

**INDUSTRIAL ARBITRATION (AMENDMENT)
ACT.**

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 82, 1975.

An Act to amend the Industrial Arbitration Act, 1940, in relation to general economic principles to be applied in the making of certain industrial agreements, awards and orders; to provide for the extension of the term of office of conciliation commissioners; and to extend the powers of the Industrial Commission of New South Wales in respect of conciliation committees and conciliation commissioners. [Assented to, 10th December, 1975.]

BE

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BE it enacted by the Queen's Most Excellent Majesty, by **No. 82, 1975**
 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. This Act may be cited as the "Industrial Arbitration **Short**
 (Amendment) Act, 1975". **title.**

2. The Industrial Arbitration Act, 1940, is amended— **Amendment**
of Act No.
2, 1940.

(a) by inserting at the end of section 11 the following **Sec. 11.**
 subsections :— **(Power to**
make
industrial
agree-
ments.)

(2) Notwithstanding subsection (1), an industrial agreement made after the date of assent to the Industrial Arbitration (Amendment) Act, 1975, has no force or effect unless the commission endorses on it a certificate certifying that the agreement conforms to the commission's general economic principles relating to the making of awards.

(3) The registrar shall, as soon as practicable after an agreement is filed at the office of the registrar as referred to in subsection (1), refer the agreement to the commission for endorsement on the agreement of the certificate referred to in subsection (2).

(4) Where an agreement is referred to the commission in accordance with subsection (3), the commission shall—

(a) if it is satisfied on an examination of the agreement that the agreement conforms to the commission's general economic principles

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principles relating to the making of awards, endorse on the agreement the certificate referred to in subsection (2); or

(b) if the commission does not endorse the agreement in accordance with paragraph (a)—

(i) cause to be listed for hearing the question of whether the agreement should be endorsed with the certificate referred to in subsection (2);

(ii) cause notice, in such form and manner as may be determined by the commission, of the time and place set down for the hearing to be given to the parties to the agreement; and

(iii) at that time and place or at some other time and place to which the proceedings for the determination of the question are adjourned, hear and determine the question and make an order that the agreement be endorsed with the certificate referred to in subsection (2) or that the agreement be not so endorsed.

(5) The commission shall not make an order under subsection (4) (b) (iii) that the agreement be not endorsed with the certificate referred to in subsection (2) unless it is satisfied that some term of the agreement does not conform to one or more of the commission's general economic principles relating to the making of awards.

(6)

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(6) A reference in this section to the commis-^{No. 82, 1975}
sion's general economic principles relating to the
making of awards is a reference—

- (a) except as provided in paragraphs (b) and (c), to the economic principles relating to the making of awards set forth in the determination made by the commission in court session on 23rd May, 1975, in the matter No. 170 of 1975, entitled "State Wage Case May 1975", as altered by the determination made by the commission in court session on 29th October, 1975, in that matter, entitled "State Wage Case October 1975";
- (b) except as provided in paragraph (c), where the commission in court session, in a determination made by it under section 57 after the date of assent to the Industrial Arbitration (Amendment) Act, 1975, determines that those principles be altered or added to and declares in that determination that those principles as so altered or added to shall be the commission's general economic principles relating to the making of awards—to those principles as so altered or added to; or
- (c) where the commission in court session, in a determination made by it under section 57 after the date of assent to the Industrial Arbitration (Amendment) Act, 1975, declares that principles set forth in the determination be substituted for those referred to in paragraph (a) or (b), as the case may be, shall be the commission's general economic principles relating to the making of awards—to those substituted principles.

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(7) Subsections (2), (3), (4), (5) and (6) and this subsection are repealed upon the publication in the Gazette of a proclamation to that effect made by the Minister, but a proclamation under this subsection shall not be made except simultaneously with a proclamation under section 23B (6).

Sec. 15.
(Concilia-
tion com-
missioners.)

(b) by omitting section 15 (3) and by inserting instead the following subsections :—

(3) A conciliation commissioner shall, subject to this Act, hold office—

(a) except as provided in paragraph (b)—until he attains the age of 65 years; or

(b) where the Governor has under subsection (3A) approved of his continuing in office as a conciliation commissioner or as the senior conciliation commissioner, as the case may be, after his attaining the age of 65 years—for any period specified in any such approval.

(3A) Where the Minister, on the recommendation of—

(a) the senior conciliation commissioner in relation to any other conciliation commissioner; or

(b) the President of the commission in relation to the senior conciliation commissioner,

made not earlier than 3 months before the day on which that conciliation commissioner or the senior conciliation commissioner, as the case may be, would but for an approval given under this subsection cease to hold office under subsection (3), certifies that in his opinion it is desirable that that conciliation commissioner or the senior conciliation commissioner, as the case may be, should continue
in

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in office, the Governor may from time to time approve of that conciliation commissioner or the senior conciliation commissioner, as the case may be, continuing in office for such period, not exceeding 12 months in respect of any one approval, as may be specified in the approval. No. 82, 1975

(3B) An approval shall not be given under subsection (3A) so that a conciliation commissioner or the senior conciliation commissioner continues in office after he attains the age of 70 years.

(c) by inserting after section 23A the following section :— Sec. 23B.

23B. (1) Where the chairman of a committee, in an order or award made by the committee, certifies at the time of the making of the order or award that in his opinion some provision of the order or award does not conform to one or more of the commission's general economic principles relating to the making of awards— Certain orders and awards of committees ineffective unless certified to conform to general economic principles.

- (a) the chairman shall refer the order or award to the commission; and
- (b) the order or award shall have no force or effect unless the commission issues a certificate in respect of the order or award certifying that the order or award conforms to the commission's general economic principles relating to the making of awards.

(2) Where an order or award is referred to the commission under subsection (1) (a), the commission shall—

- (a) if it is satisfied on an examination of the order or award and any record of the proceedings relating to the making of the order or award that the order or award conforms to the commission's general economic

principles

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principles relating to the making of awards,
issue the certificate referred to in subsection
(1) (b) in respect of the order or award;
or

(b) if the commission does not issue a certificate
in respect of the order or award in
accordance with paragraph (a)—

(i) cause to be listed for hearing the
question of whether the certificate
referred to in subsection (1) (b)
should be issued;

(ii) cause notice, in such form and
manner as may be determined by the
commission, of the time and place
set down for the hearing to be given
to the parties and to such other
persons as the commission thinks fit;
and

(iii) at that time and place or at some
other time and place to which the
proceedings for the determination of
the question are adjourned, hear and
determine the question and make an
order that the certificate referred to
in subsection (1) (b) be issued or
that that certificate be not issued.

(3) The commission shall not make an
order under subsection (2) (b) (iii) that the cer-
tificate referred to in subsection (1) (b) be not
issued unless it is satisfied that some provision of
the order or award does not conform to one or
more of the commission's general economic prin-
ciples relating to the making of awards.

(4) Where the commission makes an
order under subsection (2) (b) (iii) that the cer-
tificate referred to in subsection (1) (b) be not
issued, the commission shall, after such hearing as
the

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the commission considers necessary, vary the order or award concerned to the extent only that is necessary to make it conform to the commission's general economic principles relating to the making of awards. No. 82, 1975

(5) A reference in this section to the commission's general economic principles relating to the making of awards is a reference to the principles referred to in section 11 (6) (a), (b) or (c), as the case may require.

(6) This section is repealed upon the publication in the Gazette of a proclamation to that effect made by the Minister, but a proclamation under this subsection shall not be made except simultaneously with a proclamation under section 11 (7).

(d) by omitting section 31 (b) and by inserting instead the following paragraph :— Sec. 31.
(Powers of
commis-
sion.)

(b) at any time on its own initiative or on application made to it—

(i) to make an award or to vary or rescind any award made by it, a committee or a conciliation commissioner; or

(ii) to prohibit any proceeding before a committee or a conciliation commissioner.

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