

Chp. 4: ERA 2000

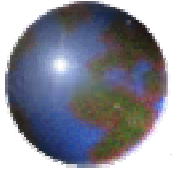
✦ Overview

✦ ER Bill: positions & changes

- Controversial legislation
- Political pressure prompts changes to original Bill

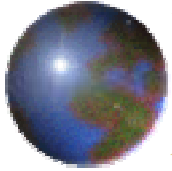
✦ ERA – changes & practical impacts

- Overview: what are the key parts?
 - Object clauses provide tenor of each part
 - Differences to ECA are stressed
- Content: the key notions of each part
- Outcomes: what should we look out for?



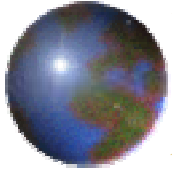
Employment Relations Bill

- ✦ Aim: 'to increase productivity by balancing power between parties and by promoting trust-based employment relationships.' (p. 63)
- ✦ Key issues & changes
 - ▣ Fixed-term contracts
 - ▣ Good faith (information requirements)
 - ▣ Union access
 - ▣ Liability of directors
 - ▣ Little change to: union ownership of CEAs & work coverage (ie. CA will cover work & not person(s))



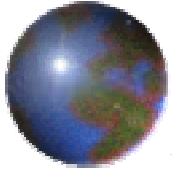
ERA - overview

- ✦ See Act to obtain an overview
 - ▣ Or see Deeks & Rasmussen 2002: 123
- ✦ What are the key parts?
 - ▣ 4, 5, 6, (8), (9), 10
 - ▣ Each part: understanding key notions & which area of ER is covered (eg. unions, bargaining, etc)
- ✦ To get more information – see info sources
- ✦ Act's significance will change as legal precedent starts to influence ER practices



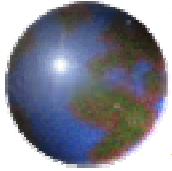
ERA – Part 1 & 2

- ✦ Part 1: sets tenor of Act
 - ▣ 'building productive employment relationships'
 - ▣ Good faith, union CEAs, individual choice, mediation
- ✦ Part 2: definitions of key terms
 - ▣ Union ownership of CEAs
 - ▣ Coverage of work: no longer link to individual persons (turnover will have less effect on CEAs)
 - ▣ PGs for all employees (~ ECA)
 - ▣ Employee definition (~ ECA, but more explicit)



ERA – Part 3 & 4

- ✦ Part 3: similar to ECA
 - ▣ Individual choice is promoted
 - ▣ Voluntary unionism confirmed
- ✦ Part 4: union recognition
 - ▣ Union registration re-introduced
 - Similar to pre-ECA, except with voluntary unionism
 - ▣ No restriction on unions' bargaining agenda
 - ▣ Union rights made explicit
 - Union access rights is a crucial change, compared to ECA



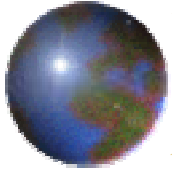
ECA – Part 5

✦ Collective bargaining

- ✦ Single & multi-employer collective bargaining
- ✦ CEA prescriptions – see p. 70
 - Coverage clause is crucial as it stipulates CEA coverage
 - Sale or transfer or contracting out of work
- ✦ Multi-employer CEAs: how feasible are they?

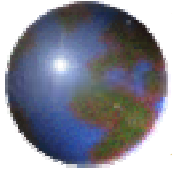
✦ Good faith bargaining

- ✦ What does it mean? (see pp 70-71)
 - Applies to all parties at all times
 - Codes of good faith & legal precedent



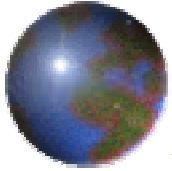
ERA – Part 6

- ✦ IEAs: cover most employees
- ✦ IEA or fixed-term or probationary agreement?
 - ▣ Restriction on agreement type: has to be justified by business reasons
- ✦ Employer obligations
 - ▣ Written IEAs stipulated
 - ▣ Employees must have ability to seek advice
 - If CEA exist then a 'thinking period' (30 days) is allowed
- ✦ Employee or contractor (self-employed)?



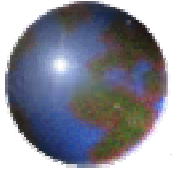
ERA – Part 7 & 8

- ✦ Union education leave
 - ▣ Union controlled & benefits union members
 - ▣ Employer costs (see table 4.1)
- ✦ Strikes & lockouts
 - ▣ When are strikes & lockouts lawful?
 - If in pursuit of a CEA
 - If no CEA is not in force & negotiations have ended
 - Essential industries/services and transport services have special notice periods
 - ▣ Unlawful strikes & lockouts – see p. 75
 - PGs & 'disputes of rights' have institutional avenues



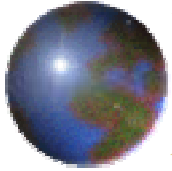
ERA – Part 9

- ✦ Personal grievances – key area under ECA
- ✦ Types & process – see p. 76
- ✦ ERA confirms that all employees are entitled to pursue a PG
 - ▣ Shift in weighting of remedies (reinstatement)
 - Practical implications appear less clear-cut
 - ▣ Explicit focus on solutions: # formal procedures
 - See re: Mediation Service & Employment Rel. Authority
 - ▣ Emphasis on anti-discrimination



ERA – Part 10

- ✦ Further attempt to make parties responsible for negotiations & conflict resolution
 - ❏ Mediation services – the first choice
 - Less costly, faster and promotes self-regulation
 - ❏ ER Authority: speedy, informal & practical
 - Proceedings can be conducted in informal manner & Authority can be more pro-active
 - Remedies have only changed slightly, though reinstatement is now the primary remedy (if practical)
 - ❏ Employment Court: stated emphasis on 'equity and good conscience'
 - Deals with ER Authority decisions



ERA – other areas/issues

✦ Minima

- ✦ Enforced by Labour Inspectorate
- ✦ More emphasis on providing information
- ✦ Minima slightly extended but may be less important if Act succeeds in extending coll. barg.

✦ Relationship to public sector acts?

✦ Relationship to other 'supporting acts'

- ✦ Further changes to OSH legislation?
- ✦ Further enhancement of minima (eg. holidays)?