

INDUSTRIAL ARBITRATION (AMENDMENT) ACT.

Act No. 9, 1937.

An Act to provide for the adoption, in awards and industrial agreements, of the needs basic wage with appropriate loadings determined under and in accordance with decisions of the Commonwealth Court of Conciliation and Arbitration; to amend the Industrial Arbitration Act, 1912, and certain other Acts; and for purposes connected therewith.
[Assented to, 7th October, 1937.]

George VI,
No. 9, 1937.

WHEREAS it is desirable that the basis for the Preamble. assessment of the rates of wages of all employees in the State of New South Wales should, so far as practicable, be uniform with the basis adopted by the Commonwealth Court of Conciliation and Arbitration for the assessment of rates of wages for employees in New South Wales and applied by that Court in its awards; AND WHEREAS it is desirable for that purpose to adopt, so far as practicable, as the basis of all awards made and industrial agreements entered into under the Industrial Arbitration Acts, the needs basic wage with the appropriate fixed loading addition as determined from time to time by the said Court: Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1937," and shall be read and construed with the Industrial Arbitration Acts. Short title
and com-
mencement.

(2)

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— (2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

Definitions.

2. (1) In this Act, unless the context or subject matter otherwise indicates or requires—

“Commonwealth Judgment” means the judgment delivered by the Commonwealth Court of Conciliation and Arbitration on the twenty-third day of June, one thousand nine hundred and thirty-seven, in the matter intituled “In the matter of applications by organisations of employees for an increase in the basic wage prescribed by awards of the Court.”

“Industrial Arbitration Acts” means the Industrial Arbitration Act, 1912, the Industrial Arbitration (Amendment) Act, 1926, the Industrial Arbitration (Eight Hours) Amendment Act, 1930, the Industrial Arbitration (Amendment) Act, 1932, the Industrial Arbitration (Amendment) Act, 1936, and every Act amending any of those Acts.

“Needs basic wage” means needs basic wage assessed on the basis approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment, and applicable with respect to the wages of adult male employees.

“Retail Price Index Numbers” means the Court’s series of all items retail price index numbers published from time to time by or by the direction of the Commonwealth Court of Conciliation and Arbitration.

(2) Any document purporting to be a copy of the Retail Price Index Numbers and purporting either to be printed by the Commonwealth Government Printer or to be under the signature of the Industrial Registrar of the Commonwealth Court of Conciliation and Arbitration, or of some person acting in his place or on his behalf, shall be accepted by all persons and upon all occasions as a true copy of the Retail Price Index Numbers unless proof is adduced that such document is not a true copy as aforesaid.

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3. (1) After the commencement of this Act the powers, authorities, duties and functions of the Commission under the Industrial Arbitration Acts, with respect to the determination of a standard of living and the declaration and adjustment of the living wage based upon such standard for adult male and adult female employees in the State, shall not be exercised.

Certain powers, etc., of Commission to cease.

(2) The Industrial Arbitration Act, 1912-1935, as amended by subsequent Acts, is amended—

Amendment of Act No. 17, 1912.

(a) by omitting section 12B;

Sec. 12B.

(b) by omitting section 26A.

Sec. 26A.

(3) The Industrial Arbitration (Amendment) Act, 1926, as amended by subsequent Acts, is amended by omitting paragraph (b) of subsection one of section seven.

Amendment of Act No. 14, 1926, s. 7 (1) (b).

(4) The Industrial Arbitration (Amendment) Act, 1927, is amended by omitting section five.

Amendment of Act No. 45, 1927, s. 5.

(5) The Industrial Arbitration (Living Wage) Amendment Act, 1929, is amended by omitting section two.

Amendment of Act No. 40, 1929, s. 2.

(6) The Industrial Arbitration (Amendment) Act, 1932, as amended by subsequent Acts, is amended—

Amendment of Act No. 39, 1932.

(a) by omitting section twelve;

Sec. 12.

(b) by omitting subsection one of section thirteen.

Sec. 13 (1).

(7) The Industrial Arbitration (Theatrical Agencies and Employers Licensing) Act, 1935, is amended by omitting section five.

Amendment of Act No. 8, 1935, s. 5.

(8) The Industrial Arbitration (Amendment) Act, 1936, is amended—

Amendment of Act No. 14, 1936.

(a) by omitting paragraph (b) of section two;

Sec. 2 (b).

(b) by omitting section five;

Sec. 5.

(c) by omitting section six.

Sec. 6.

(9) The Family Endowment Act, 1927-1932, is amended by omitting from paragraph (a) of subsection three of section fourteen the words "living wage" and by inserting in lieu thereof the words "the amount of the needs basic wage with the loading added thereto."

Amendment of Act No. 39, 1927, s. 14.

(Qualification for family endowment.)

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awards and
industrial
agreements.**

4. (1) (a) This section shall apply to and in respect of all awards made and industrial agreements entered into under the Industrial Arbitration Acts which are in force immediately before the commencement of this Act and which fix rates of wages for employees which have from time to time been varied by reference or in relation to fluctuations in the adult male living wage or the adult female living wage, as the case may be, declared or adjusted under the Industrial Arbitration Acts.

(b) This section shall not apply to or in respect of any award or industrial agreement (other than an award or industrial agreement which fixes rates of wages exclusively for employees of the Crown and for such employees only) which fixes rates of wages on an annual basis whether or not such rates of wages have from time to time been varied by reference or in relation to fluctuations in the adult male living wage or the adult female living wage, as the case may be, declared or adjusted under the Industrial Arbitration Acts.

(2) (a) Every award or industrial agreement to which this section applies shall, as from the commencement of this Act, but subject to this section, have and take effect as if—

(i) the adult male living wage had, immediately before such commencement, been adjusted at an amount equivalent to that needs basic wage, with the appropriate fixed loading addition, which is applied to that award or industrial agreement by or under the provisions of this section; and

(ii) the adult female living wage had, immediately before such commencement, been adjusted at an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises that needs basic wage, with the appropriate fixed loading addition which is applied to that award or industrial agreement by or under the provisions of this section.

(b) The amount of the needs basic wage with the appropriate fixed loading addition applied to any award or industrial agreement by or under the provisions of this section shall not be deemed or taken to be

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an amount ascertained or fixed by reference or in relation to those provisions of the Industrial Arbitration Acts (as in force immediately before the commencement of this Act) which prescribed the basis and requirements upon which a living wage was to be declared or adjusted.

(3) The needs basic wage and the fixed loading addition to be applied to an award or industrial agreement to which this section applies shall be as follows:—

- (a) In the case of every award or industrial agreement to which this section applies, other than an award or industrial agreement referred to in paragraph (b) or paragraph (c) of this subsection—the needs basic wage assessed on the index number for Sydney for the June Quarter, one thousand nine hundred and thirty-seven, contained in the Retail Price Index Numbers but with the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment and the fixed loading addition determined in the Commonwealth Judgment as being applicable to the needs basic wage so assessed.
- (b) In the case of every award or industrial agreement to which this section applies, which fixes rates of wages exclusively for employees of the Crown, and for such employees only whether or not such rates are fixed on an annual basis—the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales for the June Quarter, one thousand nine hundred and thirty-seven, contained in the Retail Price Index Numbers and the fixed loading addition determined in the Commonwealth Judgment as being applicable in relation to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways.
- (c) In the case of every award or industrial agreement to which this section applies (not being an award or industrial agreement referred to in paragraph (b) of this subsection) which fixes rates

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rates of wages exclusively for employees within the County of Yancowinna and for such employees only—the needs basic wage assessed on the index number for Broken Hill for the June Quarter, one thousand nine hundred and thirty-seven, contained in the Retail Price Index Numbers and the fixed loading addition determined in the Commonwealth Judgment as being applicable to the needs basic wage so assessed.

(4) The terms of each award or industrial agreement to which this section applies, affecting rates of pay, shall be deemed to be varied to the extent necessary to give effect to the provisions of subsections two and three of this section as from the commencement of the first pay period in the month of October, one thousand nine hundred and thirty-seven, whether such pay period commenced before or commences after the commencement of this Act.

Provided that no rate prescribed by any such award or industrial agreement shall be reduced merely by operation of this subsection.

(5) Where the fixed loading addition applied to any award or industrial agreement by or under the provisions of this section is altered in amount or is terminated by any judgment of the Commonwealth Court of Conciliation and Arbitration delivered after the commencement of this Act, the terms of such award or industrial agreement affecting rates of pay shall be deemed to be varied to the extent necessary to give effect to that alteration or termination as from the date upon which, by the terms of the judgment, the alteration or termination takes effect.

Provided that in the case of an industrial agreement where provision is made in the industrial agreement as to the manner in which effect shall be given to any such alteration or termination, the terms of the industrial agreement affecting rates of pay shall, in lieu of the variation referred to in the preceding provisions of this subsection, be deemed to be varied to the extent necessary to give effect to that provision.

(6) As soon as practicable after the commencement of this Act, the Registrar shall (subject to appeal to the Commission) vary the terms of each award and industrial agreement

agreement to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award or industrial agreement as he may think necessary or desirable to enable full effect to be given to the provisions of this Act.

The Registrar may refer any matter arising under this subsection to the Commission for directions.

(7) (a) The Commission shall, within fourteen days after the commencement of this Act, by order, define, for the purposes of all awards and industrial agreements to which the needs basic wage and fixed loading addition referred to in paragraph (a) of subsection three of this section are applied, the boundaries of the different districts for the purposes of that paragraph.

(b) The Commission may, upon application made as prescribed or of its own motion, by order, vary the order made under paragraph (a) of this subsection in so far as the same applies to any particular award or industrial agreement, and may in and by such order define the boundaries of such different districts for the purposes of that award or industrial agreement.

(c) In making any order under this subsection the Commission shall, as far as is practicable and as justice will permit, have regard to the practice of the Commonwealth Court of Conciliation and Arbitration in making awards.

(8) In this section—

“Employee of the Crown” means a person whose wages are provided for by or paid out of any annual or special or permanent appropriation of the Consolidated Revenue Fund, the Special Deposits Account, the General Loan Account, or any other trust or special fund or account constituted or established by any Act as payment for personal services rendered by a person employed in the service of the Government of New South Wales or by or in the service of any Crown corporation, whether the amount of such payment is or is not specified in any such Act, and whether such person is employed in or in connection with one Department or several Departments.

“Crown

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“Crown corporation” includes the Commissioner for Railways, the Commissioner for Main Roads, the Commissioner for Road Transport and Tramways, the Board of Fire Commissioners of New South Wales, the Board of Directors of the Prince Henry Hospital, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Hunter District Water Supply and Sewerage Board, the Maritime Services Board of New South Wales, the Metropolitan Meat Industry Commissioner, the Milk Board, and any person or corporation employing persons on behalf of the Government of New South Wales.

(9) Nothing in this section shall be construed so as to limit or in any way affect the powers conferred on the Commission by section five or section six or section eight or section eleven of this Act.

Uniformity
of basis of
awards with
basis of
Common-
wealth
awards in
same
industry.

5. (1) The Commission shall, upon application made as prescribed, or may, of its own motion, make such orders or determinations as it thinks fit to ensure that—

- (a) the needs basic wage with the fixed loading addition and the periods of adjustment of such needs basic wage which have been applied or are applicable to any award for employees in any industry made under the Industrial Arbitration Acts are in accordance with the needs basic wage with the fixed loading addition and the periods of adjustment of such needs basic wage which have been applied by the Commonwealth Court of Conciliation and Arbitration in an award made by that Court for employees in New South Wales in that industry; or
- (b) the basic wage (not being a needs basic wage) and the periods of adjustment thereof which have been applied or are applicable to any award for employees in any industry made under the Industrial Arbitration Acts and in force immediately before the commencement of this Act are in accordance with the basic wage (not

(not being a needs basic wage) and the periods of adjustment thereof which have been applied by the Commonwealth Court of Conciliation and Arbitration in an award made by that Court for employees in New South Wales in that industry.

(2) Any such order or determination may be made—

- (a) in respect of any award mentioned in paragraph (a) or paragraph (b) of subsection one of this section made before the commencement of this Act, whether or not such award is an award to which section four of this Act applies or has been applied; or
- (b) in respect of any award mentioned in paragraph (a) of subsection one of this section made after the commencement of this Act.

6. (1) Subject to section five of this Act the Commission may, upon application made as prescribed, order that the needs basic wage which shall apply to any award, shall be—

- (a) the needs basic wage assessed on the index number for such place within New South Wales or such combination of places (of which Sydney or some other town in New South Wales is one) contained in the Retail Price Index Numbers as may be specified in the order, and in such case the fixed loading addition to the needs basic wage shall be the fixed loading addition determined by the Commonwealth Court of Conciliation and Arbitration as being applicable to the needs basic wage assessed on the index number for such place or combination of places; or
- (b) the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways, and in such case the fixed loading addition to the needs basic wage shall be the fixed loading addition determined in the Commonwealth Judgment or in any later judgment of the Commonwealth Court of Conciliation and Arbitration as being applicable for the time being in relation to such awards.

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(2) The Commission may, in and by any order made under this section, provide that, in respect of different parts of the area for which the award is made, the needs basic wage shall be assessed on the index number for different places within New South Wales or for different combinations of places (of which Sydney or some other town in New South Wales is one) and in such case the fixed loading addition to the needs basic wage assessed on any such index number shall be the fixed loading addition determined by the Commonwealth Court of Conciliation and Arbitration as being applicable in respect of the needs basic wage assessed on that index number.

Where the Commission exercises the power conferred by this subsection it may, in and by the order, define the boundaries of the different parts of the area.

(3) Subject to section five of this Act the Commission may upon application made as prescribed vary any award by inserting therein—

- (a) a provision specifying the period of adjustment of the needs basic wage applied or applicable to that award; or
- (b) a provision excluding the application of section eight of this Act to or in respect of that award.

(4) The Commission may exercise the powers conferred by this section in respect of any award made either before or after the commencement of this Act, and, in the case of an award made before such commencement, whether or not such award is an award to which section four of this Act applies or has been applied.

Future awards and industrial agreements.

7. (1) All awards made and industrial agreements entered into under the Industrial Arbitration Acts after the commencement of this Act shall, in so far as they fix rates of wages by reference or in relation to a needs basic wage with the appropriate fixed loading addition, be made by reference or in relation to—

- (a) the needs basic wage assessed on the index number for such place within New South Wales or such combination of places (of which Sydney or some other town in New South Wales is one) contained in the Retail Price Index Numbers as may be specified in the award or industrial agreement with the appropriate fixed loading addition; or
- (b)

(b) the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways, with the fixed loading addition determined in the Commonwealth Judgment or in any later judgment of the Commonwealth Court of Conciliation and Arbitration as being applicable for the time being in relation to such awards.

(2) No award made or industrial agreement entered into after the commencement of this Act shall be made or entered into, in the case of adult male employees, for a wage lower than such needs basic wage as may be applicable having regard to the industry concerned or the area for which the award is made or the industrial agreement is entered into with the appropriate fixed loading addition, or, in the case of adult female employees for a wage lower than—

(a) an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises such needs basic wage with the appropriate fixed loading addition; or

(b) an amount equivalent to such percentage (whether greater or less than fifty-four per centum) of the total sum which comprises such needs basic wage with the appropriate fixed loading addition as has been applied by the Commonwealth Court of Conciliation and Arbitration in an award made by that Court for adult female employees in New South Wales in that industry in which the adult female employees affected by the award or industrial agreement, are engaged.

This subsection shall not apply to an award made or industrial agreement entered into for wages of apprentices or trainee apprentices.

S. (1) Unless some other period of adjustment is specifically provided in the award or industrial agreement concerned, the needs basic wage shall be adjusted for each calendar quarter in accordance with the fluctuations (if any) of the index numbers shown in the Retail Price

Automatic
adjustment
of awards
and
industrial
agreements.

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Price Index Numbers for the then next preceding calendar quarter as applied to the table of amounts set out in the Commonwealth Judgment.

(2) The terms of each award made or industrial agreement entered into (whether before or after the commencement of this Act) under the Industrial Arbitration Acts affecting rates of pay shall be deemed so to be varied to accord with the fluctuations (if any) in the index number upon which the needs basic wage applicable to that award or industrial agreement is assessed—

- (a) in any case where a period of adjustment is specifically provided in the award or industrial agreement—as from the commencement of the first pay period in each such period of adjustment; or
- (b) in any other case—as from the commencement of the first pay period in the months of December, March, June and September in each year.

Provided that in the case of an industrial agreement where provision is made in the industrial agreement as to the manner in which effect shall be given to any such fluctuations in the index number upon which the needs basic wage is assessed, the terms of the industrial agreement affecting rates of pay shall, in lieu of the variation referred to in the preceding provisions of this subsection, be deemed to be varied to the extent necessary to give effect to that provision.

(3) Where the fixed loading addition determined by the Commonwealth Court of Conciliation and Arbitration as being appropriate to the needs basic wage applicable to any award made or industrial agreement entered into after the commencement of this Act under the Industrial Arbitration Acts is altered in amount or is terminated by any judgment of that Court delivered after the date upon which such award was made or such industrial agreement was entered into, the terms of such award or industrial agreement affecting rates of pay shall be deemed to be varied to the extent necessary to give effect to that alteration or termination as from the date upon which, by the terms of the judgment, the alteration or termination takes effect.

Provided

Provided that in the case of an industrial agreement where provision is made in the industrial agreement as to the manner in which effect shall be given to any such alteration or termination, the terms of the industrial agreement affecting rates of pay shall, in lieu of the variation referred to in the preceding provisions of this subsection, be deemed to be varied to the extent necessary to give effect to that provision.

(4) The Registrar may (subject to appeal to the Commission), upon application made as prescribed or of his own motion, vary the terms of any award or industrial agreement affecting rates of pay to the extent necessary to give effect to subsection two or subsection three of this section.

The Registrar may refer any such application or any matter arising out of any such application or arising under this subsection to the Commission for directions.

(5) This section shall not apply to or in respect of any award or industrial agreement which contains a provision expressly excluding the application of this section.

9. (1) This section shall apply to and in respect of every award made or industrial agreement entered into under the Industrial Arbitration Acts and in force immediately before the commencement of this Act—

(a) which fixes rates of wages for employees which have not, from time to time, been adjusted by reference or in relation to fluctuations in the adult male living wage or the adult female living wage, as the case may be, declared or adjusted under the Industrial Arbitration Acts; or

(b) which is excepted from the operation of section four of this Act, by paragraph (b) of subsection one of that section.

(2) (a) Application may be made to the Commission as prescribed to apply the provisions of section four of this Act (either with or without the modification referred to in subsection four of this section) to any award or industrial agreement to which this section applies.

Application
of section
to certain
awards and
industrial
agreements.

(b)

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(b) Where any such application is made in relation to an award or industrial agreement of the class referred to in paragraph (a) of subsection one of this section the Commission may make an order applying the provisions of section four of this Act (either with or without the modification referred to in subsection four of this section) to that award or industrial agreement.

(c) Where any such application is made in relation to an award or industrial agreement of the class referred to in paragraph (b) of subsection one of this section the Commission shall make an order applying the provisions of section four of this Act (either with or without the modification referred to in subsection four of this section) to that award or industrial agreement.

(3) Where the provisions of section four of this Act are applied to an award or industrial agreement without the modification referred to in subsection four of this section the Commission shall, in the order, specify which of the paragraphs of subsection three of that section is to apply to that award or industrial agreement.

(4) Where the application so requires the Commission may make, in relation to the award or industrial agreement concerned, any order which it is authorised by section six of this Act to make in relation to an award.

Any such order shall be embodied in and shall form part of the order applying the provisions of section four of this Act to the award or industrial agreement, and such provisions shall in their application to the award or industrial agreement have and take effect as if that section had been enacted as modified by the order.

(5) Where an application under this section is lodged within sixty days after the commencement of this Act any order made on that application shall take effect as from the commencement of the first pay period in the month of October, one thousand nine hundred and thirty-seven, whether such pay period commenced before or commences after the commencement of this Act.

Where an application under this section is lodged after the expiration of sixty days from the commencement of this Act any order made on that application shall take effect from such date, not being earlier than the date of lodgment

lodgment of the application, as may be specified in the order, and in such case the provisions of subsection four of section four of this Act shall, in their application to the award or industrial agreement to which the order relates, have and take effect as if the words "in the month of October, one thousand nine hundred and thirty-seven" had been omitted and the words "next after the date upon which the order made under section nine of this Act takes effect" had been inserted in lieu thereof.

(6) Nothing in this section shall be construed so as to limit or in any way affect the powers conferred on the Commission by section five or section six or section eight or section eleven of this Act.

10. The Commission, or any member thereof to whom the Commission has delegated that function, may confer with the Chief Judge or any of the Judges of the Commonwealth Court of Conciliation and Arbitration with a view to securing co-ordination between any orders, awards, decisions or determinations made or given or to be made or given by the Commission, and any orders or awards made or to be made by the Commonwealth Court of Conciliation and Arbitration with respect to the needs basic wage with the appropriate fixed loading addition to be applied in any particular case or class of cases.

Conferences
with Judges
of the
Common-
wealth Court
of Concilia-
tion and
Arbitration.

11. (1) Where the Commonwealth Court of Conciliation and Arbitration alters the basis upon which the needs basic wage is calculated or alters the periods as at which the needs basic wage is to be adjusted or alters the basis upon which the fixed loading addition is to apply to the needs basic wage the Commission shall, as soon as practicable after such alteration, issue a certificate specifying—

Action to be
taken if
basis
altered.

- (a) the basis upon which the needs basic wage is, from and after the date specified in the certificate to be assessed;
- (b) the periods as at which the needs basic wage is to be adjusted;
- (c) the basis upon which the appropriate fixed loading addition is, from and after the date specified in the certificate, to be applied;

(d)

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(d) the date (whether before, at or after the date upon which the certificate is issued) as from which the needs basic wage is to be assessed or the appropriate fixed loading addition applied on that basis, or as from which the altered periods of adjustment are to take effect.

(2) The Commission shall cause a copy of such certificate to be published in the Gazette.

(3) As soon as practicable after the publication of the certificate in the Gazette, the Registrar shall (subject to appeal to the Commission) vary the terms of each award and industrial agreement made under the Industrial Arbitration Acts and then in force relating to rates of wages to the extent necessary to give effect to any change in such rates occasioned by the alteration of the basis of calculation of the needs basic wage or of the basis upon which the fixed loading addition is to apply to the needs basic wage, and may make such alterations in the form of any such award or industrial agreement as he may think necessary to enable full effect to be given to the matters referred to in the certificate.

The Registrar may refer any matter arising under this subsection to the Commission for directions.

Saving as
to powers,
etc.

12. (1) Nothing contained in this Act shall limit or in any way affect the powers, authorities, duties and functions conferred and imposed upon the Commission or any member thereof, or any other person by or under the Industrial Arbitration Acts except to the extent to which the exercise or performance of any such power, authority, duty or function would be inconsistent with the provisions of this Act.

(2) Nothing in this Act shall affect the practice of the Commission with respect to, or the provisions of any award or industrial agreement prescribing, the method of calculation of hourly, daily, monthly or annual rates of pay.

13. (1) (a) The Public Service Act, 1902, as amended by subsequent Acts, is amended by omitting section forty-eight and by inserting in lieu thereof the following section:—

Amendment
of Act No.
31, 1902,
s. 48.

Higher and
lower
grades.

48. (1) There shall be two series of grades in the Professional and Clerical Divisions called the higher and lower grades.

(2)

(2) (a) Every officer classified in either of such Divisions who is engaged in the performance of work entitling him for the time being to an annual salary of not less than the amount ascertained in accordance with subsection three of this section shall be deemed to be included in the higher grade of the division in which he is classified.

(b) Every officer classified in either of such Divisions who is engaged in the performance of work entitling him for the time being to an annual salary of less than the amount so ascertained shall be deemed to be included in the lower grade of that division.

(3) The amount referred to in subsection two of this section shall be ascertained by adding the sum of two hundred and thirty-eight pounds thirteen shillings to the amount (calculated on an annual basis) of the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration (Amendment) Act, 1937, as being applicable for the time being in relation to such awards.

(b) The Public Service Salaries (Amendment) Act, 1935, is amended by omitting section three.

Consequential amendment of Act No. 27, 1935, s. 3.

(2) The Government Railways Act, 1912-1934, as amended by subsequent Acts, is amended—

Amendment of Act No. 30, 1912, s. 107A.

(a) by omitting from the proviso to subsection three of section 107A the words "of the declared adult male or adult female living wage in force for the time being less five shillings" and by inserting in lieu thereof the words "ascertained in accordance with subsection (3A) of this section";

(b) by inserting under subsection three of the same section the following new subsection:—

(3A) The amount which, pursuant to the proviso to subsection three of this section is to be ascertained

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ascertained in accordance with this subsection, shall—

- (a) in the application of that proviso to a male officer, be ascertained by deducting five shillings from the amount of the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration (Amendment) Act, 1937, as being applicable for the time being in relation to such awards;
- (b) in the application of that proviso to a female officer, be ascertained by deducting five shillings from an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration (Amendment) Act, 1937, as being applicable for the time being in relation to such awards.

Amendment
of Act No.
36, 1920.

Schedule.

(3) The Workmen's Compensation (Broken Hill) Act, 1920-1934, is amended—

- (a) by omitting from paragraph (i) of the proviso to clause three of the Schedule the words "declared by the statutory authority to be the living or basic wage for the locality whether within or without the State in which he resides" and by inserting in lieu thereof the words "of the needs basic wage assessed on the index number for Broken Hill contained in the Court's series of all

all items retail price index numbers published by or by the direction of the Commonwealth Court of Conciliation and Arbitration for the next preceding calendar quarter, with the fixed loading addition determined in any judgment of the Commonwealth Court of Conciliation and Arbitration delivered either before or after the commencement of the Industrial Arbitration (Amendment) Act, 1937, as being applicable for the time being in relation to the needs basic wage so assessed";

- (b) by omitting from paragraph (ii) of the same proviso the words "the abovementioned wage" and by inserting in lieu thereof the words "a wage not less than the abovementioned amount";
- (c) by omitting paragraph (e) of clause five of the Schedule and by inserting in lieu thereof the following paragraph:—
 - (e) During partial incapacity the weekly payment shall in no case exceed the difference between—
 - (i) the amount of the needs basic wage assessed on the index number for Broken Hill contained in the Court's series of all items retail price index numbers published by or by the direction of the Commonwealth Court of Conciliation and Arbitration for the next preceding calendar quarter, with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration (Amendment) Act, 1937, as being applicable for the time being in relation to the needs basic wage so assessed; and
 - (ii) the average weekly amount he is earning or is able to earn in some suitable employment or business.

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The weekly payment shall bear such relation to the amount of such difference as in the circumstances of the case may appear proper to the joint committee.

Amendment
of Act No.
13, 1930.

Schedule.

(4) The Workmen's Compensation (Silicosis) Act, 1920-1936, is amended by omitting from paragraph (e) of clause three of the Schedule all words following the words "be deemed to be not less than" and by inserting in lieu thereof the words "an amount equivalent to the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales contained in the Court's all items retail price index numbers published by or by the direction of the Commonwealth Court of Conciliation and Arbitration for the next preceding calendar quarter with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration (Amendment) Act, 1937, as being applicable for the time being in relation to the needs basic wage so assessed.

Amendment
of Act No.
15, 1926,
s. 14 (e).

(5) The Workers' Compensation Act, 1926-1929, is amended by omitting from paragraph (e) of section fourteen all words following the words "the time of the injury" and by inserting in lieu thereof the following words:—

Such average weekly earnings shall—

(i) in the case of a male casual worker, be deemed to be not less than an amount equivalent to the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales contained in the Court's all items retail price index numbers published by or by the direction of the Commonwealth Court of Conciliation and Arbitration for the next preceding calendar quarter with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration (Amendment) Act, 1937, as being applicable to the needs basic wage so assessed;

(ii)

(ii) in the case of a female casual worker, be deemed to be not less than an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales contained in the Court's all items retail price index numbers published by or by the direction of the Commonwealth Court of Conciliation and Arbitration for the next preceding calendar quarter with the fixed loading addition determined in any judgment of that Court delivered either before or after the commencement of the Industrial Arbitration (Amendment) Act, 1937, as being applicable to the needs basic wage so assessed.
