

PUBLIC SERVICE ARBITRATION (NO. 2).

No. 104 of 1956.

An Act to amend the Law relating to Public Service Arbitration.

[Assented to 15th November, 1956.]

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

Short title
and citation.

1.—(1.) This Act may be cited as the *Public Service Arbitration Act (No. 2) 1956*.

(2.) The *Public Service Arbitration Act 1920–1955*,* as amended by the *Public Service Arbitration Act 1956*,† is in this Act referred to as the Principal Act.

* Act No. 28, 1920, as amended by No. 1, 1928; No. 25, 1929; No. 45, 1934; No. 52, 1947; Nos. 51 and 80, 1950; No. 36, 1952; and Nos. 2 and 18, 1953.

† Act No. 51, 1950.

(3.) Section one of the *Public Service Arbitration Act* 1956 is amended by omitting sub-section (3.).

(4.) The Principal Act, as amended by this Act, may be cited as the *Public Service Arbitration Act* 1920–1956.

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 twelve 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 three of the Principal Act is amended by inserting before the definition of “Determination” the following definition:— Definitions.

“ ‘Conditions of employment’ means salaries, wages, rates of pay or other terms or conditions of service or employment; ”.

4. Section eleven of the Principal Act is amended by omitting sub-section (1.). Transfer of cases from Court to Arbitrator.

5. After section eleven of the Principal Act the following section is inserted:—

“ 11A.—(1.) Subject to the next succeeding sub-section, an organization of employees in the Public Service is not entitled to submit to the Commission a claim relating to conditions of employment of members of the organization. Limitation on submission of claims to Commission.

“(2.) An organization of employees in the Public Service may submit such a claim to the Commission—

(a) with the consent of the Arbitrator; or

(b) where, in pursuance of section fourteen A of this Act, the Arbitrator has (otherwise than on the ground of triviality) refrained from hearing, or from further hearing, or from determining the claim.

“(3.) The Arbitrator shall not give his consent under paragraph (a) of the last preceding sub-section unless, in his opinion, the claim is one that he would, in pursuance of section fourteen A of this Act, be likely to refrain from hearing, or from further hearing, or from determining (otherwise than on the ground of triviality).”.

6. Section twelve of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:— Power of Arbitrator to determine conditions of employment.

“(1.) Subject to this Act, the Arbitrator shall determine all matters submitted to him relating to conditions of employment of officers and employees of the Public Service.

“(2.) An organization is entitled to submit to the Arbitrator by memorial any claim relating to the conditions of employment of members of the organization.”.

7. Section fourteen A of the Principal Act is repealed and the following section inserted in its stead :—

Arbitrator may refuse to hear and determine certain claims, &c.

“ 14A. The Arbitrator may refrain from hearing, or from further hearing, or from determining a claim or application made to him under this Act, or a matter forming part of or arising out of such a claim or application, if it appears to the Arbitrator that, on any ground, including any of the following grounds, it is unnecessary or undesirable in the public interest to deal with the claim, application or matter :—

- (a) that the subject-matter of the claim or application, or the matter, is trivial ;
- (b) that the subject-matter of the claim or application, or the matter, has been dealt with, is being dealt with or is proper to be dealt with by another industrial authority ;
- (c) that conditions of employment of employees in respect of whom the claim or application is made have previously been dealt with by another industrial authority ;
- (d) that conditions of employment of employees in respect of whom the claim or application is made should be, or continue to be, dealt with by another industrial authority, being an authority which has already dealt with, deals with, will be dealing with or is available to deal with the conditions of employment of persons who are not employees in the Public Service but are engaged in similar work ; or
- (e) that conditions of employment of employees in respect of whom the claim or application is made should be, or continue to be, the same as the conditions of employment provided by an award, order, decision or determination of another industrial authority in respect of the employment of persons who are not employed in the Public Service but are engaged in similar work, being conditions of employment which the Arbitrator is satisfied are being, will be or will continue to be applied to the employees in respect of whom the claim or application is made.”

Determination to be laid before Parliament.

8. Section twenty-one of the Principal Act is amended by omitting paragraph (a) of sub-section (2A.) and inserting in its stead the following paragraph :—

“(a) forthwith after the commencement of the hearing of the appeal ; or ”.

Determinations inconsistent with Commonwealth law.

9. Section twenty-two of the Principal Act is amended—

(a) by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections :—

“(1.) The Arbitrator may make a determination which is not in accord with an award or order of the Commonwealth Court of Conciliation and Arbitration or of the Commission, but, except as provided by this section, is not empowered to make a determination which is not in accord with a law of the Commonwealth.

“(2.) The Arbitrator may, where he thinks it proper to do so, make a determination that, in his opinion, is not, or may not be, in accord with a law of the Commonwealth relating to conditions of employment of employees in the Public Service, not being—

(a) the *Commonwealth Employees' Compensation Act* 1930-1954, the *Commonwealth Employees' Furlough Act* 1943-1953 or the *Superannuation Act* 1922-1956; or

(b) any other prescribed Act or the prescribed provisions of any other Act.

“(2A.) In that case, the Arbitrator shall send to the Prime Minister and to the Attorney-General, with the certified copy of the determination, a statement of the laws of the Commonwealth with which, in his opinion, the determination is not, or may not be, in accord.”;

(b) by omitting sub-section (4.) and inserting in its stead the following sub-section :—

“(4.) If, before a determination is laid before the Parliament under the last preceding section or under this section, the Attorney-General advises the Prime Minister that, in his opinion, the determination is not in accord with a law of the Commonwealth referred to in the opinion, the Prime Minister shall cause the opinion to be laid, together with the determination, before both Houses of the Parliament.”; and

(c) by omitting from sub-section (7.) the words “ or regulation ”.

10. Section twenty-three of the Principal Act is amended by adding at the end thereof the words “, and, in particular, for prescribing the fees to be charged in respect of proceedings under this Act ”. Regulations.

11. The application of the Principal Act as amended by this Act extends to claims and applications submitted to the Arbitrator, but not determined, before the commencement of this Act. Application of amendments.

12. Section twelve of the *Public Service Arbitration Act* 1956 is amended by adding at the end thereof the following sub-section :— References and appeals.

“(2.) Where, before the commencement of this section, an application for leave to appeal against a determination of the Public Service Arbitrator had been made under section fifteen c of the Principal Act but the application had not been dealt with before the commencement of this section, an appeal against the determination lies to the Commonwealth Conciliation and Arbitration Commission under section fifteen c of the Principal Act as amended by this Act notwithstanding that the appeal was not made to the Commission within fourteen days after the date of the determination.”.