

**INDUSTRIAL ARBITRATION (AMENDMENT) ACT 1988**  
**No. 43**

NEW SOUTH WALES



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**INDUSTRIAL ARBITRATION (AMENDMENT) ACT 1988 No. 43**

**NEW SOUTH WALES**



**Act No. 43, 1988**

An Act to amend the Industrial Arbitration Act 1940 in relation to the constitution of the Industrial Commission in court session, the power of the President of the Industrial Commission to confer with other authorities and the regulation of certain contracts. [Assented to 9 August 1988]

*Industrial Arbitration (Amendment) 1988*

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**The Legislature of New South Wales enacts:**

**Short title**

**1.** This Act may be cited as the Industrial Arbitration (Amendment) Act 1988.

**Commencement**

**2.** This Act commences on the date of assent.

**Amendment of Industrial Arbitration Act 1940 No. 2**

**3.** The Industrial Arbitration Act 1940 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

**(1) Section 14 (Industrial commission)—**

Section 14 (7A)—

Omit the subsection, insert instead:

(7A) The commission in court session (2 or more sittings of which may be held at the same time) shall, subject to subsection (8) (d), be constituted by not less than 3 persons chosen by the President in accordance with the following:

- (a) each person must be a member of the commission or a conciliation commissioner;
- (b) at least 1 person must be a judicial member of the commission;
- (c) none of the persons need be a conciliation commissioner;
- (d) only 1 person may be a conciliation commissioner.

**(2) Part 3, Division 6, heading—**

Omit the heading, insert instead:

**Division 6—Arrangements with Federal Commission etc.**

**(3) Section 38H (Application of Division)—**

Section 38H (1)—

Omit “an industrial matter”, insert instead “a matter”.

**(4) Section 38L (Conference with Federal Commission)—**

Omit the section, insert instead:

**SCHEDULE 1—AMENDMENTS—*continued*****Conference with other industrial authorities**

38L. (1) If it appears to the President of the commission to be desirable, in relation to a matter falling within the jurisdiction of the commission or any tribunal established under this Act, to confer with any other industrial authority, the President may (if that industrial authority is willing) confer with that industrial authority, or arrange for another member of the commission to do so, with a view to securing co-ordination between—

- (a) any decision made or to be made under this Act or any matter arising under this Act; and
- (b) any decision made or to be made by that authority or any matter arising under any Act administered by that authority.

(2) Where it appears to the President of the commission to be desirable, the President may confer with the Federal Commission in relation to the exercise, or the proposed exercise, of the powers of the commission under section 38J.

(3) In subsection (1), “industrial authority” means a commission, court, board, tribunal or committee having authority under any other law of this State or under any law of the Commonwealth or of another State or a Territory of the Commonwealth to hear and determine industrial disputes or industrial matters.

(5) **Section 88B (Regulation of certain contracts)—**

Omit the section.

(6) **Section 88E (Certain persons to be employees)—**

Section 88E (1) (g)—

Omit “: Provided that nothing in this paragraph shall apply to any contract approved pursuant to subsection (2) of section 88B”.

(7) **Section 127 (Appointment and powers of inspectors)—**

Section 127 (1) (d)—

Omit “88B or”.

(8) **Part 17—**

After section 155, insert:

**PART 17—MISCELLANEOUS**

**Savings and transitional provisions**

156. Schedule 6 has effect.

(9) **Schedule 6—**

*Industrial Arbitration (Amendment) 1988***SCHEDULE 1—AMENDMENTS—*continued***

After Schedule 5, insert:

**SCHEDULE 6—SAVINGS AND TRANSITIONAL PROVISIONS**

(Sec. 156)

*Industrial Arbitration (Amendment) Act 1988***Commission in court session**

1. (1) This clause applies to a matter which was commenced to be heard by the commission in court session before the commencement of the Industrial Arbitration (Amendment) Act 1988 ("the amending Act").

(2) A matter to which this clause applies may continue to be heard by the commission in court session as if section 14 (7A) had not been substituted by the amending Act, unless the President of the commission reconstitutes the commission under subclause (3).

(3) For the purpose of the hearing of a matter to which this clause applies, the President may reconstitute the commission in court session so that it is constituted in accordance with section 14 (7A) as substituted by the amending Act.

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