

**INDUSTRIAL ARBITRATION (BASIC WAGE)  
AMENDMENT ACT.**

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**Act No. 29, 1961.**

**Elizabeth II,  
No. 29, 1961**

An Act to make further provisions in relation to the basis upon which wages in awards and industrial agreements are to be assessed; for this purpose to amend the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and certain other Acts; and for purposes connected therewith. [Assented to, 13th October, 1961.]

**B**E 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,  
citation  
and com-  
mencement.

**1.** (1) This Act may be cited as the "Industrial Arbitration (Basic Wage) Amendment Act, 1961".

(2)

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(2) The Industrial Arbitration Act, 1940, as amended No. 29, 1961 by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1961.

(3) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

(4) The Industrial Arbitration (Further Amendment) Act, 1961, is amended by omitting paragraph (a) of subsection two of section one. Amendment of Act No. 21, 1961. Sec. 1. (Consequential.)

2. The Industrial Arbitration Act, 1940, as amended by subsequent Acts, is amended— Amendment of Act No. 2, 1940.

(a) by inserting next after section 61S the following new Division : — New Division 2c.

*DIVISION 2C.—Provisions applicable after the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1961.*

61T. (1) In this Division unless the context or subject matter otherwise indicates or requires : — Interpretation.

“Consumer Price Index” means the Consumer Price Index issued from time to time by the Commonwealth Statistician.

(2) Any document purporting to be a copy of the Consumer Price Index and purporting either to be printed by the Government Printer or to be under the signature of the registrar or some person acting in his place or on his behalf shall, without proof of the signature or official character of the registrar or such person, be accepted by all persons and upon all occasions as a true copy of the Consumer Price Index unless proof is adduced that such document is not a true copy as aforesaid.

61U. (1) This section shall apply to and in respect of all awards and industrial agreements in force at the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1961, Existing awards and industrial agreements.  
and

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and which fix rates of wages for employees by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on any index number contained in the Commonwealth Statistician's Retail Price Index Numbers.

This section shall not apply to or in respect of any award or industrial agreement which contains a provision expressly excluding the application of section 61F or 61M of this Act.

(2) An award or industrial agreement to which this section applies shall, as from the commencement of the first pay period in the month of November, one thousand nine hundred and sixty-one, have and take effect as if—

- (a) the appropriate basic wage for adult males had, immediately before the commencement of such pay period, been adjusted to an amount determined in accordance with the provisions of subsection three of this section ;
- (b) the appropriate basic wage for adult females had, immediately before the commencement of such pay period, been adjusted to an amount equivalent to seventy-five per centum (calculated to the nearest sixpence, threepence to be regarded as sixpence,) of the amount to which the basic wage for adult males has been adjusted as referred to in paragraph (a) of this subsection.

(3) For the purposes of determining the amount to which the basic wage for adult males is to be adjusted as hereinbefore referred to the following provisions shall have effect :—

The said amount shall, where the basic wage for adult males contained in such award or industrial agreement has been assessed upon the index number contained in the Commonwealth Statistician's Retail Price Index Numbers for a place or combination of places, and

(a)

- (a) there is an index number contained in the Consumer Price Index for the September quarter one thousand nine hundred and sixty-one for such place or combination of places, be assessed upon the index number contained in the Consumer Price Index for the said September quarter for such place or combination of places; or
- (b) there is no index number contained in the Consumer Price Index for the September quarter one thousand nine hundred and sixty-one for such place or combination of places, be assessed upon the index number for Sydney contained in the Consumer Price Index for the said September quarter.

The said amount shall be calculated by multiplying the Consumer Price Index Number applicable as aforesaid by two thousand four hundred and forty-seven and dividing the product by one thousand. The result shall be the amount expressed in shillings and any fraction less than one-half shall be disregarded and any fraction which is one-half or greater shall be regarded as a shilling.

(4) The terms of each award or industrial agreement to which this section applies, affecting rates of pay, shall be deemed to be varied to the extent necessary to give effect to the provisions of this section as from the commencement of the first pay period in the month of November, one thousand nine hundred and sixty-one.

(5) 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 to which this section applies, affecting rates of pay, to the extent necessary to give effect to this section.

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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 directions.

(6) In this section—

“basic wage for adult males” means the basic wage for adult males in force immediately before the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1961, by the operation of Division 2A of this Part.

“basic wage for adult females” means the basic wage for adult females in force immediately before the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1961, by the operation of Divisions 2A and 2B of this Part.

“Commonwealth Statistician’s Retail Price Index Numbers” has the meaning ascribed thereto in Division 2A of this Part.

Future  
awards and  
industrial  
agreements.

61v. (1) This section shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1961.

(2) Subject to subsection three of this section 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—

- (a) a basic wage for adult males be made by reference or in relation to a basic wage for adult males assessed upon the index number for Sydney contained in the Consumer Price Index and calculated as provided in subsection four of this section; or
- (b) a basic wage for adult females be made by reference or in relation to a basic wage for adult females equivalent to seventy-five per centum

centum (calculated to the nearest sixpence, No. 29, 1961 threepence to be regarded as sixpence,) of the basic wage for adult males assessed and calculated under and in accordance with paragraph (a) of this subsection.

(3) Notwithstanding anything contained in subsection two of this section, the parties to any award or industrial agreement to which this section applies and which fixes rates of wages by reference or in relation to a basic wage for adult males or a basic wage for adult females, may by consent, at the time the award or industrial agreement is made or upon any application for variation of the award or industrial agreement, adopt—

(a) in the case of a basic wage for adult males, a basic wage for adult males assessed upon the index number for such place or such combination of places (of which Sydney is one) contained in the Consumer Price Index as may be specified in the award or industrial agreement and calculated as provided in subsection four of this section; or

(b) in the case of a basic wage for adult females, a basic wage for adult females equivalent to seventy-five per centum (calculated to the nearest sixpence, threepence to be regarded as sixpence,) of the appropriate basic wage for adult males assessed and calculated under and in accordance with paragraph (a) of this subsection.

(4) The basic wage for adult males shall, for the purposes of paragraph (a) of subsection two and paragraph (a) of subsection three of this section, be calculated by multiplying the relevant index number as applicable by virtue of such provisions by two thousand four hundred and forty-seven and dividing the product by one thousand.

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thousand. The result shall be the basic wage for adult males expressed in shillings and any fraction less than one-half shall be disregarded and any fraction which is one-half or greater shall be regarded as a shilling.

Award rates.

61w. No award made or industrial agreement entered into after the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1961, shall be made or entered into, in the case of adult male employees, for a wage lower than the appropriate basic wage for adult males assessed and calculated under subsection two or three of section 61v of this Act or, in the case of adult female employees, for a wage lower than such appropriate basic wage for adult females, as may be applicable.

This section shall not apply to an award made or industrial agreement entered into for wages of apprentices or trainee apprentices.

Automatic adjustment of awards and industrial agreements.

61x. (1) Unless some other period of adjustment is specifically provided in the award or industrial agreement concerned, the basic wage for adult males and the basic wage for adult females shall be adjusted for each quarter in accordance with the fluctuations (if any) of the index numbers contained in the Consumer Price Index for the then next preceding quarter and shall be calculated in like manner as provided in subsection four of section 61v of this Act.

(2) The terms of each award made or industrial agreement entered into whether before or after the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1961, affecting rates of pay shall be deemed so to be varied to accord with the fluctuations (if any) in the index number upon which the basic wage for adult

adult males and the basic wage for adult females applicable to that award or industrial agreement is assessed— No. 29, 1961

- (a) in any case where a period of adjustment is specifically provided in the award or industrial agreement—as from the commencement of the first pay period in each such period of adjustment; or
- (b) in any other case—as from the commencement of the first pay period in the months of February, May, August and November in each year :

Provided that in the case of an industrial agreement where provision is made in the industrial agreement as to the manner in which effect shall be given to any such fluctuations in the index number upon which the basic wage for adult males and the basic wage for adult females is assessed, the terms of the industrial agreement affecting rates of pay shall, in lieu of the variation referred to in the preceding provisions of this subsection, be deemed to be varied to the extent necessary to give effect to that provision.

(3) 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 pay to the extent necessary to give effect to subsection two of this section.

The terms of any award affecting rates of pay may to the extent practicable be expressed by the registrar in such a form as will render unnecessary the variation of such award under this subsection consequent upon subsequent variations in the rates of pay pursuant to the operation of this section.

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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 directions.

(4) This section shall not apply to or in respect of any award or industrial agreement which contains a provision expressly excluding the application of this section.

Sec. 61P.  
(Existing basic wage for adult females.)

(b) by inserting in section 61P after the figure and symbol "2A" the word, figure and symbol "or 2C";

Sec. 88D.  
(Equal pay for males and females in certain circumstances.)

(c) (i) by omitting from subsection five of section 88D the figure and symbol "2A" and by inserting in lieu thereof the figure and symbol "2C";

(ii) by omitting paragraph (c) of subsection nine of the same section and by inserting in lieu thereof the following paragraph :—

(c) In this section "appropriate basic wage for adult males" means the basic wage for adult males as may be applicable pursuant to and assessed and calculated under and in accordance with the provisions of Division 2C of Part V of this Act.

Amendment of Acts specified in First Schedule.

**3.** The Acts (as amended by subsequent Acts, if any) specified in the first and second columns of the First Schedule to this Act are amended as respectively specified in the third column of the said Schedule.

Citation of amended Acts.

**4.** The Acts (as amended by subsequent Acts, if any) specified in the first and second columns of the Second Schedule to this Act may be cited as respectively specified in the third column of the said Schedule.

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FIRST SCHEDULE.

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Reference to Act.	Short title.	Amendment.	Sec. 3.
No. 20, 1899	Police Regulation Act, 1899.	Section 12D, subsection (4).—Omit "61K" and "61M" wherever occurring, insert "61V" and "61X" respectively.	
No. 21, 1899	Common Law Procedure Act, 1899.	Section 181, subsection (3).—Omit "61K" and "61M" wherever occurring, insert "61V" and "61X" respectively.	
No. 31, 1902	Public Service Act, 1902.	Section 48, subsection (3).—Omit "of the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways with the fixed loading addition determined in any judgment of that Court as being applicable for the time being in relation to such awards.", insert "of the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61V of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as adjusted for the time being in accordance with the provisions of section 61X of that Act, as so amended."	
		Section 56A, subsection (3A).—Omit "61K" and "61M" wherever occurring, insert "61V" and "61X" respectively.	
No. 23, 1912	District Courts Act, 1912.	Section 117, subsection (2).—Omit "61K" and "61M" wherever occurring, insert "61V" and "61X" respectively.	
No. 30, 1912	Government Railways Act, 1912.	Section 107A, subsection (3A).—Omit "61K" and "61M" wherever occurring, insert "61V" and "61X" respectively.	
No. 33, 1912	Small Debts Recovery Act, 1912.	Section 56, subsection (5).—Omit "61K" and "61M" wherever occurring, insert "61V" and "61X" respectively.	

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FIRST SCHEDULE—*continued.*

Reference to Act.	Short title.	Amendment.
No. 36, 1920	Workmen's Compensation (Broken Hill) Act, 1920.	Schedule, Part II, paragraph 3.—Omit "subparagraph (i) of paragraph (a) of subsection three of section 61k of the Industrial Arbitration Act, 1940-1956", insert "paragraph (a) of subsection two of section 61v of the Industrial Arbitration Act, 1940-1961". Schedule, Part II, paragraph 6.—Omit "subparagraph (i) of paragraph (a) of subsection three of section 61k of the Industrial Arbitration Act, 1940-1956", insert "paragraph (a) of subsection two of section 61v of the Industrial Arbitration Act, 1940-1961".
No. 24, 1924	Main Roads Act, 1924.	Section 7B, subsection (4).—Omit "61k" and "61m" wherever occurring, insert "61v" and "61x" respectively.
No. 15, 1926	Workers' Compensation Act, 1926.	Section 9, subsection (1A), paragraph (c).—Omit "61k" and "1956", insert "61v" and "1961" respectively. Section 11, subsection (1), paragraph (d).—Omit "61k" and "1956", insert "61v" and "1961" respectively.
No. 18, 1930	Transport Act, 1930.	Section 14, subsection (2).—Omit "61k" and "1956", insert "61v" and "1961" respectively. Section 128A, subsection (4).—Omit "61k" and "61m" wherever occurring, insert "61v" and "61x" respectively.
No. 17, 1943	Legal Assistance Act, 1943.	Section 6, subsection (4), paragraph (c).—Omit "61k" and "61m", insert "61v" and "61x" respectively.
No. 25, 1948	Landlord and Tenant (Amendment) Act, 1948.	Section 62, subsection (6), paragraph (c).—Omit "61k" and "61m", insert "61v" and "61x" respectively.
No. 28, 1957	Attachment of Wages Limitation Act, 1957.	Section 10, subsection (4).—Omit "61k" and "61m" wherever occurring, insert "61v" and "61x" respectively.
No. 18, 1961	District Courts and Small Debts Recovery (Amendment) Act, 1961.	Section 1.—Omit subsections (2) and (3).

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FIRST SCHEDULE—*continued.*

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Reference to Act.	Short title.	Amendment.
No. 19, 1961	Government Railways and Transport (Amendment) Act, 1961.	Section 1.—Omit subsection (2).
No. 23, 1961	Police Regulation (Amendment) Act, 1961.	Section 1.—Omit subsection (2).
No. 24, 1961	Landlord and Tenant (Amendment) Act, 1961.	Section 1.—Omit subsection (2).

SECOND SCHEDULE.

Sec. 4.

Reference to Act.	Short title.	Citation.
No. 20, 1899.	Police Regulation Act, 1899.	Police Regulation Act, 1899-1961.
No. 21, 1899.	Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899-1961.
No. 23, 1912.	District Courts Act, 1912.	District Courts Act, 1912-1961.
No. 30, 1912.	Government Railways Act, 1912.	Government Railways Act, 1912-1961.
No. 33, 1912.	Small Debts Recovery Act, 1912.	Small Debts Recovery Act, 1912-1961.
No. 36, 1920.	Workmen's Compensation (Broken Hill) Act, 1920.	Workmen's Compensation (Broken Hill) Act, 1920-1961.
No. 24, 1924.	Main Roads Act, 1924.	Main Roads Act, 1924-1961.
No. 15, 1926.	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1961.
No. 18, 1930.	Transport Act, 1930.	Transport Acts, 1930-1961.
No. 17, 1943.	Legal Assistance Act, 1943.	Legal Assistance Act, 1943-1961.
No. 25, 1948.	Landlord and Tenant (Amendment) Act, 1948.	Landlord and Tenant (Amendment) Act, 1948-1961.
No. 28, 1957.	Attachment of Wages Limitation Act, 1957.	Attachment of Wages Limitation Act, 1957-1961.

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