

78. Rights of appeal and reference

- (1) Subject to subsection (3) and to section 52, an employee who —
 - (a) is a Government officer within the meaning of section 80C of the *Industrial Relations Act 1979*; and
 - (b) is aggrieved by a decision made in the exercise of a power under section 79(3)(b) or (c) or (4), 82, 86(3)(b), (8)(a), (9)(b)(ii) or (10)(a), 87(3)(a), 88(1)(b)(ii) or 92(1),

may appeal against that decision to the Industrial Commission constituted by a Public Service Appeal Board appointed under Division 2 of Part IIA of the *Industrial Relations Act 1979*, and that Public Service Appeal Board has jurisdiction to hear and determine that appeal under and subject to that Division.

- (2) Despite section 29 of the *Industrial Relations Act 1979*, but subject to subsection (3), an employee who —
 - (a) is not a Government officer within the meaning of section 80C of that Act; and
 - (b) is aggrieved by a decision referred to in subsection (1)(b),

may refer the decision mentioned in paragraph (b) to the Industrial Commission as if that decision were an industrial matter mentioned in section 29(b) of that Act, and that Act applies to and in relation to that decision accordingly.

- (3) Despite section 29 of the *Industrial Relations Act 1979*, but subject to section 52, an employee —
 - (a) against whom proceedings have been taken under this Part for a suspected breach of discipline arising out of alleged disobedience to, or disregard of, a direction which is by virtue of section 94(4) a lawful order for the purposes of section 80(a); and
 - (b) who is aggrieved by a decision made in the exercise of a power under section 82, 86(3)(a), (8)(a), (9)(b)(i) or (10)(a), 87(3)(a) or 88(1)(b)(i),

may refer the decision referred to in paragraph (b) to the Industrial Commission as if that decision were an industrial matter mentioned in section 29(b) of that Act, and that Act applies to and in relation to that decision accordingly.

- (4) In exercising its jurisdiction under subsection (3) in relation to a decision consisting of a lawful order referred to in section 94(4), the Industrial Commission shall confine itself to determining whether or not that decision has been, or is capable of having been, complied with.