

INDUSTRIAL RELATIONS AMENDMENT ACT 1984

No. 105 of 1984

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INDUSTRIAL RELATIONS AMENDMENT ACT 1984

No. 105 of 1984

AN ACT to amend the Industrial Relations Act 1984.

[Royal Assent 21 December 1984]

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—This Act may be cited as the *Industrial Relations Amendment Act 1984*. Short title.

2—This Act—

- (a) shall commence on the day fixed under section 2 (2) of the *Industrial Relations Act 1984*, where the day on which this Act receives the royal assent is the same or an earlier day than the day so fixed; or
- (b) shall be deemed to have commenced on the day so fixed, where the day on which this Act receives the royal assent is a later day than the day so fixed.

Commence-
ment.

Principal Act.

3—In this Act, the *Industrial Relations Act 1984** is referred to as the Principal Act.

Amendment of section 3 of Principal Act (Interpretation).

4—(1) Section 3 (1) of the Principal Act is amended by inserting the following definition after the definition of “private employer” :—

“proclaimed day” means the day fixed by proclamation under section 2 (2);

(2) Section 3 of the Principal Act is further amended by omitting subsection (4).

Amendment of section 21 of Principal Act (Procedure of the Commission and associated matters).

5—Section 21 (3) of the Principal Act is amended by omitting “before proceedings” and substituting “proceedings”.

Amendment of section 28 of Principal Act (Representation).

6—Section 28 (3) of the Principal Act is amended by inserting “association or” before “organization”, where lastly occurring.

Amendment of section 32 of Principal Act (Subject-matter of awards).

7—Section 32 of the Principal Act is amended by omitting subsection (5) and substituting the following subsection:—

(5) The Commission—

(a) in making an award in respect of State employees, may, and, if requested to do so during proceedings before it in respect of the making of such an award, shall, have regard to any relevant regulations concerning conditions of employment; and

(b) where, pursuant to paragraph (a), it has regard to those regulations, shall, if it is satisfied that those regulations provide adequately or appropriately for such a condition, determine not to include provisions in the award in respect of that condition in relation to those employees.

Amendment of section 35 of Principal Act (Certain matters to be dealt with by Full Bench of Commission).

8—Section 35 (1) of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:—

(c) making provision for, or in relation to, or altering a provision for or in relation to—

* No. 21 of 1984.

- (i) the quantum of annual leave prescribed by an award affecting private employees or an award affecting State employees; or
- (ii) the payment of wages or allowances during annual leave prescribed by such an award;

9—Section 37 (1) of the Principal Act is amended by omitting “the Commissioners or Commissioner” and substituting “one of the Commissioners, or the Commissioner,”.

Amendment of section 37 of Principal Act (Signature, operation, and lodging of awards, &c.).

10—Section 49 (4) of the Principal Act is amended by inserting “or in the disciplinary provisions of an Act” after “award”, where firstly occurring.

Amendment of section 49 of Principal Act (Entitlement to award rates of remuneration).

11—(1) Section 63 (2) of the Principal Act is amended as follows:—

Amendment of section 63 of Principal Act (Registration of associations).

(a) by inserting in paragraph (a) “and giving particulars of the awards in which the applicant has an interest, as stated in that application pursuant to subsection (1) (a) (vii)” after “application”;

(b) by inserting in paragraph (b) “and giving particulars of the awards in which the applicant has an interest, as so stated in that application” after “application”.

(2) Section 63 (3) (a) of the Principal Act is amended as follows:—

(a) by omitting “satisfied—” and substituting “satisfied that the following requirements for the registration of the association as an organization have been complied with:—”;

(b) by omitting from subparagraph (iii) “matters; and” and substituting “matters;”.

(3) Section 63 (5) of the Principal Act is amended by omitting “An” and substituting “Subject to subsection (5A), an”.

(4) Section 63 of the Principal Act is further amended by inserting the following subsection after subsection (5):—

(5A) Where an organization is an association that has been granted provisional registration under section 63A, the organization may lodge an objection under subsection (5) to the registration of another association that has also been granted provisional registration under that section, but may not lodge an objection under that subsection to the provisional registration under section 63A of another association.

(5) Section 63 of the Principal Act is further amended by inserting the following subsection after subsection (9):—

(10) For the purposes of this section, an association has an interest in an award if—

- (a) the membership of that association includes members who are employers or employees in the industry or occupation to which the awards stated in its application pursuant to subsection (1) (a) (vii) relate or who are State employees to whom those awards relate; and
- (b) that membership is consistent with the association's rules or constitution a copy of which has been lodged with the Registrar pursuant to subsection (1).

12—After section 63 of the Principal Act, the following section is inserted:—

63A—(1) The Registrar may grant provisional registration as an organization for the purposes of this Act to an association if—

- (a) that association, within 30 days after the proclaimed day, lodges in the office of the Registrar an application complying with section 63 (1) (a) and a copy of its rules or constitution; and
- (b) the Registrar is of the opinion that the application will comply with the requirements for the registration of an association as an organization that are specified in section 63 (3) (a).

Insertion in
Principal Act
of new
section 63A.

Provisional
registration.

(2) The Registrar shall, on granting provisional registration under this section to an association—

- (a) serve a notice in writing on the association informing it that it has been granted provisional registration and giving particulars of the awards in which, in his opinion, the association has an interest; and
- (b) serve a notice in writing on every other association that has been granted provisional registration under this section informing it of the grant of provisional registration to the first-mentioned association.

(3) Provisional registration granted under this section to an association ceases to have effect—

- (a) at the expiration of 12 months from the proclaimed day;
- (b) on the day on which a certificate of registration is issued to the association pursuant to section 64 (1); or
- (c) on the day on which the Registrar refuses to grant the application made under section 63 (1) by the association,

whichever first happens.

(4) Where provisional registration is granted under this section to an association, that association shall be deemed to be an organization for the purposes of this Act and, accordingly, is entitled to the rights specified in section 65 during the period that that provisional registration is in force under this section.

13—Schedule 2 to the Principal Act is amended by omitting clause 1.

Amendment of
Schedule 2 to
Principal Act
(SAVINGS
AND TRANSI-
TIONAL PRO-
VISIONS).

