

**INDUSTRIAL ARBITRATION (TRIBUNALS AND
DELEGATIONS) AMENDMENT ACT 1987 No. 123**

NEW SOUTH WALES



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**INDUSTRIAL ARBITRATION (TRIBUNALS AND DELEGATIONS)
AMENDMENT ACT 1987 No. 123**

NEW SOUTH WALES



Act No. 123, 1987

An Act to amend the Industrial Arbitration Act 1940 with respect to the constitution of the Industrial Commission in court session, delegations by the Vice-President of the Commission and the seniority of conciliation commissioners; and to validate certain proceedings of the Retail Trade Industrial Tribunal. [Assented to 16 June 1987]

Industrial Arbitration (Tribunals and Delegations) Amendment 1987

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 (Tribunals and Delegations) Amendment Act 1987".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) The several provisions of Schedule 1, and section 4 in its application to those provisions, shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Industrial Arbitration Act 1940 is referred to in this Act as the Principal Act.

Amendment of Act No. 2, 1940

4. The Principal Act is amended in the manner set forth in Schedule 1.

Validation

5. (1) Except as provided by subsection (2)—

- (a) any jurisdiction, power, authority, duty or function; or
- (b) any order, award, ruling or decision,

purporting to have been exercised or performed, or to have been made, by the Retail Trade Industrial Tribunal on or after 17 February 1984 and before 20 December 1986 which could have been validly exercised or performed, or made, only with the assistance and advice or in the presence of the assessors of that Tribunal, is validated.

(2) Subsection (1) does not affect the application of any decision or order of the Court of Appeal relating to Appeal No. 553 of 1986 to and in respect of the parties to that matter and the facts to which it relates.

Industrial Arbitration (Tribunals and Delegations) Amendment 1987

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 14 (Industrial commission)—

Section 14 (7A) (a), (b)—

Omit “solely a question of law” wherever occurring, insert instead “substantially judicial questions”.

(2) Section 14B—

After section 14A, insert:

Delegation by Vice-President

14B. (1) The Vice-President of the commission may delegate to the most senior conciliation commissioner for the time being acting as a conciliation commissioner the exercise or performance of any of the Vice-President’s functions, other than this power of delegation.

(2) A delegation—

- (a) shall be in writing;
- (b) may be general or limited; and
- (c) may be revoked, wholly or partly, by the Vice-President.

(3) A delegate is, in the exercise or performance of a delegated function, subject to such conditions as are specified in the instrument of delegation.

(4) A delegated function, when exercised or performed by the delegate, shall be deemed to have been exercised or performed by the Vice-President.

(5) A delegation does not prevent the exercise or performance of a function by the Vice-President.

(6) A function purporting to have been exercised or performed by a delegate shall, until the contrary is proved, be deemed to have been duly exercised or performed by a delegate under this section.

(7) In this section, a reference to a function includes a reference to a power, an authority and a duty.

Industrial Arbitration (Tribunals and Delegations) Amendment 1987

SCHEDULE 1—*continued*AMENDMENTS TO THE PRINCIPAL ACT—*continued*

(3) Section 15 (Conciliation commissioners)—

Section 15 (1A) (a)—

Omit the paragraph, insert instead:

- (a) The conciliation commissioners, other than the conciliation commissioner for apprenticeships, shall have seniority according to such order of precedence as may be assigned to them from time to time by the Governor.