

# Legal Alert

Workplace Relations, Management and Safety

December 2016

## The Expanded Jurisdiction of the SAET

### In a Nutshell

The SA Employment Tribunal and Court will assume a much greater jurisdiction, abolishing the previous Industrial Relations Court and Commission and other disciplinary bodies and also assuming the jurisdiction of the Equal Opportunity Tribunal.

Today, the *Statutes Amendment (South Australian Employment Tribunal) Bill 2016* was assented to.

Slated to take effect on 1 July 2017, the Bill will primarily affect employment law rights and claims, but will also affect dust disease actions and various disciplinary bodies such as the Teachers Appeal Board.

#### Employment

The Industrial Relations Court and Industrial Relations Commission will be dissolved.

The two bodies of the SA Employment Tribunal (SAET) and SA Employment Court (SAEC) will assume functions previously exercised by those bodies.

The SAEC will retain the scope of the previous jurisdiction of the SA Industrial Relations Court in relation to monetary claims arising under Awards, Enterprise Agreements and contracts.

The SAEC will have a **greatly expanded** jurisdiction to hear and determine 'questions arising under contracts of employment' (such as claims for reasonable notice) and also the power to order injunctions (such as would be sought in restraint of trade cases). Normal court cost provisions will apply as if the matter had been heard in the Magistrates or District Courts.

#### Composition and procedure

The members of the SAET will be the President, 2 Deputy Presidents, Magistrates who are designated members, Commissioners and supplementary panel members (as opposed to president, deputy president, Magistrates who are designated as members and conciliation officers). All current Conciliation Officers of the SAET become 'Commissioners'.

There is availability for internal review of a decision of the Tribunal where a decision is made without a presidential member sitting. The application for review must be instituted within one month of the decision unless the Tribunal permits otherwise.

An appeal against a decision of the SAET is heard by the Full Court of the SAEC.

Proceedings may be transferred amongst the Supreme Court, District Court and Tribunal if a Judge, Master, or member of the Tribunal chooses to do so. This is to be done in such a way as to promote the smoothest transition possible.

Current Deputy Presidents will be appointed Judges of the District Court.

## Safety prosecutions

Alleged breaches of the *Work Health and Safety Act 2012* (SA) will now be heard by a magistrate who is a member of the SAEC.

## Equal opportunity matters

The SAET will assume the functions of the previous Equal Opportunity Tribunal to determine discrimination claims arising under the *Equal Opportunity Act 1984* (SA).

There will continue to be the involvement of a supplementary panel of individuals to provide expertise to the SAET.

The President of the SAET must consider whether 1 or more of these supplementary panel members should assist the SAET to deal with claims.

## Dust Diseases

Amendments will be made to the *Dust Diseases Act 2005* (SA) to provide that dust disease actions may either be brought in the District Court or the SAEC.

Appeals in dust matters against a decision of the SAEC may be brought before a single Judge of the Supreme Court (where the appeal is against an interlocutory order made by the SAET) or the Full Court of the Supreme Court (for any other matter).

## Contact details

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