



**INDUSTRIAL RELATIONS (MISCELLANEOUS
AMENDMENTS) ACT 1984**

No. 20 of 1984

TABLE OF PROVISIONS

1. Short title.
2. Commencement.
3. Amendment of certain Acts.
4. Saving and transitional provisions.

SCHEDULE 1

AMENDMENT OF CERTAIN ACTS

**AN ACT to amend certain Acts consequential upon the enactment
of the Industrial Relations Act 1984.**

[Royal Assent 16 May 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 (Miscellaneous Amendments) Act 1984*. Short title.

Commence-
ment.

2—(1) This section and section 1 shall commence on the day on which this Act receives the royal assent.

(2) Except as provided in subsection (1), this Act shall commence on the day fixed by proclamation under section 2 (2) of the *Industrial Relations Act 1984*.

Amendment of
certain Acts.

3—The Acts specified in Schedule 1 are amended in the manner specified in that Schedule.

Saving and
transitional
provisions.

4—(1) A person appointed as a member of the Police Promotions Appeal Board under section 49B (2) (a) of the *Police Regulation Act 1898*, as in force before the day referred to in section 2 (2) of this Act, who holds office as such a member immediately before that day shall be deemed to hold office under that Act, as amended by this Act, and he shall, unless he—

(a) sooner vacates his office under section 49E of that Act; or

(b) is removed from office under section 49F of that Act,

hold that office, and continue to be the chairman of that Board, for the remainder of the period specified in his instrument of appointment under that Act.

(2) A dispute under section 13 of the *Long Service Leave Act 1976* or an appeal under section 14 of that Act that has not been finally determined before the day referred to in section 2 (2) of this Act may be finally determined as if this Act had not been enacted.

(3) A dispute under section 11 of the *State Employees (Long-Service Leave) Act 1950* that has not been finally determined before the day referred to in section 2 (2) of this Act shall be finally determined by a Commissioner within the meaning of that Act, as amended by this Act, as if it were a dispute the hearing of which had been commenced by that Commissioner under section 11 (2) of that Act, as substituted by this Act.

(4) Section 11A (1) of the *State Employees (Long-Service Leave) Act 1950*, as inserted by this Act, applies to a dispute referred to in subsection (3).

SCHEDULE 1

Section 3

AMENDMENT OF CERTAIN ACTS

Advanced Education Act 1968

(No. 10 of 1968)

Section 9 is amended as follows:—

- (a) by omitting subsection (6);
- (b) by omitting from subsection (7) “Notwithstanding anything in subsection (6) the Part V of the *Public Service Act 1973*” and substituting “The *Industrial Relations Act 1984*”.

Audit Act 1918

(9 Geo. V No. 3)

Regulation 28 (7) of the general regulations set forth in Schedule II is amended by omitting “Public Service Board under Part V of the *Public Service Act 1973*” from the definition of “relevant principal award” and substituting “Tasmanian Industrial Commission under the *Industrial Relations Act 1984*”.

Education Act 1932

(23 Geo. V No. 22)

Section 46A (12) is amended by omitting “Public Service Tribunal” and substituting “Tasmanian Industrial Commission under the *Industrial Relations Act 1984*”.

Fisheries Act 1959

(No. 16 of 1959)

Section 8A (8) is amended by omitting “, notwithstanding anything in the *Public Service Act 1973* to the contrary, be deemed to be the controlling authority in respect of those officers and employees for the purposes of Parts V and VI of that Act” and substituting “be deemed to be the controlling authority in respect of those officers and employees for the purposes of the *Industrial Relations Act 1984*”.

Governor of Tasmania Act 1982

(No. 26 of 1982)

1—Section 8 is amended by omitting subsection (1) and substituting the following subsections:—

(1) An officer holding appointment under section 7—

(a) is entitled to such salary and allowances as are determined by an award made under the *Industrial Relations Act 1984*; and

(b) is bound by awards and decisions of the Tasmanian Industrial Commission under that Act.

(1A) The *Industrial Relations Act 1984* applies to and in relation to an officer holding appointment under section 7 as if the Governor-in-Council were a controlling authority within the meaning of that Act.

2—Section 9 (3) is amended by omitting “1975” and substituting “1984”.

Long Service Leave Act 1976

(No. 95 of 1976)

1—Section 2 (1) is amended as follows:—

(a) by inserting after the definition of “age for retirement” the following definition:—

“Assistant Secretary” means the Assistant Secretary for Labour;

(b) by inserting the following definitions after the definition of “business”:—

“Commission” means the Tasmanian Industrial Commission constituted under the *Industrial Relations Act 1984*;

“Commissioner” means a person appointed and holding office as a member of the Commission;

(c) by inserting the following definition after the definition of “employer”:—

“Full Bench” means a Full Bench of the Commission constituted in accordance with section 14 of the *Industrial Relations Act 1984*;

2—Section 4 (2) is amended by omitting “is, by virtue of his office, an inspector” and substituting “and the Assistant Secretary are, by virtue of their respective offices, inspectors”.

3—Section 5 (1) (i) is amended as follows:—

- (a) by omitting from subparagraph (ii) “ evidence; ” and substituting “ evidence; or ”;
- (b) by omitting subparagraph (iv).

4—Section 13 is amended as follows:—

- (a) by omitting from subsection (1) “ and determined by the Secretary ” and substituting “ the Secretary who shall investigate the circumstances of the dispute and submit a report of his findings to the President of the Commission ”;
- (b) by omitting subsection (2) and substituting the following subsections:—

(2) Where a dispute referred to in subsection (1) is not resolved as a consequence of an investigation by the Secretary, the dispute shall be heard and determined, as prescribed, by a Commissioner.

(3) Subject to subsection (4), where the determination of a Commissioner under this section on the hearing of a dispute requires the payment of a sum of money by an employer to an employee, the Commissioner shall, without the necessity of any further application, order the employer to pay that sum to the employee.

(4) Where an appeal is brought under section 14 against the determination of a Commissioner under this section on the hearing of a dispute, an order of the kind referred to in subsection (3) that is made by him shall not take effect until the determination or abandonment of the appeal.

5—Section 14 is amended as follows:—

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

(1) Subject to subsection (2), an employer or employee who is aggrieved by—

- (a) a decision of the Secretary relating to the grant or refusal of an exemption under section 7 or the renewal or refusal to renew an exemption under that section; or
- (b) a determination of a Commissioner under section 13, may appeal to a Full Bench.

- (b) by inserting the following subsection after subsection (2):—

(2A) A Full Bench shall cause a copy of its decision in relation to an appeal under this section to be served on all parties to the appeal.

- (c) by omitting “ the magistrate ” from subsection (3) and substituting “ a Full Bench ”;

(d) by omitting from subsection (4) "the magistrate", where firstly occurring, and substituting "a Full Bench";

(e) by omitting from subsection (4) "magistrate", where secondly occurring, and substituting "Full Bench".

6—After section 14, the following section is inserted:—

Provision
relating to
representation
at hearings of
disputes under
section 13 and
appeals under
section 14.

14A—(1) A person is not entitled to be represented by a barrister or practitioner at the hearing of a dispute under section 13 or the hearing of an appeal under section 14.

(2) Where an officer or employee of an organization registered under Part V of the *Industrial Relations Act* 1984 is a barrister or practitioner, nothing in subsection (1) prevents that officer or employee from representing a person at a hearing referred to in that subsection if he is employed to perform functions that may be performed by persons other than barristers or practitioners.

(3) In this section—

"barrister" means a person admitted as a barrister under the *Legal Practitioners Act* 1959;

"practitioner" means a practitioner within the meaning of that Act.

7—Section 15 (3) is amended by omitting "the Secretary under section 13 or by a magistrate" and substituting "a Commissioner under section 13 or by a Full Bench".

8—Section 16 (1) is amended by omitting "an appeal under section 14 or" and "appeal or".

Magistrates Act 1969

(No. 20 of 1969)

Section 10 (2) is amended by omitting "*Public Service Tribunal Act* 1958" and substituting "*Industrial Relations Act* 1984".

Mental Health Services 1967

(No. 24 of 1967)

1—Section 6 (4) is amended by omitting "determination made by the Public Service Board" and substituting "award made by the Tasmanian Industrial Commission under the *Industrial Relations Act* 1984".

2—Section 21 is amended by omitting subsection (1).

Ombudsman Act 1978

(No. 82 of 1978)

Schedule 2 is amended by omitting clause 4 and substituting the following clause:—

4—Action taken by the Tasmanian Industrial Commission under the *Industrial Relations Act 1984* in relation to State employees within the meaning of that Act.

Parliamentary Privilege Act 1898

(62 Vict. No. 30)

Section 3A (1) (a) is amended by omitting “under Part V of the *Public Service Act 1973*” and substituting “by the Tasmanian Industrial Commission under the *Industrial Relations Act 1984*”.

Police Regulation Act 1898

(62 Vict. No. 48)

Section 49B is amended as follows:—

(a) by omitting paragraph (a) of subsection (2) and substituting the following paragraph:—

(a) one shall be a person who has had extensive experience in industrial relations between employers and employees;
and

(b) by inserting the following subsection after subsection (2):—

(2A) The member of the Board referred to in subsection (2) (a) shall be the chairman of the Board.

(c) by omitting subsection (3A).

Public Service Act 1973

(No. 18 of 1973)

1—Section 60 is amended by inserting after “Part V”, where twice occurring, “(as in force immediately before the day referred to in section 2 (2) of the *Industrial Relations (Miscellaneous Amendments) Act 1984*)”.

Proceedings
before
Arbitrator.

2—Section 69 is repealed and the following section is substituted:—

69—(1) In a hearing before the Arbitrator under this Part, subject to subsection (2), a person attending shall not, except by leave of the Arbitrator and with the consent of all other persons attending, be represented by a barrister or legal practitioner.

(2) A barrister or legal practitioner who is a member of a service organization is entitled to represent that organization at any hearing under this Part that that organization is entitled to attend.

Public Service (Equal Pay) Act 1966

(No. 60 of 1966)

Section 2 (1) is amended as follows:—

(a) by omitting the definition of “employee” and substituting the following definition:—

“employee” means—

(a) a person who is a State employee within the meaning of the *Industrial Relations Act 1984*; or

(b) a person other than a State employee within the meaning of that Act whose remuneration is paid or payable out of the Consolidated Revenue Fund;

(b) by omitting paragraphs (a), (b), and (c) of the definition of “wage-fixing authority” and substituting the following paragraph:—

(a) the Tasmanian Industrial Commission constituted under the *Industrial Relations Act 1984*; and

State Employees (Long-Service Leave) Act 1950

(No. 81 of 1950)

1—Section 2 (1) is amended as follows:—

(a) by inserting the following definitions after the definition of “age for retirement”:—

“Assistant Secretary” means the Assistant Secretary for Labour;

“Commission” means the Tasmanian Industrial Commission constituted under the *Industrial Relations Act 1984*;

“Commissioner” means a person appointed and holding office as a member of the Commission;

(b) by inserting the following definitions after the definition of “employee”:—

“employer” means the State or a State authority, as the case requires;

“ Full Bench ” means a Full Bench of the Commission constituted in accordance with section 14 of the *Industrial Relations Act* 1984;

(c) by omitting “ 1975 ” from paragraph (b) of the definition of “ industrial award ” and substituting “ 1984 ”;

(d) by inserting the following definition after the definition of “ industrial award ”:—

“ inspector ” means a person who is an inspector by virtue of section 3A; and

(e) by inserting the following definition after the definition of “ salary ”:—

“ Secretary ” means the Secretary for Labour;

2—After section 3, the following section is inserted:—

3A—(1) A person who is an inspector under the *Industrial Relations Act* 1984 is, by virtue of his office, an inspector for the purposes of this Act. Inspectors.

(2) The Secretary and the Assistant Secretary are, by virtue of their respective offices, inspectors for the purposes of this Act.

3—Section 5 of the Principal Act is amended by inserting the following subsection after subsection (6A):—

(6B) A prescribed authority shall cause to be kept in respect of each of its employees (other than part-time employees) a long service leave record in the prescribed form and containing the prescribed particulars.

4—After section 10, the following section is inserted:—

10A—(1) For the purpose of ensuring that the provisions of this Act are being complied with, an inspector may at any reasonable time, with or without assistants, enter and remain in the premises of an employer. Powers of
inspectors.

(2) Where an inspector enters any premises referred to in subsection (1), he may—

(a) make such inspections, examinations, and inquiries as he thinks necessary for the purpose referred to in subsection (1);

(b) question, with respect to matters under this Act, the person in charge of any premises so entered or any person employed or engaged on or in those premises; and

(c) require the person in charge of those premises to produce for inspection by the inspector a long service leave record required by this Act to be kept by the relevant prescribed authority.

(3) Where, on or in any premises referred to in subsection (1), an inspector is about to exercise or is in the course of exercising a power conferred on him by this section and a person apparently in charge of those premises or of any work or activity carried on there, requests him to produce evidence of his appointment as an inspector, it is not lawful for him to exercise, or, as the case may be, to continue to exercise, that power unless he produces that evidence to that person.

(4) A person who—

- (a) obstructs, hinders, delays, threatens, or assaults an inspector in the exercise of his powers under this section;
- (b) fails to comply with a request of an inspector, or to answer questions asked by an inspector, made under any such power when it is within his power to comply with the request;
- (c) gives an answer to such a question which, to his knowledge, is false or misleading in a material particular; or
- (d) intentionally conceals a person from an inspector or prevents a person from appearing before or being questioned by an inspector for the purposes of this Act or attempts so to conceal or prevent a person,

is guilty of an offence and is liable on summary conviction to a penalty not exceeding \$500.

5—Section 11 is amended as follows:—

- (a) by omitting from subsection (1) “, and heard and determined, as prescribed, by the Public Service Arbitrator” and substituting “the Secretary who shall investigate the circumstances of the dispute and submit a report on his findings to the President of the Commission”;
- (b) by omitting subsection (2) and substituting the following subsections:—

(2) Where a dispute referred to in subsection (1) is not resolved as a consequence of an investigation by the Secretary, the dispute shall be heard and determined, as prescribed, by a Commissioner.

(3) Subject to subsection (4), where the determination of a Commissioner under this section on the hearing of a dispute requires the payment of a sum of money by an employer to an employee, the Commissioner shall, without the necessity of any further application, order the employer to pay that sum to the employee.

(4) Where an appeal is brought under section 11A against the determination of a Commissioner under this section on the hearing of a dispute, an order of the kind referred to in subsection (3) that is made by him shall not take effect until the determination or abandonment of the appeal.

6—After section 11, the following sections are inserted:—

11A—(1) Subject to subsection (2), an employer or employee who is aggrieved by a determination of a Commissioner under section 11 may appeal to a Full Bench.

(2) An appeal under this section shall be instituted, heard, and determined as prescribed.

(3) A Full Bench shall cause a copy of its decision in relation to an appeal under this section to be served on all parties to the appeal.

(4) The decision of a Full Bench on the hearing of an appeal under this section is final.

(5) Where the decision of a Full Bench under this section requires the payment of a sum of money by an employer to an employee, the Full Bench may, without the necessity for any further application, order the employer to pay that sum to the employee.

11B—(1) A person is not entitled to be represented by a barrister or practitioner at the hearing of a dispute under section 11 or the hearing of an appeal under section 11A.

Provision relating to representation at hearings of disputes under section 11 and appeals under section 11A.

(2) Where an officer or employee of an organization registered under Part V of the *Industrial Relations Act* 1984 is a barrister or practitioner, nothing in subsection (1) prevents that officer or employee from representing a person at a hearing referred to in that subsection if he is employed to perform functions that may be performed by persons other than barristers or practitioners.

(3) In this section—

“barrister” means a person admitted as a barrister under the *Legal Practitioners Act* 1959;

“practitioner” means a practitioner within the meaning of that Act.

Statutory Salaries Act 1979

(No. 32 of 1979)

1—Section 4A is amended by omitting “Part V of the *Public Service Act* 1973” and substituting “the *Industrial Relations Act* 1984”.

2—Section 5 is amended as follows:—

(a) by omitting from subsection (1) “Part V of the *Public Service Act* 1973” and substituting “the *Industrial Relations Act* 1984”;

(b) by omitting from subsection (2) “*Public Service Act* 1973” and substituting “*Industrial Relations Act* 1984”.

4—Section 7 is amended by omitting “ Part V of the *Public Service Act 1973* ” and substituting “ the *Industrial Relations Act 1984* ”.

5—Section 8 is amended by omitting “ Part V of the *Public Service Act 1973* ”, where twice occurring, and “ part V of the *Public Service Act 1973* ” and substituting “ the *Industrial Relations Act 1984* ”.

6—Section 9 (1) is amended by omitting “ Part V of the *Public Service Act 1973* ” and substituting “ the *Industrial Relations Act 1984* ”.