

# Conciliation and Arbitration Act 1973

No. 138 of 1973

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## AN ACT

To amend the *Conciliation and Arbitration Act 1904-1972*.

[Assented to 13 November 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:—

Short title  
and citation.

1. (1) This Act may be cited as the *Conciliation and Arbitration Act 1973*.

(2) The *Conciliation and Arbitration Act 1904-1972\** 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 1904-1973*.

Commence-  
ment.

2. (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2) Section 11 shall be deemed to have come into operation on 2 June 1972.

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\* 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, 1936; 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; Nos. 99 and 115, 1964; Nos. 22 and 92, 1965; Nos. 64 and 93, 1966; No. 101, 1967; No. 38, 1968; Nos. 12, 15 and 40, 1969; No. 53, 1970; and No. 37, 1972.

3. Section 2 of the Principal Act is amended— Objects  
of Act.
- (a) by inserting in paragraph (b), after the word “encourage”, the words “, and provide means for,”;
  - (b) by omitting from paragraph (d) the words “in settlement of industrial disputes; and” and substituting the words “for the prevention or settlement of industrial disputes;”; and
  - (c) by adding at the end thereof the following word and paragraph:—  
“; and (f) to encourage the democratic control of organizations so registered and the full participation by members of such an organization in the affairs of the organization.”.
4. Section 3 of the Principal Act is amended— Parts.
- (a) by omitting the words “Commonwealth Conciliation and Arbitration Commission” and substituting the words “Australian Conciliation and Arbitration Commission”;
  - (b) by omitting the words—  
“Part IV—The Commonwealth Court of Conciliation and Arbitration (Sections 89-97).”; and
  - (c) by omitting the words “Commonwealth Industrial Court” and substituting the words “Australian Industrial Court”.
5. Section 4 of the Principal Act is amended— Interpre-  
tation.
- (a) by omitting from sub-section (1) the definitions of “Arbitration Commissioner” and “Conciliation Commissioner”;
  - (b) by omitting paragraph (o) of the definition of “Industrial matters” in sub-section (1);
  - (c) by omitting from the definition of “Inquiry” in sub-section (1) the words “Part IX of this Act” and substituting the words “Part VIII A or Part IX”;
  - (d) by omitting from sub-section (1) the definition of “Inspector” and substituting the following definition:—  
“ ‘Inspector’ means—
    - (a) a person in respect of whom an appointment in accordance with sub-section (2) of section 125 is in force;
    - (b) a person who is an Inspector for the purposes of this Act in accordance with sub-section (2A) of section 125; or
    - (c) an officer of the Public Service of a State to whom an arrangement referred to in sub-section (3) of section 125 is applicable;”;
  - (e) by omitting from the definition of “Irregularity” in sub-section (1) the words “an election for an office” and substituting the words “an election or ballot”;

- (f) by omitting from paragraph (b) of the definition of "Office" in sub-section (1) the word "and";
- (g) by omitting paragraph (c) of the definition of "Office" in sub-section (1) and substituting the following paragraphs:—
  - “(c) the office of a member of any conference, council, committee, panel or other body within the organization or branch which, under the rules of the organization or of the branch, is empowered to make, alter or rescind rules or to enforce, or perform functions in relation to the enforcement of, rules or to exercise any of the functions of management;
  - “(d) every office within the organization or branch for the filling of which an election is required to be conducted within the organization or branch and any position within the organization or branch involving duties substantially similar to the duties of such an office; and
  - “(e) in the case of an organization that was registered immediately before the date of commencement of this paragraph or a branch of such an organization, every office within the organization or branch for the filling of which, under rules in force immediately before that date, an election was required to be conducted within the organization or branch and any position within the organization or branch involving duties substantially similar to the duties of such an office;”;
- (h) by omitting from the definition of "The Commission" in sub-section (1) the word "Commonwealth" and substituting the word "Australian"; and
- (i) by omitting from the definition of "The Court" in sub-section (1) the word "Commonwealth" and substituting the word "Australian".

6. Section 5 of the Principal Act is amended—

- (a) by inserting after paragraph (e) of sub-section (1) the following word and paragraph:—
  - ”; or (f) being an officer, delegate or member of an organization, has done, or proposes to do, an act or thing which is lawful for the purpose of furthering or protecting the industrial interests of the organization or its members, being an act or thing done within the limits of authority expressly conferred on him by the organization in accordance with the rules of the organization.”;
- (b) by inserting after paragraph (b) of sub-section (1A) the following word and paragraph:—
  - ”; or (c) with intent to dissuade the employee, being an officer, delegate or member of an organization, from doing

Certain offences in relation to members of organizations, &c.

an act or thing of the kind in relation to which paragraph (f) of sub-section (1) applies.” ; and

(c) by inserting after sub-section (2) the following sub-section:—

“ (3) A reference in this section to an organization shall be read as including a reference to a branch of an organization.”.

7. The heading to Part II of the Principal Act is amended by omitting the word “ COMMONWEALTH ” and substituting the word “ AUSTRALIAN ”. Heading to Part II.

8. (1) Section 6 of the Principal Act is amended—

(a) by omitting from sub-section (1) the word “ Commonwealth ” and substituting the word “ Australian ”;

(b) by omitting sub-section (3); and

(c) by omitting from sub-section (4) the words “ a Conciliation Commissioner, an Arbitration Commissioner ” and substituting the words “ a Commissioner ”.

Constitution  
of Com-  
mission.

(2) The Commonwealth Conciliation and Arbitration Commission, as established under section 6 of the Principal Act immediately before the commencement of this sub-section, continues in existence as the Australian Conciliation and Arbitration Commission referred to in section 6 of the Principal Act, as amended by this Act, and references in any law of Australia or of a Territory, or in any instrument made or issued under or for the purposes of such a law, to the Commission under its former name shall be read and have effect as referring to the Commission under its altered name as well as to the Commission under its former name.

(3) A person holding office under the Principal Act immediately before the commencement of this sub-section as an Arbitration Commissioner or as a Conciliation Commissioner continues to hold office, from the commencement of this sub-section, as a Commissioner.

9. Section 7 of the Principal Act is amended—

(a) by omitting sub-sections (2) and (3) and substituting the following sub-sections:—

“ (2) For the purposes of this Act, a Deputy President shall have seniority according to the date of his commission.

“ (3) Subject to this section, a Presidential Member of the Commission shall hold office until he resigns or attains the age of sixty-five years.”;

(b) by inserting in paragraph (a) of sub-section (5), after the words “ Royal Assent ”, the words “ or who has the qualifications referred to in paragraph (a) of sub-section (1A ) ”;

(c) by omitting from paragraph (b) of sub-section (5) the words “ a Deputy President appointed on or after that day ” and substituting the words “ any other Deputy President ”; and

(d) by omitting sub-section (6).

President and  
Deputy  
Presidents.

Salaries and travelling expenses.

10. Section 8 of the Principal Act is amended by omitting from sub-section (1) the words “(not being Judges of the Commonwealth Court of Conciliation and Arbitration)”.

Preservation of rights.

11. Section 12 of the Principal Act is amended by omitting sub-section (4) and substituting the following sub-sections:—

“(3A) If a person appointed as a Deputy President, not being a person to whom sub-section (3) applies, was, immediately before his appointment, contributing to the Superannuation Fund under the *Superannuation Act* 1922-1971, he shall be deemed, in respect of his employment as a Deputy President, to continue to be an employee within the meaning of that Act.

“(4) The *Judges’ Pensions Act* 1968 does not apply to a person to whom sub-section (3) or (3A) applies, but a person to whom either of those sub-sections would otherwise apply may, within three months after his appointment as a Deputy President, elect, by notice in writing to the Minister, that that sub-section shall not apply to him.”.

Full Bench of Commission.

12. Section 17 of the Principal Act is amended by omitting from sub-section (1) the words “, each of whom is either a Presidential Member or an Arbitration Commissioner”.

Powers may be exercised on Commission’s own motion or on application.

13. Section 21 of the Principal Act is amended by adding at the end thereof the following sub-section:—

“(2) The power of the Commission to act of its own motion is subject to the provisions of section 23.”.

Exercise of powers of Commission.

14. Section 22 of the Principal Act is amended by omitting sub-sections (1) and (2) and substituting the following sub-sections:—

“(1) Except as otherwise provided by this Act, a power of the Commission is exercisable by a single member of the Commission.

“(2) Where a member of the Commission has exercised the powers of the Commission with respect to conciliation in relation to an industrial dispute, he shall not exercise, or take part in the exercise of, the powers of the Commission with respect to arbitration in relation to that industrial dispute if a party to the arbitration proceedings objects to his so doing.”.

Panels of Commission in respect of industries.

15. Section 23 of the Principal Act is amended by omitting from sub-section (1) the words “, at least one Arbitration Commissioner and at least one Conciliation Commissioner” and substituting the words “and at least one Commissioner”.

Notification of disputes.

16. Section 25 of the Principal Act is amended—

(a) by omitting from sub-section (4) the words “to a Conciliation Commissioner” and substituting the words “for conciliation by himself or another member of the Commission”; and

- (b) by omitting from sub-section (5) the words "to a Conciliation Commissioner" and substituting the words "for conciliation".

17. Section 26 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words "to a Conciliation Commissioner, the Conciliation Commissioner" and substituting the words "for conciliation by a member of the Commission, the member"; and
- (b) by omitting from sub-section (2) the words "a Conciliation Commissioner" and substituting the words "a member of the Commission".

Action to be taken where dispute referred for conciliation.

18. Section 27 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words "Conciliation Commissioner" (wherever occurring) and substituting the words "member of the Commission"; and
- (b) by omitting from sub-sections (2), (3) and (4) the words "the Commissioner" and substituting the words "the member of the Commission".

Compulsory conference.

19. Section 28 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words "Conciliation Commissioner" (wherever occurring) and substituting the words "member of the Commission"; and
- (b) by omitting sub-section (2) and substituting the following sub-sections:—

Certified agreements and consent awards.

"(2) Subject to sub-section (2A), a member of the Commission shall not refuse to certify a memorandum or make an award or order in accordance with this section unless he is of the opinion that—

- (a) the terms are not in settlement of an industrial dispute;
- (b) any of the terms is a term that the Commission does not have power to include in an award; or
- (c) it is not in the public interest that he should certify the memorandum or make the award or order.

"(2A) A member of the Commission shall not certify a memorandum in accordance with this section unless, in relation to each organization that is a party to the agreement to which the memorandum relates, there is produced to him a statutory declaration by an officer authorized by the committee of management of the organization declaring that the committee of management has approved the principal terms of the agreement."

20. Section 29 of the Principal Act is amended by omitting the words "Conciliation Commissioner" (wherever occurring) and substituting the words "member of the Commission".

Completion of conciliation proceedings.

Arbitration  
in respect of  
disputes.

21. Section 30 of the Principal Act is amended—

- (a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:—

“(1) When conciliation proceedings before a member of the Commission in respect of an industrial dispute have been completed but the industrial dispute has not been wholly settled, the Commission shall proceed to deal with the dispute, or the matters remaining in dispute, by arbitration.

“(2) Unless the member of the Commission who conducted the conciliation proceedings is competent, having regard to section 22, to exercise the powers of the Commission with respect to the arbitration proceedings and proposes to do so, that member shall, for the purpose of enabling arrangements to be made for arbitration in respect of the industrial dispute, report to the relevant Presidential Member, or, if that member is a Presidential Member, to the President, as to the matters in dispute, the parties and the extent, if any, to which the dispute has been settled, but shall not disclose anything said or done in the conciliation proceedings concerning matters in dispute that remain unsettled.”;

- (b) by omitting from sub-section (3) the words “a Conciliation Commissioner” and substituting the words “a member of the Commission”; and
- (c) by omitting from sub-section (4) the words “a Conciliation Commissioner” (wherever occurring) and substituting the words “a member of the Commission”.

Certain  
matters to  
be dealt with  
by Full  
Bench of  
Commission.

22. Section 31 of the Principal Act is amended—

- (a) by omitting paragraphs (c) and (d) of sub-section (1) and substituting the following paragraph:—

“(c) making provision for, or altering, a minimum wage that is to be payable to adults without regard to the work performed or to the industry in which they are employed; or ”; and

- (b) by omitting from sub-section (1) all the words after paragraph (e) and substituting the words “except where the provision or alteration gives effect to matters, or is in accordance with principles, determined by a Full Bench, is exercisable by a Full Bench, and not otherwise”.

Reference of  
disputes to  
Full Bench.

23. Section 34 of the Principal Act is amended by omitting from sub-sections (7) and (9) the words “an Arbitration Commissioner” and substituting the words “a Commissioner”.

Appeals.

24. Section 35 of the Principal Act is amended—

- (a) by inserting in paragraph (a) of sub-section (2), after the word “member” (first occurring), the words “otherwise than under section 28”;

- (b) by omitting from paragraph (b) of sub-section (2) the words "certifying, or"; and
- (c) by omitting sub-sections (5), (6) and (7).

25. Section 36 of the Principal Act is amended by omitting from sub-section (1) the word "Attorney-General" and substituting the word "Minister". Intervention.

26. Section 40 of the Principal Act is amended by omitting sub-sections (4) and (5) and substituting the following sub-sections:— Procedure of Commission.

"(4) An award or decision made by a single member of the Commission shall be made by an instrument signed by the member and the instrument shall be dated with the date on which it is so signed, which date shall, for the purposes of this Act, be deemed to be the date of the award or decision.

"(5) The instrument shall be filed in the office of the Registrar and copies of it shall, subject to the regulations, be made available, on the date of the award or decision, to any organization or person entitled to appeal against the award or decision."

27. After section 42 of the Principal Act the following section is inserted:—

"42A. (1) An officer of an organization authorized in writing by the secretary of the organization or of a branch of the organization to act under this sub-section may, at any time during working hours, but subject to any conditions provided by the relevant award, enter any premises in which work to which an award binding on the organization is applicable is being carried on, being premises specified in the authority, or premises occupied by an employer who is bound by the award and is specified in the authority, for the purpose of ensuring observance of the award, and may for that purpose inspect any work, books or documents and interview any employee, being a member or a person eligible to be a member of his organization, on those premises, but an officer so authorized shall not hinder or obstruct an employee in the performance of his work during working time. Organization may authorize inspection.

"(2) If an officer of an organization proposing to enter, or being in or on, premises in pursuance of this section is required by the occupier or person in charge of the premises to produce evidence of his authority to that occupier or person, the officer is not entitled to enter or remain on the premises unless he produces to that occupier or other person the authority in writing referred to in sub-section (1).

"(3) A person shall not hinder or obstruct an officer of an organization in the exercise of a power conferred by this section.

Penalty: One hundred dollars.



“ (4) In this section—

‘ officer ’, in relation to an organization, means a person holding an office in, or employed by, the organization or a branch of the organization;

‘ premises ’ includes any building, structure, mine, mine working, ship, vessel or place.”.

28. After section 53 of the Principal Act the following section is inserted:—

Inspector to investigate matters affecting safety of employees.

“ 54. (1) Where, in the opinion of a member of the Commission, a matter concerning the safety of employees or of other persons in or about a place of work arises in or in connexion with an industrial dispute, he may request the Secretary to the Department of Labour to arrange for an Inspector forthwith to investigate the matter and to report to him as soon as practicable, and the Secretary shall direct an Inspector accordingly.

“ (2) The carrying out of an investigation in accordance with such a direction shall be deemed to be part of the duties of the Inspector under section 125.

“ (3) The provisions of sub-sections (5), (6) and (7) of section 125 apply in relation to an investigation by an Inspector in accordance with this section.

“ (4) A report of an Inspector under this section shall be considered by the member of the Commission where it is relevant to the performance of the powers and duties of the member under this Act and, unless there are special circumstances which in his opinion render it undesirable to do so, the member shall make the report public.”.

Commencement of awards.

29. (1) Section 57 of the Principal Act is amended—

(a) by omitting the words “ a Commissioner ” and substituting the words “ a single member of the Commission ”; and

(b) by omitting the words “ twenty-one days ” and substituting the words “ twenty-eight days ”.

(2) The application of the amendment made by paragraph (b) of sub-section (1) extends to an award made before the date of commencement of this section that has not taken effect before that date.

Continuance of awards.

30. Section 58 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:—

“ (1) Subject to section 59, an award determining an industrial dispute continues in force—

(a) except where paragraph (b) applies—for a period specified in the award, not exceeding five years from the date on which the award comes into force; or

- (b) in the case of a memorandum which, under section 28, is deemed to be an award—for a period specified in the memorandum, not exceeding three years from the date on which the memorandum, as certified under that section, comes into force.”.

31. Section 62 of the Principal Act is amended by omitting from sub-section (1) the word “Attorney-General” and substituting the word “Minister”.

Cancellation of award.

32. Section 63 of the Principal Act is amended by omitting from sub-section (2) the word “Attorney-General” and substituting the word “Minister”.

Representation of parties.

33. Section 73 of the Principal Act is repealed and the following section substituted:—

“73. (1) Subject to this section, the powers of the Commission in respect of industrial questions are exercisable by the Commission constituted by the Presidential Member assigned by the President for the purposes of this Division or, subject to any directions of that Presidential Member, by a Commissioner assigned by the President for the purposes of this Division, and not otherwise.

Exercise of powers.

“ (2) Subject to sub-section (3), the powers of the Commission in respect of a particular industrial question may be exercised by the President or by a Presidential Member assigned by the President for the purpose.

“ (3) In relation to industrial questions, the powers of the Commission under sections 31, 34 and 35, are exercisable by a Full Bench, and not otherwise.”.

34. Section 78 of the Principal Act is repealed and the following section substituted:—

“78. (1) Subject to this section, the powers of the Commission in respect of industrial questions are exercisable by the Commission constituted by the Presidential Member assigned by the President for the purposes of this Division or, subject to any directions of that Presidential Member, by a Commissioner assigned by the President for the purposes of this Division, and not otherwise.

Exercise of powers.

“ (2) Subject to sub-section (3), the powers of the Commission in respect of a particular industrial question may be exercised by the President or by a Presidential Member assigned by the President for the purpose.

“ (3) In relation to industrial questions, the powers of the Commission under sections 31, 34 and 35, are exercisable by a Full Bench, and not otherwise.”.

## Exercise of powers.

35. Section 84 of the Principal Act is amended by omitting sub-sections (1), (1A), (2) and (2A) and substituting the following sub-sections:—

“(1) Subject to this section, the powers of the Commission in respect of industrial questions are exercisable by the Commission constituted by the Presidential Member assigned by the President for the purposes of this Division or, subject to any directions of that Presidential Member, by a Commissioner assigned by the President for the purposes of this Division, and not otherwise.

“(2) Subject to sub-section (2A), the powers of the Commission in respect of a particular industrial question may be exercised by the President or by a Presidential Member assigned by the President for the purpose.

“(2A) In relation to industrial questions, the powers of the Commission under sections 31, 34 and 35, are exercisable by a Full Bench, and not otherwise.”.

## Exercise of powers.

36. Section 88CA of the Principal Act is amended—

- (a) by omitting from sub-sections (1) and (2) the word “Arbitration”;
- (b) by omitting sub-section (3) and substituting the following sub-section:—

“(3) In relation to industrial disputes and industrial matters, the powers of the Commission under sections 31, 34 and 35, are exercisable by a Full Bench, and not otherwise.”; and

- (c) by omitting sub-section (4).

## Application of other provisions of Act.

37. Section 88v of the Principal Act is amended—

- (a) by omitting from paragraph (c) of sub-section (1) the word “Conciliation” (wherever occurring);
- (b) by omitting sub-section (2) and substituting the following sub-section:—

“(2) Sub-section (1) does not apply in relation to the following provisions contained in Division 1 of Part III namely, sections 18 to 23 (inclusive) and sections 31, 32, 34 to 38 (inclusive), 41A, 44A, 49, 61, 63, 64, 67, 69 and 70.”;

- (c) by omitting from sub-section (2A) the word “Conciliation”; and
- (d) by omitting from sub-section (4) the words “one hundred and nineteen.”.

## Conciliation committees.

38. Section 88ZA of the Principal Act is amended—

- (a) by omitting from paragraph (a) of sub-section (1) the word “Conciliation” (wherever occurring); and

(b) by omitting sub-section (5) and substituting the following sub-section:—

“ (5) The Chairman shall not refuse to certify a memorandum unless he is of opinion that—

- (a) the terms of settlement contain provisions which the Tribunal has no power to include in an award; or
- (b) it is not in the public interest that the memorandum should be certified.”.

39. Part IV of the Principal Act is repealed.

Repeal of Part IV.

40. The heading to Part V of the Principal Act is amended by omitting the word “COMMONWEALTH” and substituting the word “AUSTRALIAN”.

Heading to Part V.

41. (1) Section 98 of the Principal Act is amended—

Constitution of Court.

- (a) by omitting the word “Commonwealth” and substituting the word “Australian”; and
- (b) by omitting from paragraph (a) the words “seven other Judges” and substituting the words “nine other Judges”.

(2) The Commonwealth Industrial Court, as established under section 98 of the Principal Act immediately before the commencement of this sub-section, continues in existence as the Australian Industrial Court referred to in section 98 of the Principal Act, as amended by this Act, and references in any law of Australia or of a Territory, or in any instrument made or issued under or for the purposes of such a law, to the Court under its former name shall be read and have effect as referring to the Court under its altered name as well as to the Court under its former name.

42. Section 99 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—

Appointment of Judges.

“ (2) For the purposes of this Act, a Judge shall have seniority according to the date of his commission.”.

43. Section 102 of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:—

Salaries and travelling expenses.

“ (3) The Chief Judge and each other Judge shall be paid such travelling expenses as are prescribed.”.

44. Section 104 of the Principal Act is amended by inserting after paragraph (c) of sub-section (2) the following paragraphs:—

Exercise of Court's jurisdiction.

- “ (d) proceedings under section 123;
- “ (e) inquiries referred to in section 158P and matters arising out of those inquiries;

“(ea) inquiries referred to in section 161 and matters arising out of those inquiries;”.

Interpre-  
tation of  
awards.

45. Section 110 of the Principal Act is amended by inserting in sub-section (2), after the words “made by”, the words “the Minister or”.

Contempt of  
the Court.

46. Section 111 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:—

“(2) The jurisdiction of the Court to punish a contempt of the Court committed in the face or hearing of the Court, when constituted by a single Judge, may be exercised by that Judge.”.

Costs.

47. Section 116 of the Principal Act is amended by inserting after the words “Subject to” the words “section 197A and to”.

Imposition  
and recovery  
of penalties.

48. (1) Section 119 of the Principal Act is amended by omitting from sub-sections (3) and (4) the words “twelve months” and substituting the words “six years”.

(2) The amendment made by this section to sub-section (3) of section 119 of the Principal Act does not apply in relation to proceedings instituted before the date of commencement of this section, and the period referred to in that sub-section as so amended shall be deemed not to extend to any period of more than twelve months before the date of commencement of this section.

(3) The amendment made by this section to sub-section (4) of section 119 of the Principal Act does not apply in relation to breaches that occurred before the commencement of this section.

49. (1) Section 123 of the Principal Act is repealed and the following section substituted:—

Recovery of  
wages, &c.

“123. An employee entitled to the benefit of an award may, at any time within six years from any payment becoming due to him under the award, but not later, sue for the amount of the payment in the Court, or in any other court of competent jurisdiction.”.

(2) The period referred to in the section substituted by this section shall be deemed not to extend to any period of more than twelve months before the date of commencement of this section.

Inspectors.

50. Section 125 of the Principal Act is amended—

(a) by omitting sub-sections (1) and (2) and substituting the following sub-sections:—

“(1) There shall be such Inspectors as are required for the purpose of securing the observance of this Act and the regulations and of awards.

“(2) The Minister may appoint a person to be an Inspector for the purposes of this Act.

“(2A) An officer of the Public Service who occupies, or is temporarily performing the duties of, an office of Inspector, Senior Inspector or Inspector-in-Charge under the *Public Service Act 1922-1973* in the Department of Labour or a person temporarily employed under that Act as an Inspector, Senior Inspector or Inspector-in-Charge in that Department is an Inspector for the purposes of this Act.

“(2B) Where a person appointed under sub-section (2) is not an officer of the Public Service or a person temporarily employed in the Public Service, he shall be appointed for such period as is specified in the instrument of appointment and holds office upon and subject to such terms and conditions as the Public Service Board determines.”;

(b) by omitting from sub-section (6) the words “Department of Labour and National Service certifying that he is an Inspector for the purposes of this section” and substituting the words “Department of Labour certifying that he is an Inspector for the purposes of this Act”; and

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

“(8) The Secretary to the Department of Labour shall, at least once in each year, commencing with the year 1974, furnish to the Minister a report on the operation of this section, and the Minister shall lay a copy of every such report before each House of the Parliament as soon as practicable after its receipt by him.”.

51. Section 132 of the Principal Act is amended by omitting paragraphs (b) and (c) of sub-section (1) and substituting the following paragraphs:—

Registration  
of organiz-  
ations.

“(b) Any association the members of which include not less than one hundred employees in or in connexion with any industry and the other members, if any, of which are—

(i) officers of the association;

(ii) persons who follow an occupation in or in connexion with that industry; or

(iii) persons who are employees who are qualified to be employed in or in connexion with that industry,

but does not include an association that has members referred to in sub-paragraph (ii) or (iii) unless the association is effectively representative of the members who are employees in or in connexion with that industry; and

“(c) Any association the members of which include not less than one hundred employees engaged in an industrial pursuit or pursuits and the other members, if any, of which are—

(i) officers of the association;

- (ii) persons engaged in that industrial pursuit or one of those industrial pursuits otherwise than as employees; or
- (iii) persons who are qualified to be engaged as employees in that industrial pursuit or in one of those industrial pursuits.

but does not include an association which has members referred to in sub-paragraph (ii) or (iii) unless the association is effectively representative of the members who are employees engaged in that industrial pursuit or those industrial pursuits.”.

Rules to provide for elections, secret ballots and certain other matters.

52. Section 133 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-sections:—

“ (1) In addition to the conditions referred to in sub-section (2) of section 132, the conditions to be complied with by associations applying for registration as organizations and by organizations include a condition that the rules of the association or organization—

- (a) shall provide for the election of the holder of each office within the association or organization at an election at which all financial members, or all financial members included in such branch, section or other division, or in such class, as is appropriate, having regard to the nature of the office, are, subject to reasonable provisions with respect to enrolment, eligible to vote;
- (b) shall provide for the conduct of every such election (including the acceptance or the rejection of nominations) by a returning officer, not being the holder of any other office in, and not being an employee of, the organization or of a branch, section or division of the organization;
- (c) shall provide that, if the returning officer conducting such an election finds a nomination to be defective he shall, before rejecting the nomination, notify the person concerned of the defect and, where it is practicable to do so, give him the opportunity of remedying the defect within such period as is applicable under the rules, which shall, where practicable, be not less than seven days after his being so notified;
- (d) shall provide that every such election shall be by secret ballot, with provision for—
  - (i) absent voting;
  - (ii) the manner in which persons may become candidates for election;
  - (iii) the duties of returning officers;
  - (iv) the conduct of the ballot;

- (v) the appointment, conduct and duties of scrutineers to represent the candidates at the ballot; and
- (vi) the declaration of the result of the ballot,

and shall be such as to ensure, as far as practicable, that no irregularities can occur in connexion with such an election;

- (e) shall ensure that, subject to reasonable provisions with respect to enrolment, every financial member of the association or organization has a right to vote at any ballot taken for the purpose of submitting a matter to a vote of the members of the association or organization, or of a branch, section or other division of the association or organization in which he is included; and
- (f) shall not provide for the dismissal from office of a person elected to an office within the association or organization unless he has been found guilty, in accordance with the rules of the association or organization, of misappropriation of the funds of the association or organization, a substantial breach of the rules of the association or organization or gross misbehaviour or gross neglect of duty or has ceased, according to the rules of the association or organization, to be eligible to hold the office.

“(1A) Where, immediately before the commencement of this sub-section, the rules of an organization provided for the filling of an office, being an office the holder of which is a member of the committee of management of the organization but the duties of which are of a part-time nature, otherwise than by election directly by the members of the organization who would be entitled to vote if the rules were in accordance with paragraph (a) of sub-section (1) but by a procedure in which those members elect delegates to a conference or council of the organization and those delegates elect a person to hold that office from amongst themselves, those rules shall not, by reason only of that provision, be taken to fail to comply with paragraph (a) of sub-section (1).”;

- (b) by omitting from sub-section (3) the words “ which is registered as an organization at the date of commencement of this section is allowed a period of three months ” and substituting the words “ which was registered as an organization on the date on which the *Conciliation and Arbitration Act 1973* received the Royal Assent is allowed a period of twelve months ”;
- (c) by inserting after sub-section (4) the following sub-sections:—

“(4A) Notwithstanding sub-sections (3) and (4), where, immediately before the commencement of this sub-section, the rules of an organization provided for the election of the holder of an office in the organization otherwise than directly by the members of the organization who would be entitled to vote if the



rules were in accordance with paragraph (a) of sub-section (1), but by a procedure in which those members indirectly take part, the organization is allowed a period of three years after that date within which to bring its rules, so far as they relate to that office, into conformity with paragraph (a) of sub-section (1).

“(4B) If the rules of an organization to which sub-section (4A) applies do not, at the expiration of the period allowed by that sub-section, in the opinion of the Industrial Registrar, conform, so far as they relate to an office to which that sub-section is applicable, with the requirements of paragraph (a) of sub-section (1), the Industrial Registrar may, after inviting the organization to consult with him on the matter, determine such alterations of the rules, so far as they relate to that office, as will, in his opinion, bring them into conformity with those requirements.”;

- (d) by omitting from sub-section (5) the words “ so determined by him ” and substituting the words “ determined by him in accordance with sub-section (4) or (4B) ”; and
- (e) by omitting sub-section (6) and substituting the following sub-section:—

“(6) A reference in this section to the rules of an association or organization shall be read as including a reference to the rules of a branch of the association or organization.”.

Application  
for cancel-  
lation of  
registration.

**53.** Section 143 of the Principal Act is amended by inserting after paragraph (a) of sub-section (1) the following paragraph:—

“(aa) the organization, being an organization of employees the members of which include persons referred to in sub-paragraph (ii) or (iii) of paragraph (b) or (c) of sub-section (1) of section 132, has ceased to be effectively representative of the members who are employees in or in connexion with the industry concerned, or of employees engaged in the industrial pursuit or pursuits concerned, as the case may be;”.

Entitlement  
to member-  
ship of  
organi-  
zations.

**54.** Section 144 of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-sections:—

“(2) Sub-section (1) does not entitle a person to be admitted as a member of an organization unless he is included in a category of persons who are eligible for membership of the organization under the rules of the organization, or to remain a member if he ceases to be so included and the rules do not permit him to remain a member.

“(2A) Subject to sub-section (2), sub-section (1) has effect notwithstanding the rules of the organization except to the extent that it expressly requires compliance with those rules.”.

55. Section 145 of the Principal Act is amended—

- (a) by omitting paragraph (a) of sub-section (1) and substituting the following paragraph:—

“(a) being a member of an organization of employees in or in connexion with an industry, he ceases to be employed in or in connexion with that industry or, being a member of an organization of employees engaged in an industrial pursuit or pursuits, he ceases to be engaged in that industrial pursuit or in any of those industrial pursuits; or”;

- (b) by omitting sub-section (2) and substituting the following sub-section:—

“(2) Notice in writing of resignation shall be addressed to an officer of the organization, or of a branch of the organization, designated in the rules of the organization and delivered to that officer.”; and

- (c) by omitting sub-section (5) and substituting the following sub-section:—

“(5) The rules of an organization shall make provision for enabling the resignation of members in accordance with the preceding provisions of this section but those rules may also make provision for permitting notice of resignation to be effectively given otherwise than in accordance with sub-sections (1) and (2).”.

Resignation from membership of organization.

56. Section 158F of the Principal Act is amended by inserting after sub-section (1) the following sub-section:—

“(1A) Notwithstanding section 158E or any other provision of this Act—

- (a) the rules, or proposed alterations of the rules, of the association or organization that is to be the amalgamated organization may provide that, during a specified period of not more than three years from the date on which the amalgamation takes effect, persons to fill all or any offices (including persons to fill casual vacancies) are to be or may be elected otherwise than directly by the members who would be entitled to vote if the rules were in accordance with paragraph (a) of sub-section (1) of section 133 but by a procedure in which those members indirectly take part; and
- (b) those rules, or the rules as so altered, shall not, by reason of so providing, be taken to be contrary to the provisions of this Act.”.

Scheme of amalgamation to be submitted.

57. Section 158r of the Principal Act is repealed and the following section substituted:—

“158r. The expenses of a ballot conducted in accordance with this Part shall be borne by the Australian Government.”.

Expenses of ballot.

Applications  
for inquiries  
respecting  
elections.

58. Section 159 of the Principal Act is amended by omitting from sub-section (3) the words "the next succeeding section" and substituting the words "sub-section (4)".

Jurisdiction  
of Court.

59. Section 161 of the Principal Act is amended by omitting sub-section (2).

Costs.

60. Section 168 of the Principal Act is amended by omitting sub-section (4).

61. After section 169 of the Principal Act the following sections are inserted:—

Returning  
officer to  
furnish  
information.

"169A. (1) A financial member of an organization may request the returning officer in respect of an election for an office of the organization or a branch of the organization or in respect of a ballot taken for the purpose of submitting a matter to a vote of the members of an organization or a branch of the organization to supply the member with information for the purpose of determining whether there has been an irregularity in or in connexion with the election or ballot.

"(2) The returning officer shall not unreasonably refuse or fail to supply information so requested.

Penalty: Five hundred dollars or imprisonment for six months, or both.

Death of  
candidate.

"169B. Notwithstanding the rules of an organization, if two or more candidates are nominated for an election in respect of an office of an organization or branch of an organization and one of those candidates dies before the close of the ballot, the election shall be discontinued and a new election shall be held."

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

62. Section 170A of the Principal Act is amended by omitting sub-sections (4), (5) and (6) and substituting the following sub-sections:—

"(4) The expenses incurred by the person conducting an election or taking a step in or in connexion with an election under section 165A or section 170 shall be borne by the Australian Government.

"(5) Notwithstanding anything contained in the rules of an organization or of a branch of an organization, a person conducting an election, or taking a step in or in connexion with an election, under section 165A or section 170 shall preserve and keep, for a period of one year after the completion of the election, all ballot papers, envelopes, lists and other documents coming into his possession in or in connexion with the conduct of the election or the taking of that step."

Penalties  
imposed by  
organizations  
upon  
members  
observing  
awards.

63. Section 188 of the Principal Act is amended by inserting in sub-section (2), before the word "includes" (first occurring), the words "a memorandum certified under section 28 and also".

64. Section 194 of the Principal Act is repealed.

Interpre-  
tation.

65. (1) After section 197 of the Principal Act the following section is inserted:—

“ 197A. A party to—

Costs.

- (a) a proceeding before the Commission or the Registrar;
- (b) a proceeding, including an appeal, before the Court, or before a court of a State or Territory, in a matter arising under this Act; or
- (c) a proceeding before the High Court—
  - (i) being an appeal from a judgment, decree, order or sentence of the Court or any other court under this Act; or
  - (ii) being a proceeding in respect of an award proposed to be made, made or purporting to have been made, a decision proposed to be given, given or purporting to have been given, or any other act proposed to be done, done or purporting to have been done, under this Act or in respect of a failure to make an award, give a decision or do any other act that is required or permitted by this Act to be made, given or done,

shall not be ordered to pay any costs incurred by any other party to that proceeding except where the party against whom the order is made instituted the proceeding vexatiously or without reasonable cause.”.

(2) The section inserted by this section does not apply in relation to proceedings instituted before the commencement of this section, or in relation to an appeal in respect of any such proceedings.

66. The Principal Act is further amended as set out in the Schedule.

Formal  
amendments.

## SCHEDULE

Section 66

## FORMAL AMENDMENTS

1. The Principal Act is amended as set out in the following table:—

Provision	Amendment
Section 8 . . . .	Omit sub-section (2).
Section 16 . . . .	Omit from sub-section (1) the words " the rate of Eleven thousand eight hundred and fifty dollars a year ", substitute " such rate as is fixed by the Parliament ".
Section 93 . . . .	Omit from sub-section (1) all the words up to and including the words " One thousand dollars ", substitute " The Chief Judge and the other Judges shall receive salary and annual allowances at such respective rates as are fixed by the Parliament ".
Section 102 . . . .	Omit from sub-section (1) all the words up to and including the words " One thousand dollars ", substitute " The Chief Judge and the other Judges shall receive salary and annual allowances at such respective rates as are fixed by the Parliament ".

2. The following provisions of the Principal Act are amended by omitting any number expressed in words that is used, whether with or without the addition of a letter or letters, to identify a section of that Act or of another Act, and substituting that number expressed in figures:—

Sections 4 (1) (definitions of " Full Bench " and " Industrial dispute "), 9 (3), 30 (3), 32, 33 (5) and (9), 34 (9), 35 (2), 36 (1), 39 (2), 41A (1) and (2), 45 (4), 46 (2), (3), (4) and (5), 71 (1) (definitions of " industrial matters " and " seaman "), 74 (2), 76 (definitions of " employee " and " the specified area "), 80 (2), 86 (1) and (3), 88 (2), 88A (definition of " industrial matters "), 88D (2), 88H (definitions of " declared body " and " inter-State industrial dispute "), 88Q, 88R (2), 88S, 88T (1), 88V (1), (4) and (5), 88Z (2), 88ZA (9), 88ZB (2), 88ZC (3), 103A (3), 104 (2), 108 (1), 109 (1), 111 (4), 114 (1), 119 (1), (1C) and (1D), 120, 125 (3), 126, 133 (2), 141 (7), (8) and (9), 141B (1), 143 (3B) and (3C), 144 (4), 152 (1), 158F (1), 158M (1), 158R, 158U, 159 (3), 162A (1), 170 (6) and (11), 170A (1), (3) and (3A), 171 (3) and 181 (1).

3. The following provisions of the Principal Act are amended by omitting the words " of this Act ", " to this Act ", " of this Part ", " of this section " and " of this sub-section " (wherever occurring):—

Sections 4 (1) (definition of " Full Bench "), 9 (3), 11, 23 (5), 27 (3), (4) and (5), 30 (3), 32, 33 (4), (7) and (8), 34 (9), 35 (2) and (4), 36 (1), 39 (2), 41A (1) and (3), 45A (3), 46 (2), (3), (4) and (5), 47 (3), (5) and (7), 58 (3) and (4), 71 (1) (definition of " industrial matters "), 74, 80, 86 (3), 88, 88A (definition of " industrial matters "), 88D, 88H (definitions of " declared body " and " inter-State industrial dispute "), 88N, 88Q, 88R (2), 88S, 88V (2A), (4) and (5), 88Z (2), 88ZA (9), 88ZB (2) and (3), 103, 104 (2), 108 (1), 111 (4), 113 (3) and (4), 119 (1), (1C), (1D) and (3), 120, 124 (3), 125 (7), 126, 133 (2) and (4), 140 (5), (7) and (9), 141 (8) and (9), 141B (1), 143 (3B) and (3C), 144 (5A), 152 (1), (4) and (9A), 158M (1), 158R, 158U, 159 (3), 162A (1), 170 (6) and (11), 170A (1), (3) and (3A) and 171 (3).

## SCHEDULE—continued

4. The Principal Act is further amended as set out in the following table:—

Provision	Amendment
Section 31 (3) ..	Omit " of this section " (wherever occurring).
Section 33 (5) ..	Omit " of this Act ".
Section 33 (6) ..	Omit " of this section " (first and second occurring).
Section 33 (9) ..	Omit " of this section " (last occurring).
Section 88r (1) ..	Omit " of this Act ".
Section 88r (3) ..	Omit " of this section ".
Section 88v (1) ..	Omit " of this Act ".
Section 103A (3) ..	Omit " of this Act ".
Section 109 (1) ..	Omit " of this Act " (last occurring).
Section 141 (6) ..	Omit " of this sub-section " (third and last occurring).
Section 141 (7) ..	Omit " of this Act ".
Section 141A (7) ..	Omit " the twenty-fourth day of April, One thousand nine hundred and seventy-two ", substitute " 24 April 1972 ".
Section 141B (4) ..	Omit " the twenty-fourth day of April, One thousand nine hundred and seventy-two ", substitute " 24 April 1972 ".
Section 143 (3A) ..	Omit " of this section ".
Section 144 (6) ..	Omit " of this section ".
Section 152 (8) ..	Omit " of this section " (last occurring).
Section 158F (1) ..	Omit " of this Act ".