



INDUSTRIAL RELATIONS

No. 67 of 1977

ANALYSIS

1. Short title and citation.
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AN ACT to amend the Industrial Relations Act 1975.

[21 September 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Industrial Relations Act* 1977. Short title and citation.

(2) The *Industrial Relations Act* 1975*, as subsequently amended, is in this Act referred to as the Principal Act.

* No. 59 of 1975. Subsequently amended by No. 73 of 1976.

Interpretation.

2 Section 38 of the Principal Act is amended—

- (a) by omitting from the definition of “ appropriate organization ” the words “ an award ” and substituting therefor the words “ a determination of a board or the Chairman ”; and
- (b) by omitting from paragraphs (a) and (c) of that definition the word “ award ” (wherever occurring) and substituting therefor in each case the word “ determination ”.

Appeals to Tribunal.

3 Section 40 of the Principal Act is amended by omitting subsections (1), (2), and (3) and substituting therefor the following subsections:—

“(1) In accordance with this Division an appropriate organization may appeal to the Tribunal against a determination of the board or the chairman to include, or to refuse to include, any specified provision in an award or to refuse to make an award in any specified matter.

“(2) In all matters the decision of the majority shall be the decision of the Tribunal.

“(3) On the hearing of an appeal under this Division the Tribunal (unless it dismisses the appeal) may reverse or vary the determination in respect of which the appeal is brought; and to give effect to its decision the Tribunal may vary or revoke an award, or make a new award, any award so varied or so made having effect, as so varied or so made, as an award under Division I of this Part.”.

Proceedings on appeals.

4 Section 41 of the Principal Act is amended—

- (a) by omitting subsection (1) and substituting therefor the following subsection:—

“(1) An appeal under this Division against a determination of a board or the chairman shall be made by lodging, within 21 days of the making of the determination or, if an application has been made under section 34 (3) in respect of the award to which the determination relates, of the final determination of the application, a notice of appeal with the Registrar, specifying—

- (a) the determination against which the appeal is brought;
- (b) the organization bringing the appeal; and
- (c) the grounds of the appeal.”;

(b) by omitting from subsection (2) the words “ is lodged under subsection (1) in respect of any award the operation ” and substituting therefor the words “ against a determination to include any provisions in an award is lodged under subsection (1) the operation of those provisions ”;

(c) by inserting after that subsection the following subsection:—

“(2A) Where a notice of an appeal is lodged with the Registrar under this section in respect of the determination of a board the Registrar shall serve copies of the notice on each member of the board and on any person who, under section 26, was entitled to attend the meeting of the board at which the determination was made.”;

(d) by omitting from subsection (3) the words “ as may be prescribed and such further notice ” and the words “ in any particular case ”;

(e) by omitting subsections (4) and (5) and substituting the following subsection:—

“(4) Any appropriate organization may seek leave of the Tribunal to appear on the hearing of an appeal and any leave granted may be conditional.”; and

(f) by omitting subsection (7) and substituting therefor the following subsections:—

“(7) In respect of an appeal under this section the Tribunal may—

(a) state what it considers to be the real matters in dispute before it;

(b) determine whether it wishes to have evidence on any matter before it; and

(c) determine whether, in respect of any matter in dispute before it, it will hear argument only or hear both evidence and argument.

“(7A) On the hearing of an appeal, the Tribunal shall be guided by the real justice of the matter without regard to legal forms and solemnities, and may direct itself by the best evidence it can procure whether that evidence would be admissible in a court or not.”.

Application
to pending
appeals.

5—(1) The amendments made by this Act to Division II of Part III of the Principal Act apply to all appeals brought under that Division on or after 1st June 1977 that have not been determined at the commencement of this Act.

(2) Notwithstanding anything in the foregoing provisions of this section, any appropriate organization that, if this Act had not been enacted, would have been entitled to appear at the hearing of any appeal lodged before the commencement of this Act shall continue to be so entitled at the hearing of that appeal.