

**INDUSTRIAL ARBITRATION (BASIC WAGE)
AMENDMENT ACT.**

Act No. 38, 1950.

**George VI,
No. 38, 1950.**

An Act to make certain provisions for and relating to the variation of terms of existing awards and industrial agreements affecting rates of pay; to provide for the application to future awards and industrial agreements of the basic wage for adult males and for adult females determined under and in accordance with decisions of the Commonwealth Court of Conciliation and Arbitration as the basis of assessment of rates of wages; for these purposes to amend the Industrial Arbitration Act, 1940, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 23rd November, 1950.]

BE

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BE it enacted by the King's Most Excellent Majesty, No. 38, 1950.
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 (Basic Wage) Amendment Act, 1950." Short title and citation.

(2) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1950.

2. The Industrial Arbitration Act, 1940, as amended by subsequent Acts, is amended— Amendment of Act No. 2, 1940.

(a) by inserting next after section sixty-one the following new Division:— New Division 2, Part V.

DIVISION 2.—Provisions applicable after the Commonwealth Judgment, 1950.

61A. (1) In this Division, unless the context or subject matter otherwise indicates or requires— Definitions.

"Basic wage for adult males" means the basic wage for adult males approved and adopted in the Commonwealth Judgment.

"Basic wage for adult females" means the basic wage for adult females approved and adopted in the Commonwealth Judgment.

"Commonwealth Judgment" means the judgment delivered by the Commonwealth Court of Conciliation and Arbitration on the twelfth day of October, one thousand nine hundred and fifty, in the matter intituled "In the matter of applications by organisations of employees for alteration of the basic wage prescribed by awards and orders made or continued in force in pursuance

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pursuance of the provisions of the Commonwealth Conciliation and Arbitration Act 1904-1949” and includes any orders, judgments, determinations or announcements explaining, supplementing or amplifying such judgment, made in the said matter by the Commonwealth Court of Conciliation and Arbitration after the said date, and also includes any orders, judgments, determinations or announcements made in or in relation to the application of the principles thereof to the determination of any dispute.

“Retail Price Index Numbers” means the Court’s series of 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.

**Existing
awards and
industrial
agreements.**

61b. (1) This section shall apply to and in respect of all awards and industrial agreements to which Division 1 of this Part applies and which were in force immediately before the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1950.

(2)

(2) The commission shall, upon applica- **No. 38, 1950.**
tion made as prescribed, or may, of its own
motion, make such orders, awards or deter-
minations varying the terms of any award or
industrial agreement affecting rates of pay of
male employees to the extent to which it thinks
fit to give effect to the alteration in the basic
wage for adult males made by the Common-
wealth Judgment.

(3) The commission, after giving con-
sideration to the Commonwealth Judgment,
shall, upon application made as prescribed, or
may, of its own motion, review the terms of
any award or industrial agreement affecting
rates of pay of female employees, and make such
orders, awards or determinations varying such
terms as it in the circumstances deems
reasonable and proper.

No such order, award or determination shall
vary such terms so as to fix rates of pay for
adult female employees lower than the basic
wage for adult females.

(4) Any order, award or determination
pursuant to the provisions of this section shall
take effect—

(a) as from the commencement of the first
pay period in the month of December,
one thousand nine hundred and fifty;
or

(b) where the commission otherwise deter-
mines, as from such date, not being
earlier than the commencement of the
first pay period in the month of
December, one thousand nine hundred
and fifty, as may be specified in such
order, award or determination.

(5) The commission may from time to
time declare general rulings relating to any
matters arising out of the operation of this
section

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Uniformity
of basis of
awards with
basis of
Common-
wealth
awards in
same
industry.
cf. sec. 55,
ante.

section and such general rulings shall have and take effect to the extent stated by the commission as orders, awards or determinations of the commission.

61c. (1) The commission shall, upon application made as prescribed, and may, of its own motion, make such orders or determinations as it thinks fit to ensure that—

- (a) the basic wage for adult males and the periods of adjustment thereof which have been applied or are applicable to any award for employees made under this Act are in accordance with the basic wage for adult males and the periods of adjustment thereof which have been applied in an award made under the Commonwealth Conciliation and Arbitration Act, 1904-1949 for employees in New South Wales in that industry;
- (b) the basic wage for adult females and the periods of adjustment thereof which have been applied or are applicable to any award for employees made under this Act are in accordance with the basic wage for adult females and the periods of adjustment thereof which have been applied in an award made under the Commonwealth Conciliation and Arbitration Act 1904-1949 for employees in New South Wales in that industry.

(2) Any such order or determination may be made in respect of any award made under this Act either before or after the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1950.

Power to
alter basis
of awards.
cf. sec. 56,
ante.

61d. (1) Subject to section 61c of this Act the commission may, upon application made as prescribed, order that the basic wage for adult males or the basic wage for adult females,

as

as the case may be, which shall apply to any award shall be the basic wage for adult males or the basic wage for adult females, as the case may be, 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. No. 38, 1950.

(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 basic wage for adult males or the basic wage for adult females 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).

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 61c 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 basic wage for adult males or the basic wage for adult females applied or applicable to that award; or
- (b) a provision excluding the application of section 61f 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 the Industrial Arbitration (Basic Wage) Amendment Act, 1950.

Industrial Arbitration (Basic Wage) Amendment Act.**No. 38, 1950.****Future
awards and
industrial
agreements.
cf. sec. 57,
ante.**

61E. (1) All awards made and industrial agreements entered into after the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1950, shall, in so far as they fix rates of wages by reference or in relation to a basic wage for adult males or a basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females, as the case may be, 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.

(2) No award made or industrial agreement entered into after the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1950, shall be made or entered into, in the case of adult male employees, for a wage lower than such basic wage for adult males 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 or, in the case of adult female employees for a wage lower than such basic wage for adult females 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.

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

**Automatic
adjustment
of awards
and
industrial
agreements.
cf. sec. 58,
ante.**

61F. (1) Unless some other period of adjustment is specifically provided in the award or industrial agreement concerned, the basic wage for adult males and the basic wage for adult females shall be adjusted for each quarter in

accordance

accordance with the fluctuations (if any) of the ^{No. 38, 1950.} index numbers shown in the Retail Price Index Numbers for the then next preceding quarter.

(2) The terms of each award made or industrial agreement entered into whether before or after the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1950, 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 basic wage for adult males and the basic wage for adult females 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 February, May, August and November 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 basic wage for adult males and the basic wage for adult females 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) 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 of this section.

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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.

(4) 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.

Conferen-
ces with
Judges
of the
Common-
wealth
Court of
Concilia-
tion and
Arbitra-
tion.
cf. sec. 60,
ante.

61G. 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 basic wage for adult males or the basic wage for adult females to be applied in any particular case or class of cases.

Action to
be taken
if basis
altered.
cf. sec 61,
ante.

61H. (1) Where the Commonwealth Court of Conciliation and Arbitration alters the principles upon which the basic wage for adult males or the basic wage for adult females is computed or alters the periods as at which the basic wage for adult males or the basic wage for adult females is to be adjusted the commission shall, as soon as practicable after such alteration, issue a certificate specifying—

- (a) the principles upon which the basic wage for adult males or the basic wage for adult females is, from and after the date specified in the certificate to be computed;
- (b) the periods as at which the basic wage for adult males or the basic wage for adult females is to be adjusted;
- (c)

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- (c) the date (whether before, at or after the date upon which the certificate is issued) as from which the basic wage for adult males or the basic wage for adult females is to be computed on those principles, 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 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 principles upon which the basic wage for adult males or the basic wage for adult females is to be computed, 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.

- (b) by inserting next after the heading to Part V the following subheading:—

Part V.—
Heading.
(Consequen-
tial.)

DIVISION 1.—*Provisions applicable before
the Commonwealth Judgment, 1950.*

- (c) by inserting next after section 61H as inserted by paragraph (a) of this section the following subheading:—

New sub-
heading—
Division 3.
(Consequen-
tial.)

DIVISION 3.—*General.*

MORATORIUM