

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

New South Wales



ANNO SEXTO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 86, 1967.

An Act to make provisions with respect to the fixation of wages in awards made, and industrial agreements entered into, under the Industrial Arbitration Act, 1940, as amended by subsequent Acts; for this purpose, and for other purposes, to amend that Act, as so amended, and certain other Acts; and for purposes connected therewith. [Assented to, 18th December, 1967.]

BE

Industrial Arbitration (Basic Wage) Amendment.

No. 86, 1967 **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,
citation,
construction
and com-
mencement.

1. (1) This Act may be cited as the "Industrial Arbitration (Basic Wage) Amendment Act, 1967".

(2) The Industrial Arbitration Act, 1940, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Industrial Arbitration Act, 1940–1967.

(4) This Act shall be read and construed with the Principal Act.

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

Savings.

2. (1) Notwithstanding the repeal effected by section three of this Act, all regulations made under the Principal Act and in force immediately before the commencement of this Act shall, until amended or rescinded, continue in force and have effect as if made under the Principal Act, as amended by this Act.

(2) Except to the extent that it is varied by or under the Principal Act, as amended by this Act, nothing in this Act shall prejudice or affect the operation of an award made or agreement entered into before the commencement of this Act and in force immediately before that commencement, or an award made or agreement entered into before, and taking effect after, that commencement.

3.

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3. The Principal Act is amended by omitting Part V and the heading thereto and by inserting in lieu thereof the following heading and Part :—

No. 86, 1967
Amendment
of Act No.
2, 1940.
Subst.
Part V.

PART V.**BASIS OF ASSESSMENT OF RATES OF WAGES.****DIVISION 1.**

53. (1) In this Division, unless the context or subject-matter otherwise indicates or requires—

Interpre-
tation.

“Appointed day” means the day on which the Industrial Arbitration (Basic Wage) Amendment Act, 1967, commenced.

“Commonwealth Conciliation and Arbitration Commission” means the tribunal of that name constituted under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts of that Parliament, and includes any successor to that tribunal under that Act or any Act of that Parliament amending or replacing that Act.

“July 1967 Economic Loading” means the fixed loading incorporated in awards consequent upon the decision of the commission on the twenty-sixth day of June, one thousand nine hundred and sixty-seven, in the matter No. 143 of 1967 in the commission’s list, entitled “Actors &c. (State) and other Awards”.

“Minimum wage” means a wage of the same nature as the “minimum wage” or “minimum standard” introduced by the Commonwealth Conciliation and Arbitration Commission on the eighth day of July, one thousand nine hundred and sixty-six, into the Metal Trades Award made by that Commission, as the minimum wage to be paid to any adult male employee in New South Wales to whom such award applies, as varied from time to time.

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(2) A reference in this Part of this Act to the basic wage for adult males, or adult females, in force at any time shall unless the context or subject-matter otherwise indicates or requires be construed as a reference to the basic wage for adult males or, as the case may require, adult females, by reference or in relation to which rates of wages would, at that time, be required by this Part of this Act to be fixed by an award or agreement that fixes rates of wages by reference or in relation to a basic wage.

Existing awards and industrial agreements.

54. (1) This section shall apply to and in respect of awards and agreements which were—

- (a) in force immediately before the appointed day; or
- (b) made or entered into before, but come into force after, the appointed day.

(2) Subject to subsection three of this section, an award or agreement to which this section applies shall, as on and from the appointed day, have and take effect—

- (a) in so far as it fixes a rate of wages for an adult male employee by reference or in relation to a basic wage for adult males, as if such basic wage had, immediately before the appointed day, been varied to thirty-four dollars fifty cents per week and as if any reference to the July 1967 Economic Loading had been omitted therefrom;
- (b) in so far as it fixes a rate of wages for an adult female employee by reference or in relation to a basic wage for adult females, as if such basic wage had, immediately before the appointed day, been varied to twenty-six dollars ten cents per week and as if any reference to the July 1967 Economic Loading had been omitted therefrom;

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(c) in so far as it fixes a rate of wages for an employee under the age of twenty-one years by reference or in relation to a basic wage for adult males, or a basic wage for adult females, and those wages so fixed are therein expressed as a monetary amount, as if that monetary amount were the sum of—

(i) the monetary amount so expressed immediately before the inclusion in the award or agreement of the July 1967 Economic Loading; and

(ii) the amount of that loading applicable to that wage,

and as if any reference to the July 1967 Economic Loading had been omitted therefrom;

(d) in so far as it fixes a rate of wages for an employee under the age of twenty-one years, and such rate is expressed as a percentage of a basic wage or a percentage of a basic wage plus an added rate, as if such basic wage had been varied as provided in paragraph (a) or, as the case may require, paragraph (b) of this subsection and as if any reference to the July 1967 Economic Loading had been omitted therefrom.

(3) Nothing in subsection two of this section shall operate to reduce a rate of wages fixed under an award or agreement to which this section applies.

(4) The terms of each award or agreement to which this section applies, being terms affecting rates of wages, shall, as on and from the appointed day, be deemed to be varied to give effect to the provisions of subsection two of this section.

(5) Notwithstanding the provisions of subsection four of this section, the registrar may (subject to appeal to the commission) upon application as prescribed, or of his own motion, vary the terms of any award or
agreement

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agreement to which this section applies, being terms affecting rates of wages, to the extent necessary to give effect to the provisions of subsection two of this section.

The registrar may refer any matter arising out of this subsection to the commission for direction.

Certain
future
awards and
agreements.

55. (1) This section shall apply to and in respect of awards made and agreements entered into on or after the appointed day, other than awards and agreements to which section fifty-six of this Act applies.

(2) Subject to subsections three and four of this section, all awards and 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 of thirty-four dollars fifty cents per week;
or
- (b) a basic wage for adult females, be made by reference or in relation to a basic wage for adult females of twenty-six dollars ten cents per week.

(3) Where a notification published pursuant to section fifty-eight of this Act is in force on the day on which an award or agreement to which this section applies is made or entered into, that award or agreement shall, in so far as it fixes rates of wages by reference or in relation to a basic wage for adult males or a basic wage for adult females, be made by reference or in relation to the basic wage for adult males or, as the case may require, the basic wage for adult females, specified in that notification.

(4) No award or agreement to which this section applies shall be made or entered into, in the case of adult male employees, for a wage lower than the basic wage for adult males or, in the case of adult female employees,
for

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for a wage lower than the basic wage for adult females **No. 86, 1967**
in force on the day on which the award is made or the
agreement entered into.

This subsection shall not apply to an award made, or
agreement entered into, for wages for apprentices or
trainee apprentices.

56. (1) This section shall apply to and in respect of ^{Future} awards made and agreements entered into on or after ^{retrospective} the appointed day in so far as they fix rates of wages by ^{awards and} reference or in relation to a basic wage where— ^{agreements.}

- (a) in the case of an award, the commission or a committee or an apprenticeship council has determined; or
- (b) in the case of an agreement, the parties thereto have decided,

that the award or, as the case may be, the agreement, shall have effect as on and from a day (in this section referred to as the effective day) that is earlier than the day on which the award is made or the agreement entered into.

(2) Where the effective day for an award or agreement to which this section applies is a day that is earlier than the appointed day—

- (a) the basic wage by reference or in relation to which the award or agreement fixes rates of wages shall be the basic wage by reference or in relation to which those rates would have been fixed, under the provisions of this Part of this Act then in force, had the award or agreement been made or entered into on, with effect as on and from, the effective day;
- (b) the provisions of this Act in force, after the effective day and before the appointed day, that related to variations in the basic wage shall apply to and in respect of the award or agreement to the same extent as they would have applied had
the

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the award or agreement been an award or agreement in force after the effective day and before the appointed day;

(c) the July 1967 Economic Loading, as on and from—

(i) the beginning of the first pay period under the award or agreement that would have commenced on or after the first day of July, one thousand nine hundred and sixty-seven; or

(ii) the effective day,

whichever time is the later, shall be applied to the rates of wages fixed by the award or agreement to the same extent as it would have applied had the award or agreement been in force at that time; and

(d) the provisions of this Part of this Act shall apply to the award or agreement as if it had been an award or agreement in force immediately before the appointed day.

(3) Where the effective day for an award or agreement to which this section applies is a day that is not earlier than the appointed day, the provisions of this Part of this Act shall apply to the award or agreement as if it had been made or entered into on, with effect as on and from, the effective day.

(4) No award or agreement to which this section applies shall be made or entered into, in the case of adult male employees, for a wage lower than the basic wage for adult males or, in the case of adult female employees, for a wage lower than the basic wage for adult female employees in force under the provisions of this Part of this Act in force on the effective day for that award or agreement.

This subsection shall not apply to an award made, or agreement entered into, for wages for apprentices or trainee apprentices.

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57. (1) Where after the appointed day the Commonwealth Conciliation and Arbitration Commission makes a decision (in this section referred to as the "Commonwealth decision") based wholly or partly on economic grounds, to vary rates of wages, and the decision is applicable generally to awards made under the Commonwealth Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth of Australia, as amended by subsequent Acts of that Parliament, the commission in court session (upon application or of its own motion) shall consider the Commonwealth decision and, unless it is satisfied that there are good reasons not to do so, shall determine the amount, or shall specify the method by which an amount may be determined, by which rates of wages in awards made under this Act shall be varied having regard to the extent to which, in its opinion, rates of wages referred to in the Commonwealth decision were varied on economic grounds.

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Adjustment
of rates
of wages
on economic
grounds.

(2) Where the commission in court session makes a determination pursuant to subsection one of this section, it shall direct the amount (if any), being not greater than the amount determined pursuant to that subsection, by which the basic wage for adult males and the amount (if any) by which the basic wage for adult females, in force at the time of the determination, shall be varied and shall specify the day as on and from which any such variation shall take effect.

(3) Notwithstanding anything contained in subsection two of this section, the amount by which the commission in court session directs, pursuant to that subsection, that the basic wage be varied shall not—

- (a) in the case of the basic wage for adult males, exceed the amount (if any) by which the minimum wage for adult males was varied by the Commonwealth decision then under consideration; or

(b)

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(b) in the case of the basic wage for adult females, be less than seventy-five per centum of the amount by which the commission in court session has, pursuant to that subsection, directed that the basic wage for adult males be varied.

(4) In the exercise of its jurisdiction under subsection one of this section the commission in court session may make such orders regarding the variation of awards either generally or with reference to particular awards as it may consider to be appropriate.

(5) Subject to any orders made by the commission in court session pursuant to subsection four of this section, the registrar (subject to appeal to the commission) shall as soon as practicable after any determination has been made by the commission in court session under subsection one of this section, vary the terms of awards made under this Act to the extent necessary to give effect to such determination.

Action on
variation of
basic wage.

58. (1) In this section—

“Award or agreement” means an award or agreement that fixes rates of wages by reference or in relation to a basic wage.

“Specified day” in relation to a direction given by the commission in court session pursuant to subsection two of section fifty-seven of this Act, means the day specified by the commission in court session pursuant to that subsection when giving that direction.

(2) Where the commission in court session has directed, pursuant to subsection two of section fifty-seven of this Act, that the basic wage for adult males or adult females be varied, the basic wage for adult males or the basic wage for adult females, as so varied, shall as on and from the specified day relating to that direction be the basic wage for adult males or, as the

case

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case may be, the basic wage for adult females, in force **No. 86, 1967** for the purposes of awards and agreements which were in force on that day and awards and agreements which were made or entered into before, but come into effect after, that day, in so far as they operate on or after that day.

(3) As soon as practicable after the commission in court session has at any time given a direction pursuant to subsection two of section fifty-seven of this Act the registrar shall, by notification published in the Gazette, notify the basic wage for adult males and the basic wage for adult females, as varied in accordance with that direction, and the specified day relating to that direction.

(4) A notification published pursuant to subsection three of this section shall, as on and from the specified day—

- (a) supersede and replace any such notification published theretofore and shall continue in force until immediately before the specified day notified in a subsequent like notification; and
- (b) in respect of the period during which it remains in force, be conclusive evidence for all purposes of the matters therein stated.

(5) Where a notification pursuant to subsection three of this section has been published, the terms of all awards and agreements, being terms affecting rates of wages, shall be deemed to be varied to the extent necessary to give effect to the provisions of subsection two of this section.

(6) Notwithstanding the provisions of subsection five of this section, the registrar may (subject to appeal to the commission), upon application made as prescribed or his own motion, vary the terms of any award or agreement,

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agreement, being terms affecting rates of wages, to the extent necessary to give effect to the provisions of subsection two of this section.

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 direction.

(7) This section shall not apply to or in respect of any award or agreement to the extent to which that award or agreement excludes its operation.

Minimum wage.

59. The commission or a committee, in making an award, may include in the award a provision fixing, as the minimum wage for adult males, or adult females, whose rates of wages are fixed by the award, a rate of wages in excess of the basic wage for adult males or, as the case may require, adult females, in force at the time of making the award.

DIVISION 2.

Savings as to powers.

60. Nothing contained in this Part of this Act shall limit or in any way affect the powers, authorities, duties and functions conferred and imposed upon the commission or any member thereof or upon a committee or upon any other person by or under the provisions of this Act repealed by the Industrial Arbitration (Basic Wage) Amendment Act, 1967, or by or under this Act, except to the extent to which the exercise or performance of any such power, authority, duty or function would be inconsistent with the provisions of this Part of this Act.

Savings as to practices.

61. Nothing in this Part of this Act shall affect any practice of the commission or a committee with respect to, or the provisions of any award or agreement prescribing, the method of calculating hourly, daily, monthly or yearly rates of pay.

*Industrial Arbitration (Basic Wage) Amendment.***4. The Principal Act is further amended—****No. 86, 1967**Further
amendment
of Act No.
2, 1940.

- (a) by omitting from subsection five of section 88D the words, figure and letter “of Division 2D”; and
- (b) by omitting from paragraph (c) of subsection nine of the same section the words, figure and letter “of Division 2D”.

Sec. 88D.
(Equal pay
for males
and females
in certain
circum-
stances.)**5. (1) The Acts, as amended by subsequent Acts, specified in the First Column of the First Schedule to this Act are amended—**Consequen-
tial amend-
ment of
various Acts.

- (a) by omitting from the provisions of those Acts, as so amended, specified opposite those Acts in the Second Column of that Schedule the words “referred to in paragraph (a) of subsection two of section 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61AB of that Act, as so amended,” and by inserting in lieu thereof the words “in force within the meaning of Part V of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, immediately”;
- (b) by omitting from the provisions (if any) of those Acts, as so amended, specified opposite those Acts in the Third Column of that Schedule the words “referred to in paragraph (b) of the said subsection two, and as last adjusted in accordance with the provisions of the said section 61AB” and by inserting in lieu thereof the words “in force within the meaning of Part V of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, immediately”;
- (c) by omitting from the provisions (if any) of those Acts, as so amended, specified opposite those Acts in the Fourth Column of that Schedule the words “referred to in paragraph (b) of the said subsection two and as last adjusted in accordance with the provisions

provisions

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provisions of the said section 61AB” and by inserting in lieu thereof the words “in force within the meaning of Part V of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, immediately”.

(2) The Public Service Act, 1902, as amended by subsequent Acts, is amended by omitting from subsection three of section forty-eight the words “referred to in paragraph (a) of subsection two of section 61AA 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 61AB of that Act, as so amended” and by inserting in lieu thereof the words “for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, as amended by subsequent Acts”.

(3) The Workmen’s Compensation (Broken Hill) Act, 1920, as amended by subsequent Acts, is amended by omitting from subparagraph (2) of paragraph 3, and subparagraph (e) of paragraph 6, of Part II of the Schedule the words “referred to in paragraph (a) of subsection two of section 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts” and by inserting in lieu thereof the words “for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, as amended by subsequent Acts”.

(4) The Workers’ Compensation Act, 1926, as amended by subsequent Acts, is amended—

- (a) by omitting from paragraph (c) of subsection (1A) of section nine the definition of “State basic wage” and by inserting in lieu thereof the following definition :—

“State basic wage” has the meaning ascribed to that expression in this subsection as enacted immediately before the commencement of the Industrial Arbitration (Basic Wage) Amendment Act, 1967.

(b)

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- (b) by omitting from subsection two of section fourteen No. 86, 1967 the words "referred to in paragraph (a) or (b) of subsection two of section 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of that Act, as so amended" and by inserting in lieu thereof the words "the basic wage in force, within the meaning of Part V of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, at the time of the computation".

(5) The State Planning Authority Act, 1963, as amended by subsequent Acts, is amended by omitting from paragraph (b) of subsection one, and subparagraph (i) of paragraph (c) of subsection two, of section twenty-seven the words "referred to in section 61AA of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as adjusted from time to time in accordance with the provisions of section 61AB of that Act, as so amended" and by inserting in lieu thereof the words "for the time being in force within the meaning of Part V of the Industrial Arbitration Act, 1940, as amended by subsequent Acts".

6. The Principal Act is further amended by omitting from subsection one of section ninety-six the words "of such" and by inserting in lieu thereof the words "relating to his". Statute law revision.

7. The Acts, as amended by subsequent Acts and by this Act, specified in the First Column of the Second Schedule to this Act may be cited as respectively specified in the Second Column of that Schedule. Citation of amended Acts.

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Sec. 5.

FIRST SCHEDULE.

First Column.		Second Column.	Third Column.	Fourth Column.
Act.	Short Title.	Provision of Act.	Provision of Act.	Provision of Act.
No. 20, 1899.	Police Regulation Act, 1899.	Section 12d, subsection (4), paragraph (a).	Section 12d, subsection (4), paragraph (b).	Section 181, subsection (3).
No. 21, 1899.	Common Law Procedure Act, 1899.	Section 181, subsection (3).		
No. 31, 1902.	Public Service Act, 1902.	Section 56A, subsection (3A), paragraph (a).	Section 56A, subsection (3A), paragraph (b).	
No. 23, 1912.	District Courts Act, 1912.	Section 117, subsection (2).		Section 117, subsection (2).
No. 30, 1912.	Government Railways Act, 1912.	Section 107A, subsection (3A), paragraph (a).	Section 107A, subsection (3A), paragraph (b).	Section 56, subsection (5).
No. 33, 1912.	Small Debts Recovery Act, 1912.	Section 56, subsection (5).		
No. 24, 1924.	Main Roads Act, 1924.	Section 7B, subsection (4), paragraph (a).	Section 7B, subsection (4), paragraph (b).	
No. 18, 1930.	Transport Act, 1930.	Section 128A, subsection (4), paragraph (a).	Section 128A, subsection (4), paragraph (b).	
No. 17, 1943.	Legal Assistance Act, 1943.	Section 6, subsection (4), paragraph (c).		
No. 25, 1948.	Landlord and Tenant (Amendment) Act, 1948.	Section 62, subsection (6), paragraph (c).		
No. 28, 1957.	Attachment of Wages Limitation Act, 1957.	Section 10, subsection (4), paragraph (a).		Section 10, subsection (4), paragraph (b).

SECOND

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SECOND SCHEDULE.

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Sec. 7.

First Column.		Second Column.
Act.	Short Title.	Citation.
No. 20, 1899	Police Regulation Act, 1899	Police Regulation Act, 1899-1967.
No. 2, 1899	Common Law Procedure Act, 1899.	Common Law Procedure Act, 1899-1967.
No. 23, 1912	District Courts Act, 1912 ..	District Courts Act, 1912-1967.
No. 30, 1912	Government Railways Act, 1912.	Government Railways Act, 1912-1967.
No. 33, 1912	Small Debts Recovery Act, 1912.	Small Debts Recovery Act, 1912-1967.
No. 36, 1920	Workmen's Compensation (Broken Hill) Act, 1920.	Workmen's Compensation (Broken Hill) Act, 1920-1967.
No. 24, 1924	Main Roads Act, 1924	Main Roads Act, 1924-1967.
No. 15, 1926	Workers' Compensation Act, 1926.	Workers' Compensation Act, 1926-1967.
No. 18, 1930	Transport Act, 1930	Transport Act, 1930-1967.
No. 17, 1943	Legal Assistance Act, 1943	Legal Assistance Act, 1943-1967.
No. 25, 1948	Landlord and Tenant (Amendment) Act, 1948.	Landlord and Tenant (Amendment) Act, 1948-1967.
No. 28, 1957	Attachment of Wages Limitation Act, 1957.	Attachment of Wages Limitation Act, 1957-1967.
No. 59, 1963	State Planning Authority Act, 1963.	State Planning Authority Act, 1963-1967.

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