

Public Service Arbitration

No. 17 of 1972

An Act relating to the Settlement of Matters arising out of
Employment in the Public Service.

[Assented to 24 April 1972]

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 *Public Service Arbitration Act* 1972. Short title and citation.

(2.) The *Public Service Arbitration Act* 1920–1969* is in this Act referred to as the Principal Act.

* Act No. 28, 1920, as amended by No. 1, 1928; No. 25, 1929; No. 45, 1934; No. 52, 1947; Nos. 51 and 80, 1950; No. 36, 1952; Nos. 2 and 18, 1955; Nos. 51 and 104, 1956; No. 39, 1957; No. 41, 1959; No. 17, 1960; No. 115, 1964; No. 93, 1966; No. 120, 1968; and No. 10, 1969.

(3.) The Principal Act, as amended by this Act, may be cited as the *Public Service Arbitration Act 1920–1972*.

**Commence-
ment.**

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

Interpretation.

3. Section 3 of the Principal Act is amended—

(a) by omitting the definition of “Determination” and inserting in its stead the following definitions:—

“ ‘Determination’ includes an order under sub-section (1.) of section twelve D, and an order under paragraph (e) of sub-section (1.) of section fourteen, of this Act;

‘Industrial situation’ means—

(a) the refusal or failure to perform work, including (without limiting the generality of the preceding words of this paragraph) the refusal or failure to perform work in a particular manner, at a particular place or at a particular time or while particular circumstances exist;

(b) the unauthorized interruption, delaying or obstruction of, or any unauthorized limitation on, the performance of work;

(c) the performance of work in an unauthorized manner or at an unauthorized time, being a manner or time so different from the usual manner or time of the performance of that work that there would be a limitation or restriction on, or a tendency to limit or restrict, the amount or volume of work performed or the output or production of work; or

(d) the unauthorized adoption of such a practice in relation to work that there would be a limitation or restriction on, or a tendency to limit or restrict, the amount or volume of work performed or the output or production of work; ”; and

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

“(2.) Conduct is capable of constituting an industrial situation for the purposes of this Act notwithstanding that that conduct relates to part only of the duties that officers or employees are required to perform in the course of their employment.”.

4. After section 12A of the Principal Act the following sections are inserted:—

**Industrial
situation
concerning
the Public
Service.**

“12B. Sections twelve C to twelve F, inclusive, of this Act apply in relation to an industrial situation only to the extent, if any, to which officers or employees of the Public Service are concerned in or affected by,

or are likely to be concerned in or affected by, that industrial situation or would, upon the occurrence of that industrial situation, be likely to be so concerned or affected.

“ 12C.—(1.) Where—

- (a) it appears to a Minister or to the Board that an industrial situation exists or is likely to occur; or
- (b) it appears to an officer of an organization that—
 - (i) an industrial situation exists in which members of the organization are, or are likely to be, concerned; or
 - (ii) an industrial situation is likely to occur in which members of the organization would be likely to be concerned,

Action that may be taken in respect of industrial situation.

the Minister, the Board or the organization, as the case may be, may give a notice in writing to the Arbitrator informing him accordingly and making an application that he exercise his powers under the next succeeding section.

“ (2.) Where a notice has been duly given to the Arbitrator under the last preceding sub-section, the Arbitrator shall send a copy of the notice—

- (a) to the Minister (other than the Minister who gave the notice) of each Department of State that appears to the Arbitrator to be a Department that is, or is likely to be, affected by the industrial situation or would, upon the occurrence of the industrial situation, be likely to be so affected;
- (b) if the notice was not given by the Board—to the Board; and
- (c) to every organization that appears to the Arbitrator to be an organization members of which are, or are likely to be, concerned in or affected by the industrial situation or would, upon the occurrence of the industrial situation, be likely to be so concerned or affected.

“ 12D.—(1.) Where the Arbitrator has been informed under the last preceding section of the existence or likely occurrence of an industrial situation, the Arbitrator or a Deputy Arbitrator—

Order in relation to industrial situation.

- (a) shall forthwith call a conference of representatives of the Board, of the Minister of any Department of State that is, or is likely to be, affected by the existence of the situation or would, upon the occurrence of the situation, be likely to be so affected, of any organization members of which are, or are likely to be, concerned in or affected by the situation or would, upon the occurrence of the situation, be likely to be so concerned or affected and of any other person whose presence at the conference the Arbitrator or Deputy Arbitrator considers to be desirable; and
- (b) may, subject to the next succeeding sub-section, after hearing such evidence (if any) as he thinks fit, make such orders as he thinks necessary or desirable for putting an end to, or preventing the

occurrence of, the situation or preventing the occurrence of further industrial situations or such other orders as he thinks necessary or desirable by reason of the existence or likely occurrence of the situation.

“(2.) The orders that may be made under the last preceding sub-section are—

- (a) orders relating to conditions of employment of officers or employees (whether members of an organization or not) who are concerned in or affected by, or are likely to be concerned in or affected by, the industrial situation; or
- (b) orders directing the cessation of conduct that constitutes, or encourages the continuation of, the industrial situation or prohibiting the engaging in conduct that would constitute or bring about the industrial situation.

“(3.) An order under sub-section (1.) of this section may be made binding on an organization members of which are concerned in the industrial situation or, upon the occurrence of the industrial situation, would be so concerned or on some or all of the members of such an organization, or both on such an organization and on some or all of its members.

Compulsory
conference.

“12E.—(1.) For the purpose of putting an end to, or preventing the occurrence of, an industrial situation, the Arbitrator or a Deputy Arbitrator may direct a person to attend, at a time and place specified in the direction, at a conference presided over by the Arbitrator or a Deputy Arbitrator.

“(2.) A direction under the last preceding sub-section may be given orally, in writing signed by the Arbitrator or Deputy Arbitrator or by telegram sent by the Arbitrator or Deputy Arbitrator.

“(3.) A direction under sub-section (1.) of this section may be given to any person whose presence at the conference the Arbitrator or Deputy Arbitrator thinks is likely to conduce to putting an end to, or preventing the occurrence of, the industrial situation.

“(4.) A person directed under sub-section (1.) of this section shall attend the conference and continue his attendance at the conference as directed by the Arbitrator or a Deputy Arbitrator.

Penalty: One thousand dollars.

“(5.) The conference shall be held in private except to such extent (if any) as the Arbitrator or a Deputy Arbitrator directs that it be held in public.

Concurrence of
Arbitrator in
orders by
Deputy
Arbitrator.

“12F. A Deputy Arbitrator shall not make an order under sub-section (1.) of section twelve D of this Act relating to conditions of employment unless the Arbitrator concurs in the making of the order.”.

5. Section 15A of the Principal Act is amended—Reference to
Commission.

- (a) by omitting from sub-section (3.) the word “ application ” (first occurring) and inserting in its stead the word “ request ”;
 - (b) by omitting sub-section (4.) and inserting in its stead the following sub-section:—
 - “ (4.) A request under the last preceding sub-section may be made by—
 - (a) the Board;
 - (b) a Minister by whom the application was made or who is affected by the claim, application or matter;
 - (c) an organization by which the claim or application was submitted or made or that is affected by the claim, application or matter; or
 - (d) if the application was made under section twelve c of this Act in relation to an industrial situation that exists or is likely to occur—an organization members of which are concerned in or affected by the industrial situation or would, upon the occurrence of the industrial situation, be likely to be so concerned or affected. ”; and
 - (c) by omitting from sub-section (5.) the word “ application ” (first occurring) and inserting in its stead the word “ request ”.
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