

Dispute Resolution

The Bill replicates the dispute resolution provisions of the current Act with some minor amendments.

Key Points

Bill ref: Part 6, Part 14 Division 4

- Provisions for the establishment of the Conciliation Service and Arbitration Service have been consolidated into Part 6 Division 2.
- Part 6 Division 5 consolidates provisions common to conciliation and arbitration proceedings that are duplicated in separate divisions in the current Act.
- The Bill provides for legal practitioners or authorised agents to represent a party at a conciliation conference or arbitration hearing.
- The definition of 'authorised agent' includes persons authorised by the regulations to perform agent services and registered independent agents. Regulations will provide for a scheme for registered independent agents on a two-year transitional basis - see *Information Sheet 40*.
- The Bill permits an arbitrator to dismiss a proceeding for abuse of process, want of prosecution or other ground for dismissal specified in the arbitration rules. This may be on application by a party to the dispute or on the arbitrator's own initiative.
- Provision for matters to be referred to a medical panel are not retained in the Bill. Instead, an arbitrator may refer any medical matter to an expert to obtain a report.
- The provision for reconsidering a decision on the basis of new information has been amended to clarify what an arbitrator may consider when deciding if the new information justifies reconsideration of a decision.

Key Points

- A new provision authorises the Registrar to publish any decision of an arbitrator and to limit the publication in any manner the Registrar considers appropriate.
- The Bill provides for the Director to make Conciliation Rules and the Registrar to make Arbitration Rules, instead of the Minister under the current Act.

Questions & Answers

Q. What happens to dispute proceedings in progress under the current Act when the new Act commences?

A. The savings and transitional provisions provide for various matters including pending dispute proceedings, dispute decisions under the current Act, continuity of conciliation and arbitration services, and the making of transitional directions.