

Employee Relations (Amendment) Bill

No.

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LEGISLATIVE ASSEMBLY

Read 1° 12 October 1994

(Brought in by Mr Gude and Mr McNamara)

A BILL

to amend the **Employee Relations Act 1992** and make consequential amendments to certain other Acts and for other purposes.

Employee Relations (Amendment) Act 1994

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purpose of this Act is to amend the **Employee Relations Act 1992** so as to—

- (a) facilitate the setting (by compulsory arbitration, if necessary) of minimum wages for each work classification within an industry sector;
- (b) make further provision with respect to the minimum entitlements of employees;

Section headings appear in bold italics and are not part of the Act.
(See **Interpretation of Legislation Act 1984**.)

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- (c) remove the power of the Employee Relations Commission to make awards;
- (d) alter the rules with respect to access to the Employee Relations Commission in cases of harsh, unjust or unreasonable dismissal; 5
- (e) clarify the compulsory arbitration powers of the Employee Relations Commission;
- (f) overturn certain decisions of the Employee Relations Commission in relation to enterprise bargaining in the public sector. 10

2. Commencement

- (1) This Part comes into operation on the day on which this Act receives the Royal Assent.
- (2) Section 12 is deemed to have come into operation on 3 June 1994. 15
- (3) Subject to sub-section (5), sections 5, 6, 8, 9, 10 and 11 come into operation on a day to be proclaimed.
- (4) Subject to sub-section (5), the remaining provisions of this Act come into operation on a day or days to be proclaimed. 20
- (5) If a provision referred to in sub-section (3) or (4) does not come into operation within the period of 12 months beginning on, and including, the day on which this Act receives the Royal Assent, it comes into operation on the first day after the end of that period. 25

3. Principal Act

In this Act, the **Employee Relations Act 1992** is called the Principal Act.

PART 2—AMENDMENT OF PRINCIPAL ACT

4. *The contents of employment agreements*

5 (1) In section 12 of the Principal Act, after “uncertainty”
insert “or to make the agreement comply with
section 14 (4) or a minimum term or condition of
employment applicable under section 25 (1)”.

(2) In section 14 of the Principal Act, after sub-section
(4) insert—

10 “(4A) If an employment agreement does not at any
time comply with sub-section (4), it must then
be taken to contain the provisions set out in
Schedule 5.”.

15 (3) In the heading to Schedule 5 to the Principal Act, for
“AWARDS UNDER SECTION 172 (2)” substitute
“EMPLOYMENT AGREEMENTS UNDER
SECTION 14 (4A)”.

5. *Removal of power to make awards*

(1) Part 3 of the Principal Act is repealed.

20 (2) In consequence of sub-section (1) the Principal Act is
amended as set out in Schedule 1.

6. *New Part 3 inserted*

(1) After Part 2 of the Principal Act insert—

**“PART 3—MINIMUM ENTITLEMENTS OF
EMPLOYEES**

25 **Division 1—Minimum Wages**

**20. *Declaration of industry sectors and work
classifications***

(1) The Commission may, for the purposes of
this Part, declare—

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- (a) industry sectors; and
 - (b) work classifications in relation to a declared industry sector.
- (2) The Commission may only declare an industry sector if— 5
- (a) the Commission has, in response to a reference to it from the Minister under section 113, recommended to the Minister the declaration of that industry sector; and 10
 - (b) after receiving that recommendation the Minister has, by a reference under section 113, asked it to declare that industry sector.
- (3) The Commission may only declare the initial work classifications in relation to a declared industry sector if the Minister has, by a reference under section 113, asked it to declare them. 15
- 21. Commission may set and adjust minimum wages 20**
- (1) Subject to section 22, the Commission in Full Session may set and adjust a minimum wage for employees within a work classification declared by it under section 20 (1) whose terms of employment are such that coverage by a system of minimum wages is appropriate. 25
 - (2) A minimum wage as set or adjusted by the Commission in Full Session may be different for different categories of employee within the work classification according as to whether the employee is full-time, part-time, a junior employee or employed on a casual or piece rate basis. 30 35

22. Who may apply to Commission in Full Session

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(1) The Commission in Full Session may only set an initial minimum wage for employees within one of the initial work classifications declared by it under section 20 (1) in relation to a declared industry sector if the Minister has, by a reference under section 113, asked it to set it.

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(2) An application for the setting of a minimum wage for employees within a work classification declared by the Commission under section 20 (1) (other than a work classification to which sub-section (1) applies) or an application for an adjustment of a minimum wage set by the Commission may be made to the Commission in Full Session—

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(a) by an employee or group of employees within that classification; or

(b) by an employer of an employee or employees within that classification; or

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(c) by an association of employers or employees that is recognised under Part 12 with respect to an employer or industry sector bound, or that would be bound, by the minimum wage; or

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(d) by the Minister—if he or she has, by a reference under section 113, asked it to adjust it.

(3) An applicant under paragraph (a), (b) or (c) of sub-section (2) must serve a copy of the application on the Minister—

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(a) by sending it by post addressed to the Minister at the principal office of the Minister; or

(b) by leaving it at the principal office of the Minister with a person apparently

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over the age of 16 years and apparently employed there.

23. *Matters relevant to the level of minimum wages*

In setting the level of minimum wages, the Commission in Full Session must, so far as possible and appropriate in relation to Victorian practice and conditions, take into consideration— 5

(a) the needs of workers and their families, taking into account the general level of wages in Victoria, the cost of living, social security benefits and the relative living standards of other social groups; 10

(b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment. 15
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24. *How minimum wage is to be expressed*

A minimum wage as set or adjusted by the Commission in Full Session is to be expressed as a rate of pay for each hour worked in a working week of 38 hours or of such other number of hours as the Commission determines to be appropriate in the case of the relevant industry sector. 25

Division 2—Minimum Terms and Conditions of Employment 30**25. *Minimum terms and conditions of employment***

(1) The minimum terms and conditions of employment for employees are those contained in Schedule 1.

5 (2) A provision of an employment agreement or of any other contract of employment is of no effect to the extent that it provides a term or condition of employment that is less favourable to an employee than the minimum applicable under sub-section (1).

26. Offence not to comply with Schedule 1 minima

10 (1) An employer must not enter into, or purport to enter into, an employment agreement or any other contract of employment with an employee that provides a term or condition of employment that is less favourable to the employee than the minimum applicable under section 25 (1).

Penalty: 100 penalty units.

20 (2) If an employment agreement or any other contract of employment (whether made before or after the commencement of section 6 (1) of the **Employee Relations (Amendment) Act 1994**) does not at any time comply with a minimum term or condition of employment applicable under section 25 (1), it must then, for the purposes of section 160, be taken to have effect as if it did.

30 (3) An employment agreement or any other contract of employment entered into by an employer in contravention of sub-section (1) is not, for that reason only, illegal, void or unenforceable.”.

35 (2) In section 14 of the Principal Act, sub-sections (2) and (3) are repealed.

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- (3) In section 90 of the Principal Act, before paragraph (b) insert—
- “(a) by an employee, group of employees, employer, recognised association or the Minister—in the circumstances set out in Division 1 of Part 3; or”.
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- (4) In section 98 of the Principal Act, after sub-section (2) insert—
- “(3) Only the Commission in Full Session may set or adjust a minimum wage under Division 1 of Part 3.”.
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7. Harsh, unjust or unreasonable dismissal

- (1) In section 38 (1) of the Principal Act, after “employee may” insert “, if eligible to do so under section 39,”.
- (2) In section 39 of the Principal Act, for sub-sections (1), (2) and (3) substitute—
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- “(1) Any employee is eligible to apply for an order unless—
- (a) at the time of the dismissal or threatened dismissal—
- (i) his or her annual rate of pay exceeded \$60 000 or any other amount that may be prescribed for the purposes of this section; or
- (ii) he or she was serving a period of probation; or
- (iii) he or she was a trainee within the meaning of the Vocational Education and Training Act 1990; or
- (iv) he or she was employed on a casual basis or for a term of not more than 6 months; or
- (b) in respect of the dismissal or threatened dismissal—
- (i) he or she has a right of appeal or review under any contract other than in accordance with procedures of a
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kind referred to in section 14 (4) (a);
or

(ii) he or she has a right of appeal or
review under the **Public Sector
Management Act 1992**, the **Police
Regulation Act 1958**, the **Teaching
Service Act 1981** or any other Act.

(2) For the purposes of sub-section (1) (a) (i)—

(a) the rate of pay of an employee whose
employment agreement or other contract of
employment prescribes normal hours for
the performance of work (whether by
prescribing the number of hours in which,
or the times at which, work is normally to
be performed in a particular period) is the
total amount of wages that the employee
received, or was entitled to receive, from
the employer in respect of those normal
hours of work but does not include any
wages, additional to normal wages, in
respect of additional hours of work
performed or in respect of work performed
at other times; and

(b) an employee's annual rate of pay is—

(i) if the employee was continuously
employed by the employer during the
period of 12 months immediately
before the dismissal or threatened
dismissal—the total amount of wages
calculated in accordance with
paragraph (a) that the employee
received, or was entitled to receive,
from the employer in respect of that
period; or

(ii) if the employee was continuously
employed by the employer for a
period of less than 12 months
immediately before the dismissal or
threatened dismissal—the amount of

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wages calculated in accordance with the formula—

$$\frac{P}{D} \times 365$$

where—

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P is the total amount of wages calculated in accordance with paragraph (a) that the employee received, or was entitled to receive, from the employer in respect of the period of employment;

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D is the number of days in the period of employment.

(3) A period of probation is only relevant for the purposes of sub-section (1) (a) (ii) if its duration or maximum duration—

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(a) is determined in advance by agreement between the employer and employee; and

(b) is reasonable having regard to the nature and circumstances of the employment.”.

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(3) In section 169 (1) of the Principal Act, after paragraph (e) insert—

“(ea) prescribing an amount for the purposes of section 39;”.

8. Powers of the Commission

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(1) In section 92 (2) of the Principal Act, for “on an application under Division 1 of Part 5” substitute “with respect to a matter or dispute or on an application of a kind referred to in paragraph (b), (c) or (d) of section 99”.

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(2) In section 98 (2) (a) of the Principal Act, after “dispute” (where first occurring) insert “(other than a matter or dispute or in relation to an application of a kind referred to in paragraph (b), (c) or (d) of section 99)”.

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9. New section 99 inserted

After section 98 of the Principal Act insert—

“99. Arbitration powers of the Commission

- 5 (1) The Commission may only arbitrate an industrial matter or dispute under this Act—
- (a) with the consent of all parties to the matter or dispute; or
- 10 (b) if the matter or dispute was referred to the Commission by the Minister under section 113 and the Minister, in the reference, expressly authorised it to exercise that power; or
- 15 (c) on an application under Division 1 of Part 3 to set or adjust a minimum wage; or
- (d) on an application under Division 1 of Part 5.
- 20 (2) Nothing in this section affects the powers of the Commission under Division 6 of Part 5 or Part 12.”.

10. Ministerial references

In section 113 of the Principal Act, after sub-section (1) insert—

- 25 “(2) In referring an industrial matter or dispute to the Commission, the Minister may expressly authorise the Commission to arbitrate the matter or dispute.
- 30 (2A) For the purposes of Division 1 of Part 3 the Minister may, if he or she believes that it is in the public interest to do so, ask the Commission—
- (a) to declare industry sectors;
- 35 (b) to declare the initial work classifications in relation to a declared industry sector;

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- (c) to set an initial minimum wage for employees within one of those initial work classifications;
- (d) to adjust a minimum wage set for all or any of the employees within a declared work classification.” 5

11. Minimum terms and conditions of employment

- (1) In clause 1 of Schedule 1 to the Principal Act—
 - (a) in paragraph (a) after “year” (where secondly occurring) insert “. This leave accrues on a pro-rata basis and is cumulative”; 10
 - (b) in paragraph (b) after “year” (where secondly occurring) insert “. This leave is cumulative”;
 - (c) for paragraph (c) substitute—
 - “(c) any minimum wage set by the Commission in Full Session for the work classification of the employee under Division 1 of Part 3 (as adjusted from time to time) or, if the employee was employed by the employer immediately before the commencement of section 11 (1) (c) of the **Employee Relations (Amendment) Act 1994**, a rate of pay for each hour worked equal to the base award wage rate per hour for the classification of employee as at the commencement of this Schedule or, if the relevant award did not then specify the number of hours to which the base weekly wage or salary provided for by it applied, a rate of pay for each week worked equal to that base weekly wage or salary, if that rate of pay is higher than the minimum wage set, or there is no minimum wage set, for the work classification of the employee;”;
 - (d) after paragraph (d) insert— 35
 - “(e) subject to and in accordance with this Schedule, an entitlement to be given notice

of termination or compensation instead of notice.”.

- (2) In Schedule 1 to the Principal Act, after Part 5 insert—

**“PART 6—REQUIREMENTS FOR LAWFUL
TERMINATION OF EMPLOYMENT**

54. *Employee to be given notice of termination*

- (1) An employer must not terminate an employee’s employment unless—

(a) the employee has been given either the period of notice required by this clause, or compensation instead of notice; or

(b) the employee is guilty of serious misconduct, that is, misconduct of a kind such that it would be unreasonable to require the employer to continue the employment during the notice period.

- (2) The required period of notice is first worked out using this table:

Employee’s period of continuous service with the employer	Period of notice
Not more than 1 year	At least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
More than 5 years	At least 4 weeks

- (3) The period of notice is increased by one week if the employee is over 45 years old and has completed at least 2 years continuous service with the employer.

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- (4) The regulations may prescribe events or other matters that must be disregarded, or must in prescribed circumstances be disregarded, in ascertaining a period of continuous service for the purposes of sub-clauses (2) and (3). 5
- (5) The amount of compensation instead of notice must equal or exceed the total of all amounts that, if the employee's employment had continued until the end of the required period of notice, the employer would have become liable to pay to the employee because of the employment continuing during that period. 10
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- (6) The total must be worked out on the basis of—
- (a) the employee's ordinary hours of work (even if they are not standard hours); and 20
- (b) the amounts payable to the employee in respect of those hours, including (for example) allowances, loadings and penalties; and
- (c) any other amounts payable under the employee's employment agreement or other contract of employment." 25

PART 3—MISCELLANEOUS**12. *Quashing of particular Commission decisions***

- (1) The decision of the Employee Relations Commission of Victoria in Full Session made on 3 June 1994 (Decision E94/0126) and the decision made by it on 11 July 1994 (Decision E94/0157) are quashed with effect from 3 June 1994. 30

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- (2) The provisions referred to in clause 22 (1) of Schedule 6 to the **Public Sector Management Act 1992** that expired because of clause 22 (3) of that Schedule are deemed to have continued to have effect on and from 3 June 1994 in all respects as if the decisions referred to in sub-section (1) had not been made.
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- (3) The Employee Relations Commission of Victoria is deemed not to have, and to never have had, power to amend an award that expired because of section 172 (6) or a provision referred to in clause 22 (1) of Schedule 6 to the **Public Sector Management Act 1992** that expired because of clause 22 (3) of that Schedule to add or insert provisions concerning enterprise bargaining empowering that Commission to arbitrate a matter or dispute as a last resort.
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- (4) The Employee Relations Commission of Victoria is deemed only to have, and to have always only had, power under section 113A of the Principal Act to amend an award or provision referred to in sub-section (3) to provide for the application to the award or provision of the safety net adjustment provided for by the decision made on 25 October 1993 by the Full Bench of the Australian Industrial Relations Commission in the course of its review of wage fixing principles.
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13. Consequential amendments

An Act specified in the heading to an item in Schedule 2 is amended as set out in that item.

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14. Transitional provisions

- (1) The amendments of the Principal Act made by section 4 (1) or (2) apply to employment agreements made before as well as after the commencement of that sub-section.

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- (2) The amendments of the Principal Act made by section 7 (1), (2) or (3) apply only with respect to dismissals or threatened dismissals that take place after the commencement of that sub-section.
- (3) The amendment of the Principal Act made by section 11 (1) (c) does not have the effect of reducing, after the commencement of that sub-section, any entitlement to a rate of pay that an employee had immediately before the commencement of that section.

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SCHEDULES

SCHEDULE 1

Section 5 (2)

AMENDMENTS CONSEQUENTIAL ON SECTION 5 (1)

1. In section 3 (i) **omit “, awards”.**
2. In section 4 the definition of “award” is **repealed.**
3. Section 17 is **repealed.**
4. Section 18 is **repealed.**
5. In section 36 (1)—
 - (a) in paragraph (a) **omit “award or”;**
 - (b) in paragraph (b) **omit “award or”.**
6. In section 36 (4) (b) for “an award or” **substitute “a”.**
7. In section 43 (1)—
 - (a) **omit “award or”;**
 - (b) in paragraph (a) **omit “award or”.**
8. In section 47 (2) (a) and (b) **omit “award or”.**
9. In section 48 (c) **omit “award or”.**
10. In section 49 (2) **omit “award or”.**
11. In section 50 (1) (b) **omit “award or”.**
12. In section 50 (2) **omit “award or”.**
13. In section 62 (2) (i) **omit “award or”.**
14. In section 64 (3) **omit “award or”.**
15. In section 64 (4) **omit “award or”.**
16. In section 65 (1) (b) **omit “award or”.**
17. In section 79 (1) **omit “award or” (where twice occurring).**
18. In section 79 (c) **omit “award or”.**
19. In section 87 **omit “award or”.**
20. In section 89, paragraph (e) is **repealed.**
21. In section 90, paragraph (a) is **repealed.**
22. Section 91 is **repealed.**
23. In section 98 (1), paragraphs (e) and (f) are **repealed.**
24. In section 98 (2), paragraphs (c) and (d) are **repealed.**
25. Section 99 is **repealed.**

SCHEDULE 1—*continued*

26. In section 100 (1) (a) for “under an award” **substitute** “in an industry sector declared under Division 1 of Part 3”.
27. Section 113 (2) is **repealed**.
28. In section 113A (2) omit “and (c)”.
29. In section 117 (3) omit “, or makes an award in respect of.”.
30. In section 117 (4) (a) omit “or make an award in respect of it (as the case requires)”.
31. In section 117 (5) omit “or an award” (where twice occurring).
32. Section 118 (1) is **repealed**.
33. In section 121—
 - (a) in paragraph (b) omit “award or”;
 - (b) for paragraph (d) **substitute**—

“(d) any relevant decisions of the Commission and the Federal Commission or any relevant awards of the Federal Commission; and”.
34. In section 122 omit “award or”.
35. In section 123—
 - (a) sub-section (1) is **repealed**;
 - (b) in sub-section (2) for “a dispute” **substitute** “an industrial dispute”.
36. In section 127 (1)—
 - (a) in paragraph (a) omit “or bound or proposed to be bound by an award”;
 - (b) paragraph (b) is **repealed**.
37. In section 130 (2)—
 - (a) for “an award or” **substitute** “a”;
 - (b) omit “award or” (where secondly occurring).
38. In section 135 (1) for “, an industry or an award” **substitute** “or an industry sector declared under Division 1 of Part 3”.
39. In section 136 (1) (a) and (b) after “industry” **insert** “sector”.
40. In section 136 (3) after “industry” **insert** “sector”.
41. In section 137 (b) omit “award.”.
42. In section 138 (a) omit “an award or”.
43. In section 139—
 - (a) for “under an award” **substitute** “in an industry sector declared under Division 1 of Part 3”;

SCHEDULE 1—*continued*

- (b) for “that award” substitute “that industry sector”.
44. In section 140, paragraphs (a) and (b) are repealed.
45. In section 141—
- (a) paragraph (a) is repealed;
 - (b) in paragraph (c) omit “award or”.
46. In section 142 omit “award or”.
47. In section 143 omit “award or”.
48. In section 144 (a), (b) and (c) omit “award or” (wherever occurring).
49. In section 148 (a) omit “award,”.
50. In section 149 (1), paragraphs (d) and (e) are repealed.
51. Section 149 (3) is repealed.
52. Section 156 (1) is repealed.
53. In section 159 omit “award or”.
54. In section 160 (1) omit “award,”.
55. In section 162 (1) omit “award or”.
56. In section 162 (2) omit “award or”.
57. In section 163 omit “award or”.
58. In section 166 (1) and (2) omit “award or” (wherever occurring).
59. In section 168 (c) omit “or 99 (4)”.
60. Section 172 (5) is repealed.
61. In Schedule 1—
- (a) in clause 3—
 - (i) in paragraph (b) of the definition of “continuous service” omit “award or”;
 - (ii) in the definition of “paternity leave” omit “an award or”;
 - (b) in clause 11 (2) omit “award or”;
 - (c) in clause 12—
 - (i) omit “award,”;
 - (ii) omit “award or”;
 - (d) in clause 13 (1) omit “award or”;
 - (e) in clause 17—
 - (i) in paragraph (b) of the definition of “continuous service” omit “award or”;
 - (ii) in the definition of “maternity leave” omit “an award or”;

SCHEDULE 1—*continued*

- (f) in clause 23 (2) omit “award or”;
- (g) in clause 24—
 - (i) omit “award,”;
 - (ii) omit “award or”;
- (h) in clause 25 (1) omit “award or”;
- (i) in clause 29, in paragraph (b) of the definition of “continuous service” omit “award or”;
- (j) in clause 36 (2) omit “award or”;
- (k) in clause 37—
 - (i) omit “award,”;
 - (ii) omit “award or”;
- (l) in clause 38 (1) omit “award or”;
- (m) in clause 41—
 - (i) in paragraph (b) of the definition of “continuous service” omit “award or”;
 - (ii) in the definition of “part-time employment” omit “award or”;
- (n) in clause 44 omit “award,”;
- (o) in clause 45 omit “award or”;
- (p) in clause 46 (1) omit “award or”;
- (q) in clause 46 (2) omit “award or”;
- (r) in clause 47 (1) omit “award or”;
- (s) in clause 51 omit “award or”;
- (t) in clause 52 omit “award or”.

SCHEDULE 2

Section 13

CONSEQUENTIAL AMENDMENTS

1. Construction Industry Long Service Leave Act 1983

In paragraph (a) of the definition of “award” in section 3 (1) omit “award or an”.

2. Education Act 1958

In the definition of “law” in section 64L omit “award or”.

SCHEDULE 2—*continued*

3. *Juries Act 1967*

In section 50 (4A) omit “award or”.

4. *Labour and Industry Act 1958*

In section 3 (1)—

- (a) the definition of “award” is **repealed**;
- (b) the definition of “Commission” is **repealed**.

5. *Pre-school Teachers and Assistants (Leave) Act 1984*

In the definition of “award” in section 3 (1), paragraph (a) is **repealed**.

6. *Public Holidays Act 1993*

- 6.1 In section 4 (a) omit “award or”.
- 6.2 In section 10 (1) omit “award or”.
- 6.3 In section 10 (2) for “, arrangement or award” **substitute** “or arrangement”.

7. *Public Sector Management Act 1992*

- 7.1 In section 41 (1) (b) omit “award or”.
- 7.2 In section 34B (1) for “4 weeks notice of termination” **substitute** “the period of notice of termination required by clause 54 of Schedule 1 to the **Employee Relations Act 1992**”.
- 7.3 In section 35 (2A) for “2 weeks notice of termination in accordance with the regulations” **substitute** “in accordance with the regulations, the period of notice of termination required by clause 54 of Schedule 1 to the **Employee Relations Act 1992**”.
- 7.4 In section 55 (5) for “4 weeks notice of termination to the other party in accordance with the provisions of the contract” **substitute** “to the other party, in accordance with the provisions of the contract, the period of notice of termination required by clause 54 of Schedule 1 to the **Employee Relations Act 1992**”.
- 7.5 In section 82 omit “award or”.
- 7.6 In section 83 (3)—
 - (a) paragraph (c) is **repealed**;
 - (b) in paragraph (d) for “and, for this purpose, that Division applies in relation to such persons as if any reference to an

SCHEDULE 2—*continued*

award were a reference to a provision referred to in clause 22 (1) of Schedule 6 of this Act” substitute “if he or she is eligible under that Division to do so”.

- 7.7 In section 83 (5) omit “award or”.
- 7.8 In clause 22 (4) of Schedule 6 omit “award or”.

8. *Teaching Service Act 1981*

- 8.1 In section 2, the definition of “award” is repealed.
- 8.2 In section 11—
 - (a) in sub-section (1) omit “in respect of which an award is not in force”;
 - (b) sub-sections (3) (b) and (4) are repealed.
- 8.3 In section 21 (1), paragraph (c) is repealed.
- 8.4 In section 21 (2)—
 - (a) omit “award or”;
 - (b) omit “or deemed to bind the Crown and the member under section 24 (3) of that Act”.
- 8.5 In sections 34 (1) and (3), 35 (1), 36 (1), 37 (1), (3) and (9), 38, 39 (1), (2) and (2A) and 53 for “an award or” (wherever occurring) substitute “a”.
- 8.6 In sections 34 (2) and 58 (1) for “An award or” substitute “A”.
- 8.7 In section 38 for “do not” substitute “does not”.

9. *Transport Act 1983*

In section 83 (2) omit “award or”.

10. *Vocational Education and Training Act 1990*

- 10.1 In section 3, the definition of “award” is repealed.
- 10.2 In section 48—
 - (a) omit “or in any award”;
 - (b) omit “or award”.
- 10.3 In section 57 (2) omit “award.”.
- 10.4 In section 61 (1) for “award” substitute “employment agreement”.
- 10.5 In the definition of “law” in section 86 omit “award.”.
- 10.6 In Schedule 2, clause 3 (b) is repealed.

SCHEDULE 2—*continued*

- 10.7 In clause 6 of Schedule 2 for “4 weeks notice to the other party” **substitute** “to the other party the period of notice of termination required by clause 54 of Schedule 1 to the **Employee Relations Act 1992**”.
11. ***Vocational Education and Training (College Employment) Act 1993***
In section 19 (5) **omit** “award or”.

