

INDUSTRIAL ARBITRATION (FEMALE RATES) AMENDMENT ACT.

Act No. 42, 1958.

An Act to make further provision in relation to the basis upon which wages in awards and industrial agreements and applicable to female employees are to be assessed; to make certain provisions with respect to equal pay for male and female employees; for these purposes to amend the Industrial Arbitration Acts, 1940-1957; and for purposes connected therewith. [Assented to, 31st December, 1958.] Elizabeth II,
No. 42, 1958.

BE it enacted by the Queen'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 (Female Rates) Amendment Act, 1958".

Short title,
citation and
commence-
ment.

(2) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1958.

(3) This Act shall commence upon the first day of January, one thousand nine hundred and fifty-nine.

2.

No. 42, 1958. 2. The Industrial Arbitration Act, 1940, as amended by subsequent Acts, is amended by inserting next after section 61M the following new Division :—

Amendment
of Act No.
2, 1940.

New
Division
2B—Part V.

DIVISION 2B.—*Provisions applicable to rates of wages for females after the commencement of the Industrial Arbitration (Female Rates) Amendment Act, 1958.*

Construc-
tion.

61N. The provisions contained in this Division shall be supplementary to and not in derogation of the provisions contained in Division 2A of this Part of this Act.

Inter-
pretation.

61O. In this Division, unless the context or subject matter otherwise indicates or requires :—

“1950 judgment of the commission” means the decision of the commission under the Industrial Arbitration (Basic Wage) Amendment Act, 1950, announced in December, 1950, and more fully expounded in 1951 A.R. at page 1 et seq. under the entitlement of In re Industrial Arbitration (Basic Wage) Amendment Act, 1950.

Existing
basic wage
for adult
females.

61P. In any award or industrial agreement the basic wage for adult females assessed and calculated under and in accordance with Division 2A of this Part of this Act and applicable having regard to the industry concerned or the area for which the award is made or the industrial agreement is entered into shall, notwithstanding anything contained in the 1950 judgment of the commission or any other judgment of the commission, be a true foundational basic wage.

Existing
awards and
industrial
agreements.

61Q. (1) This section shall apply to and in respect of awards and industrial agreements to which Division 2A of this Part of this Act applies and which were in force immediately before the commencement of the Industrial Arbitration (Female Rates) Amendment Act, 1958.

(2)

(2) Subject to section 61s of this Act the commission shall, upon application made therefor, or may of its own motion, and a committee shall, upon application made therefor, make such orders, awards or determinations varying the terms of any award or industrial agreement affecting rates of wages for female employees to the extent necessary to give effect to section 61P of this Act. **No. 42, 1958.**

61R. (1) This section shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Female Rates) Amendment Act, 1958. ^{Future awards and industrial agreements.}

(2) All awards and industrial agreements to which this section applies shall in so far as they fix rates of wages by reference or in relation to the basic wage for adult females be made by reference or in relation to the true foundational basic wage referred to in section 61P of this Act.

61s. The commission or a committee shall not, in any order, award or determination made pursuant to section 61Q of this Act, fix a rate of wages for adult females at an amount less than an amount equivalent to the sum of— ^{Marginal rates.}

- (a) the basic wage for adult females referred to in section 61P of this Act, and
- (b) that portion of the rate of wages applicable to such adult females immediately before the making of the said order, award or determination as the commission or committee determines to be referable to marginal or secondary considerations :

Provided that where the rate of wages for any adult females pursuant to this section would but for this proviso exceed that applicable to adult males performing work of the same or a like nature and of equal value as that performed by such adult females the rate of wages for such adult females to be fixed by the commission or a committee shall be equal to that applicable to adult males as aforesaid.

Industrial Arbitration (Female Rates) Amendment Act.

No. 42, 1958.

Further
amendment
of Act No.
2, 1940.New sec.
88D.Equal pay
for males
and females
in certain
circum-
stances.

3. The Industrial Arbitration Act, 1940, as amended by subsequent Acts, is further amended by inserting next after section 88C the following new section : —

88D. (1) The commission or a committee shall upon application made therefor insert (by way of variation or otherwise) in any award or industrial agreement which fixes rates of wages for male and female employees performing work of the same or a like nature and of equal value provisions for equal pay as between the sexes based upon the principles set out in this section.

(2) Where the commission or a committee is satisfied that male and female employees are performing work of the same or a like nature and of equal value the same marginal or secondary rates of wages shall be fixed irrespective of the sex of the employees. For the purpose of determining whether female employees are performing work of the same or a like nature and of equal value as male employees the commission or a committee shall in addition to any other relevant matters take into consideration whether the female employees are performing the same work or work of a like nature as male employees and doing the same range and volume of work as male employees and under the same conditions.

(3) Where the same marginal or secondary rates of wages have been fixed under and in accordance with subsection two of this section the rates of wages applicable to female employees to whom such fixation applies shall be fixed by adding to such marginal or secondary rates of wages the percentage of the appropriate basic wage for adult males set out in the second column of the Schedule hereto opposite the year specified in the first column of the Schedule hereto during which the same marginal or secondary rates of wages have been fixed as aforesaid.

SCHEDULE.

SCHEDULE.

No. 42, 1958.

Year.	Percentage of the appropriate basic wage for adult males.
Commencing 1st January, 1959	Eighty per centum.
Commencing 1st January, 1960	Eighty-five per centum.
Commencing 1st January, 1961	Ninety per centum.
Commencing 1st January, 1962	Ninety-five per centum.
Commencing 1st January, 1963 or any subsequent year.	One hundred per centum.

(4) Where the rates of wages of female employees have been fixed under and in accordance with the provisions of subsection three of this section during any year specified in the first column of the Schedule to the said subsection such rates of wages shall as from the first pay period next following the first day of January in each ensuing year up to and including the year commencing on the first day of January, one thousand nine hundred and sixty-three, be adjusted, and shall, in lieu of being the rates of wages applicable immediately before such first pay period in the relevant year, be of an amount equivalent to the sum of—

- (a) the marginal or secondary rates fixed under and in accordance with the provisions of subsection two of this section or where such marginal or secondary rates have been varied the marginal or secondary rates as so varied; and
- (b) the percentage of the appropriate basic wage for adult males set out in the second column of the said Schedule opposite the relevant year specified in the first column of the said Schedule.

(5) Where the appropriate basic wage for adult males referred to in subsection three or four of this section is adjusted under and in accordance with the provisions of Division 2A of Part V of this Act or the marginal or secondary rates fixed under and in accordance with the provisions of subsection two of this section are varied the rates of wages fixed for adult females under the said subsection three or four shall be adjusted accordingly.

(6) Any calculations made in reference to the Schedule to subsection three of this section shall be calculated to the nearest sixpence (threepence to be regarded as sixpence).

(7)

No. 42, 1958.

(7) (a) Nothing contained in this section shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission or a committee by or under this Act in respect of rates of wages for adult females :

Provided that in the exercise or performance of such powers, authorities, duties or functions the commission or a committee shall not in any award or industrial agreement, which fixes rates of wages for male and female employees performing work of the same or a like nature and of equal value, insert any provisions relating to rates of wages for adult females less favourable to the female employees than the provisions prescribed by this section.

(b) Subsection two of this section shall not be construed as requiring the same marginal or secondary rates for male and female employees to be fixed only where such male and female employees are performing work of the same or a like nature and of equal value within the meaning of that subsection.

(8) 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 wages to the extent necessary to give effect to subsections three, four, five and six 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 direction.

(9) (a) This section shall apply to and in respect of awards and industrial agreements made before or after the commencement of the Industrial Arbitration (Female Rates) Amendment Act, 1958.

(b) This section shall not apply to and in respect of those provisions of any awards and industrial agreements which are applicable to persons engaged in work essentially or usually performed by females but upon which male employees may also be employed.

(c)

(c) In this section “appropriate basic wage No. 42, 1958. for adult males” means the 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 assessed and calculated under and in accordance with the provisions of Division 2A of Part V of this Act.
