

Conciliation and Arbitration

No. 22 of 1965

An Act to amend the *Conciliation and Arbitration Act 1904–1964*.

[Assented to 28 May, 1965]

BE 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 1965*. Short title and citation.

(2) The *Conciliation and Arbitration Act 1904–1964** 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 1904–1965*.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. Section 4 of the Principal Act is amended— Interpretation.

- (a) by omitting from paragraph (b) of the definition of “Industry” in sub-section (1.) the word “avocation” and inserting in its stead the word “vocation”; and
- (b) by inserting in sub-section (1.), after the definition of “Inquiry”, the following definition:—

“ ‘Inspector’ means—

- (a) an Inspector appointed under sub-section (1.) of section one hundred and twenty-five of this Act;
- (b) an officer of the Public Service of the Commonwealth authorized by the Minister in pursuance of sub-section (2.) of that section to perform the duties of an Inspector under that section; or

* 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; No. 30, 1958; No. 40, 1959; Nos. 15, 17 and 110, 1960; No. 40, 1961; and Nos. 99 and 115, 1964.

- (c) an officer of the Public Service of a State to whom an arrangement referred to in sub-section (3.) of that section is applicable;”.

4. Section 44A of the Principal Act is repealed and the following section inserted in its stead:—

Joint sessions
of Commission.

“44A.—(1.) In this section, a reference to a matter is a reference to proceedings before the Commission under this Act or under the *Public Service Arbitration Act 1920–1964*.

“(2.) Where—

(a) the President is of the opinion that a question is common to two or more matters; and

(b) the Commission is not constituted by the same person or persons for the purposes of each of those matters,

the President may, if he considers that it is desirable to do so for the purpose of facilitating the hearing and determination of those matters, direct that the Commission constituted by all the persons who constitute the Commission for the purposes of those matters may take evidence or hear argument, or take evidence and hear argument, as to that question for the purposes of both or all of those matters and, if the President gives such a direction, the Commission as so constituted may take evidence or hear argument, or take evidence and hear argument, accordingly.”.

Exercise of
Court's
jurisdiction.

5. Section 104 of the Principal Act is amended—

(a) by omitting from paragraph (g) of sub-section (2.) the word “or” (second occurring); and

(b) by inserting after that paragraph the following paragraph:—

“(ga) the review of the taxation of any costs or expenses; or”.

6. After section 109 of the Principal Act the following section is inserted:—

Hearing of
certain
applications
not to be
commenced
unless certain
conditions
fulfilled.

“109A.—(1.) The Court shall not commence the hearing of an application for an order under paragraph (b) of sub-section (1.) of the last preceding section to enjoin an organization or person from committing a breach or non-observance of an award unless the Court is satisfied—

(a) that a Commissioner or a presidential member has been notified that the breach or non-observance is likely to occur;

(b) that—

- (i) the notification was given without delay; or
- (ii) a Commissioner or a presidential member of the Commission has certified that there was reasonable cause for delay in giving the notification; and

(c) subject to the next succeeding sub-section, that a period of fourteen days, or such longer period as a Commissioner or a presidential member of the Commission has determined, has elapsed since the notification was given.

“(2.) Paragraph (c) of the last preceding sub-section does not apply if the applicant satisfies the Court that the breach or non-observance is likely to occur within the next ten days.

“(3.) Where an application is made for an order under paragraph (a) of sub-section (1.) of the last preceding section in relation to a breach or non-observance of an award and application is made at the same time under paragraph (b) of that sub-section in relation to a breach or non-observance of that award of the same or of a similar kind, the preceding provisions of this section do not apply.

“(4.) In the application of sub-section (1.) of this section—

(a) in relation to an award made under Division 2, Division 3 or Division 4 of Part III.—any reference to a Commissioner or to a presidential member of the Commission shall be read as a reference to the presidential member of the Commission referred to in sub-section (1.) of section seventy-three, sub-section (1.) of section seventy-eight or sub-section (1.) of section eighty-four of this Act, respectively; and

(b) in relation to an award or order made by a prescribed tribunal referred to in paragraph (a) of sub-section (3.) of the last preceding section, or in relation to provisions in force by virtue of such an award or order—any reference to a Commissioner or to a presidential member of the Commission shall be read as a reference to that tribunal.”.

7. Section 114 of the Principal Act is amended by inserting in sub-section (1.), after the word “nine”, the words, “, one hundred and nine A”.

Limitation
on appeals
to High Court.

8. Section 116 of the Principal Act is amended by omitting the word “The” and inserting in its stead the words “Subject to the regulations, the”.

Costs.

Imposition and
recovery of
penalties.

9. Section 119 of the Principal Act is amended—

(a) by omitting from paragraph (aa) of sub-section (2.) the words “ referred to in section one hundred and twenty-five of this Act ”; and

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

“ (4.) Proceedings under this section in respect of a breach or non-observance of a term of an order or award may be commenced at any time within twelve months after the commission of the breach or non-observance.”.

Enforcement of
penalties
imposed by the
Court.

10. Section 121 of the Principal Act is amended by omitting the words “ the organizations and persons ”.

Inspectors.

11. Section 125 of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the word “ Act ”, the words “ and the regulations ”;

(b) by inserting after sub-section (1.) the following sub-section:—

“ (2.) The Minister may authorize an officer of the Public Service of the Commonwealth who has not been appointed as an Inspector under the last preceding sub-section to perform the duties of an Inspector under this section.”;

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

“ (4.) An Inspector shall have such duties in relation to the observance of this Act and the regulations and of any award as the Minister directs.”; and

(d) by omitting from sub-section (5.) the word “ duty ” and inserting in its stead the word “ duties ”.

Directions that
proceedings be
instituted.

12. Section 126 of the Principal Act is amended by omitting the words “ referred to in the last preceding section ”.

Costs.

13. Section 168 of the Principal Act is amended—

(a) by inserting in sub-section (3.), after the word “ any ”, the words “ costs or ”; and

(b) by inserting in that sub-section, after the word “ those ”, the words “ costs or ”.

14. Section 198 of the Principal Act is amended—

Regulations.

(a) by inserting after paragraph (a) of sub-section (1.) the following paragraph:—

“(aa) for regulating any matters with respect to the costs and expenses (including the expenses of witnesses) of proceedings before the Court, including proceedings dismissed for want of jurisdiction, and providing for the taxation of those costs and expenses and the review of any such taxation by the Court;” and

(b) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“(2.) The power conferred by the last preceding sub-section to make regulations with respect to the matters referred to in paragraphs (a), (aa) and (ba) of that sub-section includes power to make regulations with respect to those matters in relation to any jurisdiction conferred on the Court or the Commission by any other Act, whether passed before or after this Act.”.
