, these individual claims would need to be pursued in different Tribunals/Courts, running completely separately.

What do the new amendments to the Tribunal's operation mean for workers?

The amendment to the Tribunal means that someone who may be suffering multiple industrial grievances can have the entirety of the matter dealt with in one place; the South Australian Employment Tribunal.

Of course, in theory it might not be as simple as this and like with any legal change, there will likely be hiccups and unforeseen problems. Each individual case will likely encounter some hurdles as they progress through the Tribunal.

As mentioned above, for the first 2 years of the Tribunal's operation, it has dealt solely with workers compensation matters and disputation. Now, it is capable of dealing with not only workers compensation, but also:

1. Equal opportunity and discrimination matters;
2. Some general industrial relations disputes;
3. Classification reviews;
4. Dust diseases / asbestos litigation;
5. Health practitioners reviews and disciplinary matters;
6. Police officer reviews;
7. The Teacher's Appeal Board;
8. Disputes involving apprentices and training;
9. Underpayment of wages / monetary claims;
10. Interpretation of Awards / Enterprise Agreements; etc.

The changes to the jurisdiction of the SAET have actually required the legislative amendment of 21 different existing pieces of industrial law.

The amendment also creates a new Court called the South Australian Employment Court which will have its own rules and ways of dealing with disputes. This new Court can deal with prosecution cases involving industrial offences.

There will also be some administrative changes to the current make-up of the Tribunal. For example, individuals who were previously called 'Conciliation Officers' become 'Commissioners' and individuals previously referred to as 'Deputy Presidents' become Judges.

The new South Australian Employment Tribunal and Court has led to the dissolution of the Industrial Relations Court and the Industrial Relations Commission of South Australia.

The amendment to the SAET and the establishment of the South Australian Employment Court will lead to fundamental changes in the way industrial relations disputes are pursued in South Australia. These are certainly interesting times for industrial law practitioners and their clients.

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