

## CONCILIATION AND ARBITRATION.

### No. 40 of 1959.

An Act to amend the *Conciliation and Arbitration Act 1904-1958*.

[Assented to 22nd May, 1959.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1) This Act may be cited as the *Conciliation and Arbitration Act 1959*. Short title and citation.

(2.) The *Conciliation and Arbitration Act 1904-1958\** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Conciliation and Arbitration Act 1904-1959*.

2.—(1) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

(2.) Section three, and sub-section (1.) of section four, of this Act shall be deemed to have come into operation on the fourteenth day of August, One thousand nine hundred and fifty-six.

3. Section four of the Principal Act is amended by inserting in sub-section (2.), after the word "shall", the words "unless the contrary intention appears,". Interpretation.

4.—(1) Section thirty-four of the Principal Act is amended by omitting sub-sections (2.), (3.), (4.) and (5.) and inserting in their stead the following sub-sections:— Reference of disputes to Commission.

"(1A.) A reference in this section to a part of an industrial dispute shall be read as including a reference to—

(a) an industrial dispute so far as it relates to a matter in dispute; or

(b) a question arising in relation to an industrial dispute.

"(2.) A Commissioner (in this section referred to as 'the Commissioner concerned') shall, upon application by a party to an industrial dispute which is being dealt with by him, on the ground that the industrial dispute or a part of the industrial dispute is of such importance that, in the public interest, it should be dealt with as provided by this section, consult with

\* Act No. 13, 1904, as amended by No. 28, 1909; No. 7, 1910; No. 6, 1911; Nos. 5 and 18, 1914; No. 35, 1915; No. 39, 1918; No. 31, 1920; No. 29, 1921; No. 22, 1926; No. 8, 1927; No. 18, 1928; No. 43, 1930; Nos. 45 and 54, 1934; Nos. 14 and 30, 1946; Nos. 10 and 52, 1947; Nos. 65 and 77, 1948; Nos. 28 and 86, 1949; Nos. 51 and 80, 1950; Nos. 18 and 58, 1951; No. 34, 1952; Nos. 17, 18 and 54, 1955; Nos. 44 and 103, 1956; and No. 30, 1958.

the President as to whether the industrial dispute or the part of the industrial dispute, as the case may be, should be so dealt with.

“(3.) If the President, having regard to the reasons for the application, is of the opinion that the industrial dispute or the part of the industrial dispute, as the case may be, should, in the public interest, be so dealt with, he may direct accordingly.

“(4.) Where the President so directs, the Commission shall, subject to the next succeeding sub-section, hear and determine the industrial dispute or the part of the industrial dispute, as the case may be, and, in the hearing, may have regard to any evidence given and any arguments adduced in relation to the dispute or the part of the dispute before the Commission commenced the hearing.

“(5.) Where the President has given a direction under this section in respect of an industrial dispute, the Commission may refer a part of the dispute back to the Commissioner concerned and, in that case, the Commission constituted by that Commissioner shall hear and determine that part of the dispute and the Commission shall hear and determine the dispute other than that part of the dispute.”.

(2.) Section thirty-four of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(7.) At any time before the Commission has been constituted under this section for the purpose of hearing and determining an industrial dispute or part of an industrial dispute in respect of which the President has, whether before or after the commencement of this sub-section, given a direction under this section, the President may (if, after taking account of any views expressed by the parties to the dispute, he considers that it is desirable so to do for the purpose of facilitating the hearing and determination of the dispute or the part of the dispute by the Commission) exercise the power that, if the Commission were so constituted, the Commission would have under section forty-three of this Act to authorize a person to take evidence on its behalf, but the President shall not, by virtue of this sub-section, authorize any person to take evidence other than a presidential member of the Commission or a Commissioner.”.

Continuation  
of hearing  
of matters.

5. Section thirty-seven of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “before an order or award has been made determining the matter” and inserting in their stead the words “before the matter has been determined”; and
- (b) by inserting in sub-section (2.), after the word “Act”, the words “or by the *Public Service Arbitration Act 1920-1959*, as the case requires”.

## 6. Section forty-one of the Principal Act is amended—

Particular powers of Commission.

(a) by omitting the words “ or other proceedings before it ”; and

(b) by adding at the end thereof the following sub-section:—

“ (2.) A reference in the last preceding sub-section to an industrial dispute shall, unless the contrary intention appears, be read as including a reference to any other proceedings before the Commission.”.

7. Section forty-three of the Principal Act is amended by inserting after the word “ person ” (first occurring) the words “ (including a member of the Commission) ”.

Orders to take evidence.

8. After section forty-four of the Principal Act the following section is inserted:—

“ 44A.—(1) In this section—

Joint sessions of Commission.

‘ matter to which this section applies ’ means—

(a) an industrial dispute in respect of which the President has, whether before or after the commencement of this section, given a direction under sub-section (3.) of section thirty-four of this Act;

(b) an appeal instituted, whether before or after the commencement of this section, under section thirty-five of this Act;

(c) a claim, application or matter in respect of which the President has, whether before or after the commencement of this section, given a direction under sub-section (5.) of section fifteen A of the *Public Service Arbitration Act 1920-1957* or of that Act as amended; and

(d) an appeal instituted, whether before or after the commencement of this section, under section fifteen c of that last-mentioned Act or of that Act as amended;

‘ the Commission in joint session ’ means the Commission constituted by the persons who, in relation to matters in respect of which the President has given a direction under this section, respectively constitute the Commission.

“ (2.) Where—

(a) a matter to which this section applies is before the Commission;

(b) another matter to which this section applies is also before the Commission;

(c) the Commission is not constituted by the same persons in relation to each of those matters; and

(d) the President is of the opinion that a question is common to those matters,

the President may, if he considers that it is desirable so to do for the purpose of facilitating the hearing and determination of those matters, direct that the Commission in joint session may take evidence or hear argument, or take evidence and hear argument, on that question for the purposes of the Commission as constituted in relation to each of those matters and, if the President gives such a direction, the Commission in joint session may take evidence or hear argument, or take evidence and hear argument, accordingly.”.

Provisions  
applicable to  
elections  
conducted  
under s. 165A or  
170.

9. Section one hundred and seventy A of the Principal Act is amended—

(a) by inserting after sub-section (3.) the following sub-section:—

“(3A.) Where a person conducting an election, or taking a step in or in connexion with an election, under section one hundred and sixty-five A of this Act or under the last preceding section—

(a) dies or becomes unable to complete the conduct of the election or the taking of the step; or

(b) ceases to be a person qualified under whichever of those sections is applicable to conduct the election or to take the step,

the Industrial Registrar shall make arrangements or give directions for the completion of the conduct of the election or of the taking of the step by another person who is so qualified or, in the case of an election under the last preceding section, may himself complete the conduct of the election.”;

(b) by omitting from sub-section (4.) the words “the next succeeding sub-section” and inserting in their stead the words “the next two succeeding sub-sections”;

(c) by omitting from paragraph (a) of sub-section (5.) the word “or” (last occurring);

(d) by inserting after paragraph (a) of sub-section (5.) the following paragraph:—

“(aa) the cost of travel of such an officer or employee (including any travelling allowance or similar allowance) incurred in connexion with the performance of any such duty; or”; and

(e) by adding at the end thereof the following sub-section:—

“(6.) Where an election for an office in an organization or branch of an organization is conducted under the last preceding section, being an election conducted in whole or in part after the commencement of this sub-section but not being an election conducted in consequence of a request made in pursuance of the rules of the organization or branch, and the expenses of the election (other than the expenses referred to in the last preceding sub-section) exceed the amount that, in the opinion of the Minister, would have been the expenses of conducting the election if it had not been conducted under this Part, the Minister may, upon application by the organization or branch, determine that an amount not exceeding the amount of the excess shall be borne by the Commonwealth.”

**10.** Section one hundred and eighty-two of the Principal Act is amended by adding at the end thereof the following sub-section:—

Offences in  
relation to  
Commission.

“(2.) A reference in the last preceding sub-section to the Commission or to a member of the Commission shall be read as including a reference to a person authorized to take evidence on behalf of the Commission.”

**11.** Section one hundred and eighty-four of the Principal Act is amended by adding at the end thereof the following sub-section:—

Contempt by  
witness.

“(2.) A reference in the last preceding sub-section to the Commission shall be read as including a reference to a person authorized to take evidence on behalf of the Commission.”

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