

# **Industrial Relations (Enterprise Bargaining) Act 1992**

No. 47 of 1992

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Victoria

No. 47 of 1992

# **Industrial Relations (Enterprise Bargaining) Act 1992**

[Assented to 23 June 1992]

**The Parliament of Victoria enacts as follows:**

## **PART 1—PRELIMINARY MATTERS**

### **1. Purpose**

The chief purposes of this Act are—

- (a) to abolish the Conciliation and Arbitration Board system; and
- (b) to make various amendments to the **Industrial Relations Act 1979** to facilitate enterprise bargaining; and
- (c) to make various miscellaneous amendments to the **Industrial Relations Act 1979**.

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**2. Commencement**

This Act comes into operation on a day to be proclaimed.

**PART 2—AMENDMENTS TO THE INDUSTRIAL RELATIONS  
ACT 1979**

**3. Abolition of Conciliation and Arbitration Boards**

**(1) In the Industrial Relations Act 1979—**

- (a) in section 3 (1), the definitions of “Board” and “Chairperson” are repealed;
- (b) sections 3 (2), 3 (3) (a), 3 (3) (d), 12 (b), 24—33 and 44 are repealed;
- (c) in section 3 (6), omit “or a Board”;
- (d) the heading “PART III—CONCILIATION AND ARBITRATION BOARDS” is repealed.

**(2) Every Conciliation and Arbitration Board is abolished, and every member of a Conciliation and Arbitration Board goes out of office.**

**(3) Any reference in any Act, award, order, subordinate instrument, agreement or other document to—**

- (a) a Conciliation and Arbitration Board is to be treated as a reference to the Industrial Relations Commission;
- (b) a Chairperson or Chairman of a Conciliation and Arbitration Board is to be treated as a reference to the member of the Industrial Relations Commission assigned by the President to deal with the relevant industrial matter;
- (c) an employer representative on a Conciliation and Arbitration Board is to be treated as a reference to a person nominated by the relevant recognised association or employer or association or group of employers or public body;
- (d) an employee representative on a Conciliation and Arbitration Board is to be treated as a reference to a person nominated by the relevant recognised association—

unless the contrary intention appears.

- (4) On the commencement of this section any award or order of a Conciliation and Arbitration Board is to be treated as if it were an award or order of the Industrial Relations Commission.

**4. *How current proceedings before a Board to be dealt with***

- (1) On the commencement of section 3—
- (a) any proceeding before a Conciliation and Arbitration Board is to be treated as if it were a proceeding before the Industrial Relations Commission; and
  - (b) anything done in relation to that proceeding is to be treated as if it had been done under the **Industrial Relations Act 1979** as amended by this Act.

- (2) Despite sub-section (1)—

- (a) if a proceeding is before a Board; and
- (b) in the opinion of the Industrial Relations Commission it is in the public interest that the proceeding be determined by the Board—

the Commission may order that the proceeding be determined by the Board after the commencement of section 3.

- (3) If such an order is made, the **Industrial Relations Act 1979** as in force immediately before the commencement of section 3 continues to apply to and in relation to the proceeding as if this Act had not been enacted.
- (4) Any award or decision made by a Board under this section is to be treated as if it were an award or decision made under the **Industrial Relations Act 1979** by a member of the Industrial Relations Commission.

**5. *Amendments to definitions***

In section 3 (1) of the **Industrial Relations Act 1979**—

- (a) for the definition of “Award” substitute—
  - “award” includes any order of the Commission that it has put into writing and that it intends to be an award;”;

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- (b) the definition of “Award of the Commission” is repealed;
- (c) after the definition of “business day” insert—
  - ‘ “certified agreement” means an agreement certified under Part IV;’;
- (d) in the definition of “Commission” for “established under this Act” substitute “except when it sits as the Commission in Court Session”;
- (e) the definitions of “Department” and “Industrial association” are repealed;
- (f) after the definition of “industrial dispute” insert—
  - ‘ “industrial matter” means anything which concerns, or arises from, the employment of a person and includes, without limiting the generality of this definition, anything to do with—
  - (a) work and the days and hours of work;
  - (b) pay, superannuation and reward;
  - (c) the privileges, rights and duties of employers and employees;
  - (d) the mode and conditions of employment or non-employment;
  - (e) the employment or non-employment of people of any particular age;
  - (f) the demarcation between the rights, status and functions of members of a particular recognised association of employees in relation to the members of other recognised associations of employees;
  - (g) the demarcation of functions between particular employees, or classes of employee;
  - (h) the duties of employers when introducing new technology to a workplace (including the notice to be

given to employees if they are to be dismissed because of new technology);

- (i) retrenchments and redundancies, and the notice to be given if an employee is dismissed;
- (j) questions of what is fair and right in relation to any industrial matter having regard to the people immediately concerned and of society as a whole;
- (k) the relations between employers and employees;
- (l) an industrial dispute;

**“industry”** includes—

- (a) any business, trade, undertaking or calling of employers; and
  - (b) any calling, service, employment, handicraft or industrial occupation or vocation of employees; and
  - (c) an employer, a branch of an industry or a group of industries;;
- (g) for the definition of **“Registered agreement”** substitute—

**“public body”** includes—

- (a) any body created by or under an Act;
- (b) any administrative unit within the meaning of the **Public Service Act 1974**;
- (c) any municipal council;
- (d) any person or body declared by Order of the Governor in Council under section 3A to be a public body;

**“recognised association”** means an association of employers or employees recognised under Part V and includes an employer or a group of employers or a public body given the same

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rights and responsibilities as a recognised  
association under section 56c;’;

(h) the definitions of “Secretary” and “Trade” are  
repealed.

**6. Insertion of section 3A**

After section 3 of the Industrial Relations Act 1979  
insert—

**“3A. Governor in Council may declare a body to be a  
public body**

(1) The Governor in Council may, by Order  
published in the Government Gazette, declare  
any person or body to be a public body.”.

**7. Insertion of section 8A**

After section 8 of the Industrial Relations Act 1979  
insert—

**“8A. Dual Federal and State appointments**

(1) A person (including the President) may hold  
office as a member of both the Commission and  
the Australian Industrial Relations Commission.

(2) If a person is a member of both Commissions,  
the Presidents of both Commissions are to  
determine the person’s duties by agreement  
between them from time to time.

(3) A member of the Australian Industrial Relations  
Commission may be appointed to the  
Commission for a fixed term.

(4) If this is done, the member holds office until—

(a) the term ends; or

(b) he or she ceases to be a member of the  
Australian Industrial Relations  
Commission; or

(c) he or she reaches 65 years of age—



whichever happens first.”.

**8. Insertion of new sections 11 to 11G**

For sections 10 (2) (b) and 11 of the **Industrial Relations Act 1979** substitute—

**“11. General powers of the Commission in industrial matters**

- (1) The Commission may do one or more of the following with respect to an industrial matter—
  - (a) attempt to settle the matter informally;
  - (b) in the case of a dispute, direct representatives of the parties to the dispute to attend a conference chaired by a member of the Commission;
  - (c) attempt to conciliate the matter;
  - (d) arbitrate the matter;
  - (e) make an award in relation to all or any part of the matter;
  - (f) vary or revoke an award;
  - (g) certify an agreement made by the parties to the matter.
- (2) However, the Commission may not determine any industrial matter relating to the preferential employment of people who are, or who are not, members of a recognised association.

**11A. Other general powers of the Commission**

- (1) In addition to the other powers given to the Commission by this Act and by any other Act, the Commission may do anything that is necessary or expedient to enable it to perform its functions.
- (2) For the purposes of performing its functions, the Commission has the powers conferred by sections 14, 15 and 16 of the **Evidence Act 1958**

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on a board appointed by the Governor in Council.

**11B. *Commission may appoint a board of reference***

- (1) The Commission may, by an award, appoint or give power to appoint a board of reference for the purposes of the award.
- (2) The board of reference is to consist of 1 or more people.
- (3) The board of reference may consist of, or include, a member of the Commission or the registrar.
- (4) The Commission may empower the board of reference to allow, approve, fix, determine or deal with any matter or thing set out in the award.
- (5) The Commission may at any time impose conditions on the exercise of a power by the board of reference. These conditions must be set out in the award.

**11C. *Commission in Full Session may direct an investigation***

The Commission in Full Session may direct—

- (a) a Deputy President; or
- (b) a Commissioner; or
- (c) the registrar—

to make any investigation it considers appropriate and to report the results of the investigation back to it.

**11D. *Commission may act on own motion***

The Commission may perform a function or exercise a power on its own motion.

**11E. *Additional powers of the President***

- (1) The President is to direct the business of the Commission.
- (2) The President may refer an industrial matter to—
  - (a) the Commission in Full Session; or
  - (b) a member of the Commission; or
  - (c) a member of the Australian Industrial Relations Commission (in accordance with Part IIIA).
- (3) The President may take action under sub-section (2) even though no one has applied to bring the matter before the Commission.
- (4) The President may—
  - (a) delegate to a Deputy President in writing any of the President's duties and powers;
  - (b) direct what work a member of the Commission is to do, or not to do;
  - (c) direct any member of the Commission or the registrar to make any investigation the President considers appropriate and to report the results of the investigation back to him or her;
  - (d) do anything that is necessary or expedient to enable him or her to carry out his or her functions.

**11F. *The President may make rules***

- (1) The President may make rules with respect to—
  - (a) how industrial matters are to be brought before the Commission;
  - (b) how applications and submissions concerning industrial matters are to be dealt with;
  - (c) the practices and procedures to be followed by the Commission;

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- (d) the conduct of business in the Commission;
  - (e) the form and manner in which the registrar is to give notice of a proceeding.
- (2) Before making a rule, the President must consult the members of the Commission.

**11G. *Transfer of proceedings to Commission in Full Session***

- (1) At any time before or during a proceeding before a member of the Commission—
- (a) the member; or
  - (b) any party to the proceeding—
- may apply to the President for an order transferring the proceeding to the Commission in Full Session for hearing and determination.
- (2) If such an application is made during a proceeding, the proceeding is suspended until the President makes a decision on the application.
- (3) At any time before or during a proceeding before a member of the Commission, the President may on his or her own motion order that the proceeding be transferred to the Commission in Full Session for hearing and determination.”.

**9. *Substitution of new section 12A***

For section 12A of the Industrial Relations Act 1979 substitute—

**“12A. *Panels***

- (1) The President may divide the members of the Commission into panels, and may assign an industry to a panel.
- (2) A panel of the Commission is to consist of—
- (a) the President or a Deputy President; and

- (b) at least one Commissioner.
- (3) A member of the Commission may be a member of more than one panel.
- (4) The Presidential member of a panel must, in consultation with the other members of the panel, organise and allocate the work of the panel.
- (5) At any time, the President may—
  - (a) create new panels and abolish existing panels;
  - (b) assign or remove members of the Commission to or from panels;
  - (c) assign or remove an industry to or from a panel;
  - (d) direct what work a panel is to do.”

**10. Insertion of sections 12c—12i**

After section 12B of the **Industrial Relations Act 1979** insert—

**“12c. Applications to the Commission**

- (1) An application to bring an industrial matter before the Commission can be made—
  - (a) in the case of an award, or anything concerning, or arising from or dealt with by, an award, by a recognised association recognised with respect to the award; or
  - (b) in the case of an industrial dispute, by an employer or recognised association involved in the dispute; or
  - (c) by the Minister, in the circumstances set out in section 13A; or
  - (d) by an employee, in the circumstances set out in section 46.

**12D. *Application for award if there is no award***

Despite section 12C, in a case where no award applies to a particular industry, area, or workplace, an application for an award with respect to that industry, area or workplace may be made to the Commission by any association, employer, group of employers or public body who would be eligible to be granted recognition (or the same rights and responsibilities as an association granted recognition) with respect to the proposed award if the proposed award was an award.

**12E. *Commission must be notified of industrial disputes***

If it appears to an employer or to the proper officer of a recognised association of employers or employees that an industrial dispute has arisen in which the employer or officer, or the employer's or officer's association, has an interest, the employer or officer must inform the Commission of the dispute.

**12F. *Registrar must inform parties of dispute proceedings***

The registrar must inform all parties to an industrial dispute who the registrar knows are parties to the dispute of the time and place of the first proceedings of the Commission relating to the dispute.

**12G. *Conciliation must be tried before arbitration***

- (1) If the Commission is satisfied that all the parties to an industrial matter that is before it are unable to reach a fair and amicable agreement, the Commission must attempt conciliation.
- (2) If the Commission is satisfied that it is not likely that conciliation, or further conciliation, will resolve the matter within a reasonable time, the

Commission may determine the matter by arbitration.

- (3) A member of the Commission involved in attempting to conciliate a matter may arbitrate the matter.
- (4) The Commission may use its conciliation powers even though it has used its arbitration powers in the same matter.

**12H. *Commission to take certain things into account***

In performing its functions, the Commission must take into account—

- (a) the public interest, including the state of the Victorian economy and the likely effects of any award or decision that the Commission is considering or proposing to make, especially the likely effects on the level of employment and on inflation; and
- (b) any general principles established by the Commission in Full Session; and
- (c) any relevant awards and decisions of the Commission and the Federal Commission; and
- (d) any relevant law.

**12I. *Submissions to the Commission***

- (1) Submissions concerning any proceeding before the Commission may be made by—
  - (a) recognised associations recognised with respect to an award relevant to the proceeding; and
  - (b) an employer who employs employees under an award relevant to the proceeding; and
  - (c) any other person or body (including the Minister) who satisfies the Commission

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that the person or body has a relevant or proper interest in the proceeding.

- (2) The Commission may require any person or body intending to make a submission—
- (a) to make the submission within any time specified by the Commission that in the Commission's opinion is reasonable having regard to all the circumstances;
  - (b) to put all or part of the submission in writing;
  - (c) to submit evidence or argument to support the submission;
  - (d) to put all or part of any evidence or argument connected with the submission in writing.”.

**11. *Relocation of Minister's referral powers***

In section 13A of the **Industrial Relations Act 1979**—

- (a) after “13A.” insert “(1)”;
- (b) at the end of the section insert—

“(2) The Minister may refer an industrial matter to the Commission in Full Session if the Minister believes it is in the public interest to do so.

(3) If a matter which the Minister refers concerns an award and is likely to affect other awards, the Minister may at any time ask the Commission in Full Session to determine the matter for those other awards also.”.

**12. *Insertion of new sections 16—20***

For sections 16, 17, 19 and 20 of the **Industrial Relations Act 1979** substitute—



**“PART IIA—APPEALS**

**16. *Appeals to the Commission in Full Session***

An appeal may be made to the Commission in Full Session against—

- (a) an award made by a member of the Commission;
- (b) a decision by a member of the Commission not to make an award;
- (c) a decision under Part V (Recognition of Associations) by a member of the Commission.

**17. *Who can appeal***

- (1) An appeal may be made—
  - (a) in the case of anything concerning, arising from or dealt with by, an award, by a recognised association recognised with respect to the award;
  - (b) by the Minister.
- (2) An appeal may also be made by a person or body affected by the award or decision if the person or body first obtains the permission of the Commission in Full Session to make the appeal.
- (3) The Commission in Full Session may refuse or grant this permission.

**18. *Time limit on appeals***

- (1) An appeal, or an application for permission to appeal, must be lodged within 10 business days of the day the award or decision is made.
- (2) If permission to appeal is granted, the Commission in Full Session must begin to hear the appeal either immediately or within any other time specified by it.

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**19. *Decisions and awards may be stayed pending outcome of appeal***

- (1) If an appeal, or an application for permission to appeal, is lodged, the Commission in Full Session may stay the effect of the award or decision which has been appealed (or which is the subject of the application) until the appeal or application is decided or until it makes a further order.
- (2) The stay may be granted subject to conditions, and may apply to part of the award or decision only.

**20. *Powers of the Commission on appeal***

After hearing an appeal, the Commission in Full Session may do one or more of the following—

- (a) confirm, quash or vary the award or decision;
- (b) make a new award or decision dealing with the subject matter of the award or decision appealed against;
- (c) direct the member of the Commission whose award or decision was appealed against to take further action to deal with the subject matter, or to act in accordance with the directions of the Commission in Full Session;
- (d) direct another member of the Commission to take some specified action in respect of that subject matter.”.

**13. *Insertion of new sections 34—37***

For sections 34, 35, 36, 37 and 38 (1)—(4) of the *Industrial Relations Act 1979* substitute—

**“PART III—AWARDS**

**34. *Form of award***

- (1) An award must—
  - (a) be worded so as to best express the decision of the Commission; and
  - (b) avoid unnecessary technicality; and
  - (c) be signed—
    - (i) if made by the Commission in Full Session, by the presiding member; or
    - (ii) if made by a member of the Commission sitting alone, by that member; and
  - (d) be dated with the date on which it was signed.
- (2) The Commission must put every order that it makes, and that it intends to be an award, in writing as soon as possible.
- (3) The registrar must cause every award to be printed and published.

**35. *When an award is to start***

- (1) An award must specify the date on which it is to come into force.
- (2) Unless the Commission is satisfied that there are exceptional circumstances, it may not specify a date earlier than the date of the award.

**36. *Application of awards***

The Commission may apply an award to an industry, an area, a workplace or any combination of these subjects.

**37. *When an award ends***

An award continues in force until it is revoked.”

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**14. Substitution of new section 46**

For section 46 of the Industrial Relations Act 1979 substitute—

**“46. Harsh, unjust or unreasonable dismissals**

- (1) If an employer dismisses, or threatens to dismiss, an employee and the employee believes that the dismissal, or threatened dismissal, is harsh, unjust or unreasonable, the employee may apply for an order under this section.
- (2) However, the employee may only apply for an order if—
  - (a) in respect of the dismissal or threatened dismissal, he or she does not have a right of appeal or review under any other Act or law; and
  - (b) his or her conditions of employment are governed by—
    - (i) an award made under this Act; or
    - (ii) an award made under the Industrial Relations Act 1988 of the Commonwealth which contains an express provision preserving state law with respect to dismissals.
- (3) An application for an order—
  - (a) may be lodged with the Commission at any time before an employee is dismissed;
  - (b) must be lodged with the Commission within 10 business days after an employee is dismissed.
- (4) An application for an order must be in writing and may be lodged on behalf of the employee.
- (5) The President must ensure—
  - (a) that, within 10 business days of the date an application for an order is lodged, a date for the hearing of the application is set; and

- (b) that the application is dealt with as expeditiously as possible.
- (6) If the Commission is satisfied that the dismissal, or the threatened dismissal, of the employee is harsh, unjust or unreasonable, the Commission may—
  - (a) order the employer—
    - (i) to re-employ the employee in his or her former position on terms that are not less favourable to the employee than if the employee had not been dismissed; or
    - (ii) not to dismiss the employee (as the case requires);
  - (b) order the employer to pay the employee an amount not exceeding the amount the employee would have received between the time of his or her dismissal and the time at which he or she was re-employed by the employer.
- (7) Despite anything to the contrary in this Act—
  - (a) an inmate of an institution employed in the institution; and
  - (b) a handicapped person employed in a sheltered workshop—(within the meaning of section 39 (3)) may apply for an order under this section.”.

**15. *Substitution of new Part IV***

For Part IV of the Industrial Relations Act 1979 substitute—

**“PART IV—CERTIFIED AGREEMENTS**

**47. *Commission may certify certain agreements***

The Commission may certify any written agreement with respect to an industrial matter

entered into by any recognised association of employees and any other recognised association of employers or employees or employer or group of employers or public body on application by the parties to the agreement.

**48. Restrictions on certifying agreements**

(1) The Commission may only certify an agreement if it believes—

- (a) the agreement is in the interests of the parties to the agreement; and
- (b) that certifying the agreement would not be contrary to the public interest.

(2) However, only the Commission in Full Session may certify an agreement that is inconsistent with any general principles established by the Commission in Full Session.

(3) If an agreement includes terms based on the terms of another certified agreement, the Commission must not certify the agreement unless it is satisfied that the inclusion of those terms in the agreement is justified in the particular circumstances of the agreement.

(4) If it appears to the Commission that an agreement wholly or substantially regulates the relationship between—

- (a) the employers who are parties to the agreement; and
- (b) the employees whose employment is dealt with in the agreement—

the Commission must not certify the agreement unless the agreement includes provisions setting out procedures for preventing and settling industrial disputes between the parties by discussion and agreement.

- (5) The Commission must not certify an agreement which does not specify the period for which the agreement is to be in force.

**49. *How certified agreements are to work***

Once an agreement has been certified—

- (a) the terms of the agreement have the same effect, and can be enforced, as if they were the terms of an award; and
- (b) the terms of the agreement prevail over any term of an award which is inconsistent with them.

**50. *Changing certified agreements***

- (1) The parties to a certified agreement may not vary the agreement except—
- (a) to remove any ambiguity or uncertainty; or
- (b) to include, omit or vary a term that authorises an employer to stand-down an employee.
- (2) An agreement may exclude or limit the ability of the parties to vary the agreement under sub-section (1), but must do so expressly.

**51. *How long a certified agreement lasts***

A certified agreement remains in force until the first of these events occurs—

- (a) the period specified in the agreement as the life of the agreement ends;
- (b) the Commission ends the agreement under section 52B or 52C.

**52. *Who is bound by a certified agreement?***

A certified agreement binds—

- (a) each of the parties to the agreement; and

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- (b) all the members of a recognised association, or a specified segment of the membership of a recognised association, that is a party to the agreement; and
- (c) all the members of a group of employers, or a specified segment of the membership of a group of employers, that is a party to the agreement; and
- (d) any successor in law (whether immediate or not) of any party or employer who is bound by the agreement; and
- (e) every employee who is employed at a workplace to which the agreement applies by an employer on whom the agreement is binding.

**52A. *Withdrawing from a certified agreement***

- (1) A party to a certified agreement may apply to the Commission for an order that it is no longer bound by the agreement if—
  - (a) it is affected by industrial action taken by another party to the agreement in relation to a matter dealt with in the agreement; or
  - (b) all the other relevant parties to the agreement consent to it withdrawing from the agreement.
- (2) The Commission may grant the order if it is satisfied that the order would not be contrary to the public interest.
- (3) For the purposes of sub-section (1) (b) a relevant party—
  - (a) in the case of an employer, a group of employers or a recognised association of employers or a public body, is a party that is a recognised association of employees; and
  - (b) in the case of a recognised association of employees, is a party that is an employer,



a group of employers or a recognised association of employers or a public body.

**52b. *Minister may ask Commission to vary or end certified agreement***

- (1) The Minister may apply to the Commission in Full Session to have a certified agreement varied or ended.
- (2) The Commission in Full Session may, by order, vary or end a certified agreement under this section if it finds that the continued operation of the agreement in its present form is contrary to the public interest.
- (3) The Commission in Full Session must not do this unless it has given the parties to the agreement an opportunity to be heard.

**52c. *All parties can apply to end a certified agreement***

- (1) All the parties to a certified agreement may jointly apply to the Commission for an order ending the agreement.
- (2) The Commission may grant the order if it is satisfied that the order would not be contrary to the public interest.

**52d. *Reference to award in this Act includes certified agreement***

- (1) A reference to an award in this Act (other than in sections 3, 11, 34, 35, 36, 37, 39 and 49 (a)) is to be read as if it were also a reference to a certified agreement.
- (2) A reference to a recognised association recognised with respect to an award in this Act is to be read as if it were also a reference to a party or employer who is bound by a certified agreement.”.

**16. *New Part V substituted***

For Part V of the Industrial Relations Act 1979 substitute—

**“PART V—RECOGNITION OF ASSOCIATIONS**

**53. *Application for recognition***

- (1) An association of employers or employees may apply to the Commission in writing to be recognised with respect to any award that has been made.
- (2) The Commission must hold a hearing on an application, and may hear submissions from the applicant and any other person or body, and may call for and take evidence on the application.

**54. *Grant of recognition***

- (1) The Commission may grant an application if it is satisfied—
  - (a) that the applicant is a genuine association with respect to the industry concerned; and
  - (b) that there is no recognised association with respect to the relevant award to which the members of the applicant might conveniently belong.
- (2) The Commission may also grant an application if it is satisfied that there are special circumstances that justify the recognition of an association.
- (3) The Commission must not grant recognition unless the relevant award exists.

**55. *Revocation of recognition***

The Commission may revoke an association's recognition with respect to an award if the association—

- (a) has failed to comply with an order of the Commission; or
- (b) has repeatedly engaged in conduct which is in breach of this Act.

**56. *Rights of recognised associations***

- (1) A recognised association may—
  - (a) apply to the Commission to vary an award in respect of which it is recognised;
  - (b) appear before the Commission in any matter affecting any interest of its members which relates to an award in respect of which it is recognised;
  - (c) enter into an agreement to be certified under Part IV.
- (2) A recognised association is entitled to be kept informed by the registrar of any proceedings of the Commission affecting any award in respect of which it is recognised.

**56A. *Trades Hall Council to be a recognised association***

The Victorian Trades Hall Council is a recognised association with respect to any award for which a body affiliated to it is recognised.

**56B. *Recognition of employers and groups of employers and public bodies***

- (1) An employer or a group of employers or a public body may apply to the Commission in writing to be granted the same rights and responsibilities as a recognised association with respect to any award that has been made.
- (2) The Commission must hold a hearing on an application, and may hear submissions from the applicant and any other person or body, and may call for and take evidence on the application.

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**56c. Grant and revocation of employer and public body recognition**

- (1) The Commission may grant an applicant the same rights and responsibilities as a recognised association with respect to any award that has been made if it is satisfied—
  - (a) that the applicant employs employees who are covered by that award; and
  - (b) that the applicant should have the same rights and responsibilities as a recognised association in respect of that award.
- (2) The Commission may grant a public body the same rights and responsibilities as a recognised association with respect to any award that has been made if it is satisfied—
  - (a) that the public body has a relevant or proper interest in the award; and
  - (b) that the public body should have the same rights and responsibilities as a recognised association in respect of that award.
- (3) The Commission may revoke a grant if the employer or group of employers or public body—
  - (a) has failed to comply with an order of the Commission; or
  - (b) has repeatedly engaged in conduct which is in breach of this Act; or
  - (c) would no longer satisfy the requirements of sub-section (1) or (2) (as the case may be) were it to apply for a grant again.”.

**17. Substitution of section 80**

For section 80 of the Industrial Relations Act 1979 substitute—

**“80. Interval for meals**

- (1) An employer must not require an employee to work for more than 5 hours continuously without

an interval for a meal, unless the relevant award allows the employer to do this.

- (2) The interval for the meal must be for the period required by the award. If no period is set by the award, the interval must be for at least half an hour.”

**18. *Change to manner of paying employees***

In section 82 of the **Industrial Relations Act 1979**—

- (a) for sub-section (1) substitute—

“(1) An employer must pay an employee all the earnings the employee is entitled to at least—

(a) once in every fortnight if the employee is covered by an award which does not state how often the employee is to be paid;

(b) once in every month if the employee is not covered by an award.”;

- (b) after sub-section (3) (b) insert—

”; or

(c) in any other manner required or authorised by the relevant award.”.

**19. *Minor and consequential amendments***

In the **Industrial Relations Act 1979**—

- (a) in section 40—

(i) in sub-section (1), for “the awards of different Boards” substitute “different awards”;

(ii) sub-section (2) is repealed;

- (b) in section 45, for “a Board” substitute “the Commission”;

- (c) in section 46A (1)—

(i) in the definition of “Federal Act”, for “*Conciliation and Arbitration Act 1904*” substitute “*Industrial Relations Act 1988*”;

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- (ii) in the definition of "Federal Commission", for "Conciliation and Arbitration" substitute "Industrial Relations";
- (d) in section 46C—
  - (i) after "Full session," (wherever occurring) insert "or";
  - (ii) omit "or a Board" (wherever occurring);
  - (iii) omit ", or Board" (wherever occurring);
  - (iv) in sub-section (2), omit "or 37 (6)";
- (e) in section 46E—
  - (i) in sub-section (1)—
    - (a) paragraphs (a) and (b) are repealed;
    - (b) omit "or a Board";
  - (ii) after "Full session" (wherever occurring) insert "or";
  - (iii) omit ", Board or Chairperson of the Board" (wherever occurring);
- (f) in section 59A—
  - (i) in sub-section (1) omit "any registered agreement or";
  - (ii) in sub-section (1) (b) (iii) omit "registered agreement,";
  - (iii) in sub-section (2)—
    - (A) omit "a registered agreement";
    - (B) omit ", registered agreement";
- (g) in section 64 (1), in the definition of "worker", before "other person" insert "any";
- (h) in sections 79 (1) and 81 (1), for "a trade" substitute "an industry";
- (i) in section 92, for "secretary" (wherever occurring) substitute "chief administrator";
- (j) in section 93 (2) omit "of the Board or (as the case requires)";
- (k) in section 99—
  - (i) for "an industrial association" (wherever occurring) substitute "a recognised association";

- (ii) in sub-section (1) (a)—
  - (A) omit “or a Board”;
  - (B) omit “or such a Board”;
- (iii) for “the industrial association” (wherever occurring) substitute “the recognised association”;
- (iv) in sub-section (5) (a), for “industrial” substitute “recognised”;
- (l) in sections 101, 102, 104, 105 and 106—
  - (i) for “an industrial association” (wherever occurring) substitute “a recognised association”;
  - (ii) for “the industrial association” (wherever occurring) substitute “the recognised association”;
- (m) in sections 105 (1) and 106 (1), for “An industrial association” substitute “A recognised association”;
- (n) in section 108 (2), for “trade” (wherever occurring) substitute “industry”;
- (o) sections 111 (a) and (b) are repealed;
- (p) in section 112 (1)—
  - (i) in paragraph (a), for “, members of the Commission and chairmen of Boards” substitute “and members of the Commission”;
  - (ii) in paragraph (b) omit “and of Conciliation and Arbitration Boards”;
  - (iii) in paragraph (c) omit “and of Boards”.

**PART 3—OTHER SAVINGS AND TRANSITIONAL PROVISIONS**

**20. Definitions**

In this Part—

“Board” means a Conciliation and Arbitration Board constituted under the former Principal Act;

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**“amended Principal Act”** means the **Industrial Relations Act 1979** as in force immediately after the commencement of this section;

**“former Principal Act”** means the **Industrial Relations Act 1979** as in force immediately before the commencement of this section.

**21. *Registered agreements***

On the commencement of this section any registered agreement under the former Principal Act is to be treated as if it were a certified agreement under the amended Principal Act.

**22. *Recognised associations***

On the commencement of this section—

- (a) any association recognised under Part V of the former Principal Act which had the right to nominate a representative to a Board is deemed to be a recognised association under the amended Principal Act with respect to any award made by that Board; and
- (b) any employer or association or group of employers or public body that was not a recognised association under Part V of the former Principal Act, but that had the right to nominate a representative to a Board, is deemed to have been granted the rights and responsibilities of a recognised association by the Commission under section 56C of the amended Principal Act with respect to any award made by that Board.

**23. *To whom extension of unfair etc. dismissal deadline applies***

Section 46 of the amended Principal Act applies to any employee who was dismissed from employment in the 4 business days immediately before the commencement of section 14.



**24. Power to resolve transitional difficulties**

- (1) If any difficulty arises in any particular matter because of the enactment or operation of this Act, the President of the Industrial Relations Commission may make any order he or she considers appropriate to resolve the difficulty.
- (2) The President may make such an order on the application of any party to the matter, or on his or her own motion.
- (3) An order under this section has effect despite anything to the contrary in the former Principal Act.

**PART 4—AMENDMENTS TO OTHER ACTS**

**25. Consequential amendments**

- (1) In section 18 of the **Country Fire Authority Act 1958**—
  - (a) in sub-section (1), for “determination of a wages board or Industrial Appeals Court” substitute “under the **Industrial Relations Act 1979**”;
  - (b) in sub-section (2), for “in any determination of a Wages Board or Industrial Appeals Court” substitute “under the **Industrial Relations Act 1979**”;
  - (c) in sub-sections (1) and (2), for “agreement or determination” substitute “or agreement”.
- (2) In the **Education Act 1958**—
  - (a) in section 64L, in the definition of “law”, omit “of a Conciliation and Arbitration Board or”;
  - (b) in section 64R, for “Commonwealth Conciliation and Arbitration Act 1904” substitute “**Industrial Relations Act 1988 of the Commonwealth**”.
- (3) In the **Labour and Industry Act 1958**—
  - (a) in section 3 (1), in the definition of “award”, omit “of a Conciliation and Arbitration Board or”;
  - (b) Part IX is repealed;
  - (c) the First Schedule is repealed.
- (4) In the **Metropolitan Fire Brigades Act 1958**—

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- (a) in section 33A, for “determination of a Wages Board or Industrial Appeals Court” (wherever occurring) substitute “under the **Industrial Relations Act 1979**”;
- (b) in section 34 (1) (ca), for “determination of a Wages Board or Industrial Appeals Court” substitute “under the **Industrial Relations Act 1979**”;
- (c) in section 85—
  - (i) for “any wages board appointed or to be appointed pursuant to the **Industrial Relations Act 1979**” substitute “the **Industrial Relations Commission of Victoria**”; and
  - (ii) for “any such wages board” substitute “the Commission or by any predecessor of the Commission”.
- (5) In section 4 of the **Occupational Health and Safety Act 1985**, in the definition of “trade union”, for “Conciliation and Arbitration Act 1904” substitute “**Industrial Relations Act 1988**”.
- (6) In section 2 (5) of the **Parliamentary Contributory Superannuation Act 1962**, for “Conciliation and Arbitration” substitute “**Industrial Relations**”.
- (7) In section 68A of the **Police Regulation Act 1958**—
  - (a) in sub-section (2) omit “or a Conciliation and Arbitration Board constituted under that Act”;
  - (b) in sub-section (3) omit “or a Conciliation and Arbitration Board constituted under the **Industrial Relations Act 1979**”.
- (8) In section 3 of the **Pre-school Teachers and Assistants (Leave) Act 1984**, in the definition of “Award”, for “*Conciliation and Arbitration Act 1904*” substitute “**Industrial Relations Act 1988**”.
- (9) In the **Teaching Service Act 1981**—
  - (a) in section 2, in the definition of “award”, omit “or a Conciliation and Arbitration Board”;
  - (b) in section 15, for “and a Conciliation and Arbitration Board established under that Act do” substitute “does”;

- (10) In section 37 (4) of **The Constitution Act Amendment Act 1958**, for “**Commonwealth Conciliation and Arbitration**” substitute “**Australian Industrial Relations**”.
- (11) In section 3 (1) of the **Vital State Projects Act 1976**, for “**Conciliation and Arbitration**” substitute “**Industrial Relations**”.
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#### NOTES

1. *Minister's second reading speech—*  
*Legislative Assembly: 16 April 1992*  
*Legislative Council: 26 May 1992*
2. The long title for the Bill for this Act was “A Bill to make further amendments to the **Industrial Relations Act 1979** and for other purposes.”.
3. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984**.)