

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 38, 1976.

An Act to amend the Industrial Arbitration Act, 1940, with respect to the rights of certain employees of the Crown and members of the police force. [Assented to, 13th October, 1976.]

BE

Industrial Arbitration (Amendment).

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:—

Short title.

1. This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1976".

Amendment of Act No. 2, 1940.

2. The Industrial Arbitration Act, 1940, is amended in the manner set forth in Schedule 1.

Amendment of Act No. 4, 1970.

3. The Teaching Service Act, 1970, is amended—

Sec. 2.

(a) by omitting from the matter relating to Part I in section 2 the matter "1-3" and by inserting instead the matter "1-3A";

Sec. 3A.

(b) by inserting after section 3 the following section :—

Industrial Arbitration Act, 1940, not affected.

3A. Except to the extent that this Act otherwise expressly provides, nothing in this Act amends or affects the provisions of the Industrial Arbitration Act, 1940.

SCHEDULE

Industrial Arbitration (Amendment).

SCHEDULE 1.

Sec. 2.

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT, 1940.

(1) Section 3—

Omit “the Schedule hereto”, insert instead “Schedule 1”.

(2) (a) Section 5 (1), definition of “Employees of the Crown”—

Omit the definition, insert instead :—

“Employee of the Crown” includes—

- (a) an employee of a public authority;
and
- (b) a member of the police force
under the Police Regulation Act,
1899.

(b) Section 5 (1), definition of “Employer”—

Omit “the Commissioner for Railways, the Commissioner for Road Transport and Tramways, the Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Hunter District Water Supply and Sewerage Board”, insert instead “a public authority”.

(c) Section 5 (1), definition of “Public authority”—

After the definition of “Prescribed”, insert :—

“Public authority” means a body or person specified in Schedule 2.

SCHEDULE

*Industrial Arbitration (Amendment).*SCHEDE 1—*continued.*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—*continued.*

(d) Section 5 (4)—

After section 5 (3), insert :—

(4) The Governor may, by order published in the Gazette, amend Schedule 2 by inserting therein the name of an employer.

(3) (a) Section 15 (7)—

Omit the subsection, insert instead :—

(7) Where a conciliation commissioner appointed before or after the commencement of the Industrial Arbitration (Amendment) Act, 1976, was or is, immediately before his appointment or that commencement, whichever is the later—

- (a) an employee of the Crown;
- (b) a member of a public authority; or
- (c) a person in respect of whom provision was or is made by an Act that he retain any rights accrued or accruing to him as an officer or employee,

he—

- (d) shall retain any rights accrued or accruing to him immediately before that commencement or appointment, whichever is the later, as such an employee, member or person;

SCHEDE

Industrial Arbitration (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—*continued.*

- (e) may continue to contribute to or take part in any scheme, fund or arrangement—
 - (i) under which superannuation or retirement benefits are provided;
 - (ii) which is established by an Act; and
 - (iii) to which he was a contributor, or in which he took part, immediately before that commencement or appointment, whichever is the later; and
- (f) shall be entitled to receive any deferred or extended leave, and any payment, pension or gratuity,

as if he had continued to be such an employee, member or person and—

- (g) his service as a conciliation commissioner shall be deemed to be service as such an employee, member or person for the purposes of any law under which the rights referred to in paragraph (d) accrued or were accruing, under which he continues to contribute to or take part in a scheme, fund or arrangement referred to in paragraph (e) or by which the entitlement referred to in paragraph (f) is conferred; and

SCHEDULE

*Industrial Arbitration (Amendment).*SCHEDULE 1—*continued.*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—*continued.*

(h) he shall be deemed to be such an employee, member or person for the purposes of any scheme, fund or arrangement referred to in paragraph (e) to which, by the operation of this subsection, he is entitled to contribute.

(b) Section 15 (8), (8A), (8B)—

Omit section 15 (8), insert instead :—

(8) A conciliation commissioner who, but for this subsection, would be entitled to contribute to or take part in a scheme, fund or arrangement referred to in subsection (7) (e) or to receive any payment, pension or gratuity under that scheme shall not be so entitled upon his becoming a contributor to or taking part in any other such scheme, fund or arrangement and subsection (7) (h) ceases to apply to or in respect of him where he becomes a contributor to or takes part in any other such scheme, fund or arrangement.

(8A) Subsection (8) does not prevent the payment to a conciliation commissioner on his ceasing to contribute to or take part in such a scheme, fund or arrangement of such amount as would have been payable to him if he had ceased, by reason of resignation, to be entitled to contribute to or take part in the scheme, fund or arrangement.

(8B) A conciliation commissioner is not in respect of the same period of service entitled to claim a benefit under this Act and any other Act.

SCHEDULE

Industrial Arbitration (Amendment).

SCHEDULE 1—continued.

**AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—continued.**

(4) (a) Section 20 (1)—

Omit “such employees :”, insert instead “such employees.”.

(b) Section 20 (1)—

Omit “Provided that an award”, insert instead “(1A) Notwithstanding subsection (1), an award”.

(c) Section 20 (1)—

Omit “or affecting employees employed under the Public Service Act, 1902, or any Act amending the same or under the Police Regulation Act, 1899, or persons employed under the Teaching Service Act, 1970, or any statute passed in substitution for or amendment of the same,”, insert instead “the Commissioner of Police, the Deputy Commissioner of Police, the Senior Assistant Commissioner of Police or an Assistant Commissioner of Police”.

(d) Section 20 (1)—

Omit “and employees”.

(e) Section 20 (1)—

Omit “(d) sick leave :”, insert instead “(d) sick leave.”.

(f) Section 20 (1)—

Omit “Provided also that nothing” where firstly occurring, insert instead “(1B) Nothing”.

SCHEDULE

Industrial Arbitration (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—*continued.*

(g) Section 20 (1)—

Omit “was refused :”, insert instead “was refused.”.

(h) Section 20 (1)—

Omit “Provided also that nothing” where secondly occurring, insert instead “(1c) Nothing”.

(i) Section 20 (1)—

Omit “or any statute passed in substitution for or amendment of the same,” where secondly and thirdly occurring.

(j) Section 20 (1D)—

After section 20 (1), insert—

(1D) Nothing in this Act authorises the making of an award that—

- (a) is inconsistent with the operation of the provisions of section 10 (1) of the Crown Employees Appeal Board Act, 1944;
- (b) is inconsistent with the operation of the provisions of Part II A of the Public Service Act, 1902;
- (c) is inconsistent with the operation of the provisions of section 6 (1) of the Police Regulation (Appeals) Act, 1923;

SCHEDULE

Industrial Arbitration (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—*continued.*

- (d) is inconsistent with any right, power, authority, duty or function conferred or imposed by or under the provisions of the Police Regulation Act, 1899, with respect to the discipline, promotion or transfer of a member of the police force;
- (e) is inconsistent with any right, power, authority, duty or function conferred or imposed by the provisions of sections 6, 6A, 9, 10, 10A, 12A, 12B, 12C, 12G and 18 of the Police Regulation Act, 1899; or
- (f) is inconsistent with any right, power, authority, duty or function conferred or imposed by or under the provisions of the Police Regulation (Superannuation) Act, 1906.

(5) Section 69 (4)—

Omit the subsection.

(6) Section 70—

Omit “corporate body specifically mentioned in or included within the definition of ‘Crown’ contained in subsection (4) of section 69”, insert instead “public authority”.

SCHEDULE

Industrial Arbitration (Amendment).

SCHEDULE 1—continued.**AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—continued.****(7) Section 88A—**

Omit—

In this section the expression “employees of the Crown” includes employees of the Government or of any department of the Government or of any person or corporation employing persons on behalf of the Government and without limiting the generality of the foregoing includes employees of any of the following corporations, that is to say—

The Commissioner for Railways,

The Commissioner for Road Transport and Tramways,

The Commissioner for Main Roads,

The Metropolitan Meat Industry Board,

The Maritime Services Board of New South Wales,

The Metropolitan Water Sewerage and Drainage Board,

The Water Conservation and Irrigation Commission,

The Forestry Commission of New South Wales,

The Board of Fire Commissioners of New South Wales, and

The Hunter District Water Board.

SCHEDULE

Industrial Arbitration (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—*continued.*

(8) Section 99 (a)—

Omit “(including the Commissioner for Railways and the Commissioner for Road Transport and Tramways, the Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, The Metropolitan Meat Industry Commissioner, the Hunter District Water Supply and Sewerage Board,.”.

(9) Schedule—

After “SCHEDULE”, insert “1”.

(10) Schedule 2—

After the Schedule, insert :—

SCHEDULE 2.

Sec. 5 (1),
(4).

Public Transport Commission of New South Wales.
The Commissioner for Motor Transport.
The Commissioner for Main Roads.
The Metropolitan Meat Industry Board.
The Maritime Services Board of New South Wales.

SCHEDULE

Industrial Arbitration (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT,
1940—*continued.*

The Metropolitan Water Sewerage and Drainage Board.

Water Resources Commission.

Forestry Commission of New South Wales.

Board of Fire Commissioners of New South Wales.

The Hunter District Water Board.

Health Commission of New South Wales.

(11) Table—

Omit the Table.
