

2002-2003

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Workplace Relations Amendment
(Codifying Contempt Offences) Bill 2003**

No. , 2003

(Employment and Workplace Relations)

**A Bill for an Act to amend laws relating to
workplace relations, and for related purposes**

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1 **A Bill for an Act to amend laws relating to**
2 **workplace relations, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Workplace Relations Amendment*
6 *(Codifying Contempt Offences) Act 2003*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, on the day or at the
10 time specified in column 2 of the table.
11

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	
2. Schedules 1 and 2	The 28th day after the day on which this Act receives the Royal Assent	

1 Note: This table relates only to the provisions of this Act as originally
2 passed by the Parliament and assented to. It will not be expanded to
3 deal with provisions inserted in this Act after assent.

4 (2) Column 3 of the table is for additional information that is not part
5 of this Act. This information may be included in any published
6 version of this Act.

7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

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Schedule 1—Contempt offences

Workplace Relations Act 1996

1 Paragraph 299(1)(d)

Omit “Commission; or”, substitute “Commission.”.

2 Paragraph 299(1)(e)

Repeal the paragraph.

3 At the end of section 299

Add:

Note 1: This section is not the only provision creating an offence relating to improper influence on a member of the Commission. Sections 135.1, 135.4, 139.1, 141.1 and 142.1 of the *Criminal Code* create offences of using various dishonest means (including bribery, providing benefits and making demands with menaces) to influence a Commonwealth public official in the performance of his or her duties.

Note 2: This section is not the only provision creating an offence relating to interference with a witness in a proceeding before the Commission. Sections 301 and 303 of this Act and sections 36A, 37, 38 and 40 of the *Crimes Act 1914* also do so. Section 39 of that Act also makes it an offence to destroy evidence that may be required in such a proceeding.

Contravening an order of the Commission

- (3) A person is guilty of an offence if:
 - (a) the Commission has made an order under this Act or the Registration and Accountability of Organisations Schedule; and
 - (b) the order binds the person; and
 - (c) the person engages in conduct; and
 - (d) the conduct contravenes the order.

Penalty: Imprisonment for 12 months.

- (4) In subsection (3):

engage in conduct means:

- (a) do an act; or

1 (b) omit to perform an act.

2 *Publishing false allegation of misconduct affecting Commission*

3 (5) A person is guilty of an offence if:

4 (a) the person publishes a statement; and

5 (b) the statement implies or expressly states there was
6 misconduct by a member (whether identified or not) of the
7 Commission in relation to the performance of the functions,
8 or exercise of the powers, of the Commission; and

9 (c) there was not such misconduct as implied or stated by the
10 statement; and

11 (d) the publication is likely to have a significant adverse effect
12 on public confidence that the Commission is properly
13 performing its functions and exercising its powers.

14 Penalty: Imprisonment for 12 months.

15 Note: The following heading to subsection 299(1) is inserted “*General offences*”.

16 **4 Application of new offences in section 299**

17 (1) Subsection 299(3) of the *Workplace Relations Act 1996* (as amended by
18 this Act) applies to conduct engaged in after the commencement of that
19 subsection, whether the order contravened by the conduct was made
20 before, on or after that commencement.

21 (2) Subsection 299(5) of the *Workplace Relations Act 1996* (as amended by
22 this Act) applies to publication of a statement after the commencement
23 of that subsection, whether the statement was made before, on or after
24 that commencement.

25 **5 At the end of section 303**

26 Add:

27 *Giving false evidence*

28 (3) A person (the *witness*) is guilty of an offence if:

29 (a) the witness gives false evidence; and

30 (b) either:

31 (i) the evidence is given in a proceeding before the
32 Commission; or

- 1 (ii) the evidence is given before a person taking evidence on
2 behalf of the Commission either in a proceeding that has
3 been instituted in the Commission by anyone or for use
4 in a proceeding that will be instituted in the
5 Commission by the witness.

6 Penalty: Imprisonment for 12 months.

7 *Inducing another person to give false evidence*

- 8 (4) A person (the *offender*) is guilty of an offence if:
9 (a) another person (the *witness*) has been called or is to be called
10 as a witness in a proceeding before the Commission (whether
11 the person is to appear before the Commission or before
12 someone taking evidence on behalf of the Commission in the
13 proceeding); and
14 (b) the offender induces the witness to give false evidence in the
15 proceeding.

16 Penalty: Imprisonment for 12 months.

17 Note 1: The heading to section 303 is altered by omitting “**by**” and substituting “**relating to**”.

18 Note 2: The following heading to subsection 303(1) is inserted “*Contravention of requirement*
19 *by witness*”.

20 **6 Application of new offences in section 303**

- 21 (1) Subsection 303(3) of the *Workplace Relations Act 1996* (as amended by
22 this Act) applies to the giving of false evidence after the
23 commencement of that subsection, whether the proceeding concerned
24 was instituted before, on or after that commencement or will be
25 instituted after that commencement.
- 26 (2) Subsection 303(4) of the *Workplace Relations Act 1996* (as amended by
27 this Act) applies to the inducement after the commencement of that
28 subsection of the giving of false evidence, whether the proceeding
29 concerned was instituted before, on or after that commencement.

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Schedule 2—Other amendments relating to offences

Workplace Relations Act 1996

1 At the end of subsection 83BH(5)

Add:

Note: Contravening a requirement under paragraph (4)(d) or subsection (5) of this section may be an offence under section 305A.

2 At the end of subsection 86(2)

Add:

Note: Contravening a requirement under this section to produce a document may be an offence under section 305.

3 At the end of subsection 119(1)

Add:

Note: Contravening a direction may be an offence under section 300.

4 At the end of subsection 138(1)

Add:

Note: Contravening a direction (except a direction to the Industrial Registrar) may be an offence under section 308.

5 Subsection 299(1) (penalty)

Repeal the penalty, substitute:

Penalty: Imprisonment for 12 months.

6 Section 300 (penalty)

Repeal the penalty, substitute:

Penalty: 20 penalty units.

7 Section 301

Omit “by:”, substitute “by imprisonment for not more than 12 months.”.

8 Paragraphs 301(f) and (g)

1 Repeal the paragraphs.

2 **9 Section 302 (penalty)**

3 Repeal the penalty, substitute:

4 Penalty: Imprisonment for 6 months.

5 **10 Subsection 303(1) (penalty)**

6 Repeal the penalty, substitute:

7 Penalty: Imprisonment for 6 months.

8 **11 Subsection 307(1) (penalty)**

9 Repeal the penalty, substitute:

10 Penalty: 30 penalty units.

11 **12 Subsection 308(1) (penalty)**

12 Repeal the penalty, substitute:

13 Penalty: 30 penalty units.

14 **13 At the end of subsections 317(1), (2) and (3)**

15 Add:

16 Penalty: 30 penalty units.

17 **14 Subsection 317(4) (penalty)**

18 Repeal the penalty, substitute:

19 Penalty: 30 penalty units.

20 **15 Section 338 (penalty)**

21 Repeal the penalty, substitute:

22 Penalty: 20 penalty units.

23 **16 Subsection 339(1) (penalty)**

24 Repeal the penalty, substitute:

25 Penalty: 20 penalty units.

1 **17 At the end of subsection 355(5)**

2 Add:

3 Note: Giving information as evidence, or publishing information, in
4 contravention of this section or a direction under this section may be
5 an offence under section 339.