

PUBLIC SERVICE ARBITRATION.

No. 82 of 1970.

**AN ACT to amend the Public Service Arbitration
Act, 1966.**

[Assented to 30th November, 1970.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Public Service Arbitration Act Amendment Act, 1970.*

(2) In this Act the Public Service Arbitration Act, 1966 is referred to as the principal Act.

(3) The principal Act as amended by this Act may be cited as the Public Service Arbitration Act, 1966-1970.

2. Subsection (1) of section 11 of the principal Act is amended— S. 11
amended.

(a) by substituting for the word, “officers” in line six of paragraph (c), the word “offices”;

(b) by adding after paragraph (c) the following paragraph—

(ca) a claim not affecting the Public Service Commissioner made by the Association concerning hours of duty of, or leave of absence of any kind for, Government officers; ;

(c) by deleting paragraph (e) and substituting the following paragraphs—

(e) a claim made by the Association concerning—

(i) rates to be paid in addition to ordinary salary; or

(ii) leave or time off from duty to be granted,

for shift work or overtime worked by Government officers, including rates to be paid, or leave or time off from duty to be granted, to specific occupational groups, and the circumstances in which payment shall be made, or leave or time off from duty granted, for overtime or shift work;

(ea) a claim made by the Association concerning the provision of protective clothing for Government officers, including the provision of protective clothing for specific occupational groups, and the circumstances in which protective clothing shall be provided; ;

(d) by deleting paragraphs (g) and (h) and substituting the following paragraphs—

- (g) an appeal by any Government officer in respect of the salary, range of salary or title allocated by an employer in accordance with section twelve of this Act to the office occupied by that Government officer on the date on which the award or agreement applicable to the office took effect and, where a range of salary was so allocated to the office occupied by him on that date, in respect of the particular salary within that range of salary so allocated to him;
- (h) an appeal by the Association in respect of the salary, range of salary or title allocated by an employer in accordance with section twelve of this Act to an office which was vacant on the date on which the award or agreement applicable to the office took effect;
- (ha) an appeal by the Association in respect of the salary, range of salary or title allocated by an employer in accordance with section twelve of this Act to an office which became vacant after the date on which the award or agreement applicable to the office took effect but on or before the date of the publication of the determination by which the salary or range of salary and title were so allocated;
- (hb) an appeal by the Association against the failure by an employer to include an office or a group of offices in a determination made and published by him in accordance with subsection (1) of section twelve of this Act; ; and

(e) by adding after subsection (1) a subsection as follows—

(1a) In determining—

(a) a claim relating to any matter referred to in paragraph (ca) of subsection (1) of this section; or

(b) an application submitted to him under section seventeen of this Act to vary an award in relation to any matter referred to in paragraph (ca) of subsection (1) of this section,

the Arbitrator shall not make an award which is, in any respect concerning hours of duty or leave of absence of any kind, more favourable than the hours of duty or leave of absence applicable to Government officers who are public service officers or temporary employees, as is appropriate to the particular case, under and within the meaning of the Public Service Act, 1904. .

3. Subsection (1) of section 12 of the principal Act is amended— S. 12
amended.

(a) by deleting the words, “the operative date thereof” in line eight, and substituting the words, “the award was made or the agreement entered into”; and

(b) by deleting paragraph (b) and substituting the following paragraph—

(b) make a determination, by notice published in the *Government Gazette*—

(i) allocating titles to those offices;

(ii) allocating to those offices such of the salaries or salary ranges contained in that award or agreement as he considers appropriate to those offices; and

- (iii) allocating, in any case where a range of salary is allocated pursuant to subparagraph (ii) of this paragraph to an office which was, at the date the award or the agreement took effect, occupied by a Government officer, a particular salary within that salary range to be applicable to that Government officer. .

S. 14
amended.

4. Section 14 of the principal Act is amended—

- (a) by substituting for the passage, “(d) or (e)” in line three of subsection (1), the passage, “, (ca), (d), (e) or (ea)”;
- (b) by adding after subsection (1) the following subsection—

(1a) The Association shall, within seven days of submitting a claim to an employer in accordance with subsection (1) of this section, cause a copy of the claim to be filed at the office of the Arbitrator for the information of the Arbitrator. ; and

- (c) by substituting for the words, “two months” in line three of subsection (2), the words, “one month”.

S. 15
amended.

5. Section 15 of the principal Act is amended—

- (a) by substituting for the word, “three” in line three of paragraph (b) of subsection (1), the word, “two”;

- (b) by repealing and re-enacting subsection (2) as follows—

(2) The Arbitrator shall forthwith forward to the employer affected by the claim—

(a) a copy of the claim; and

(b) a notice requiring the employer to lodge with the Arbitrator an answer to the claim within seven days after the receipt by the employer of the notice,

and the employer shall, within that period, lodge with the Arbitrator an answer to the claim. ; and

- (c) by adding after subsection (4) the following subsection—

(4a) In determining a claim submitted to him for his determination pursuant to subsection (1) of this section, the Arbitrator may determine that his award shall be deemed to have commenced to take effect on a day that preceded the date of the making of the award, but did not precede the day on which the claim was so submitted to him for his determination pursuant to subsection (1) of this section. .

6. Subsection (1) of section 16 of the principal Act is amended by adding after the passage, “(h)” in line four, the passage, “, (ha), (hb)”. S. 16
amended.

7. Section 17 of the principal Act is amended— S. 17
amended.

- (a) by substituting for the passage, “(d) or (e)” in lines six and seven of subsection (1), the passage, “(ca), (d), (e) or (ea)”;

- (b) by substituting for the words, "two months" in line eight of subsection (2), the words, "one month";
- (c) by adding after subsection (2) the following subsection—
 - (2a) The applicant shall, within seven days of submitting the application to the party affected thereby in accordance with subsection (2) of this section, cause a copy of the application to be filed at the office of the Arbitrator for the information of the Arbitrator. ; and
- (d) by substituting for the word, "three" in line three of paragraph (b) of subsection (3), the word, "two".

S. 18
amended.

8. Section 18 of the principal Act is amended—
- (a) by repealing and re-enacting subsection (1) as follows—
 - (1) Where an application is submitted to the Arbitrator for his determination pursuant to subsection (2) of section seventeen of this Act, the Arbitrator shall forthwith forward to the Association, or as the case may be, the employer, affected by the application—
 - (a) a copy of the application; and
 - (b) a notice requiring the Association or the employer to lodge with the Arbitrator an answer to the application within seven days after the receipt of the notice. ;
 - (b) by substituting for the words, "one month" in line three of subsection (2), the words, "seven days";

(c) by substituting for the word, "application" in line three of subsection (2), the words, "copy of the application and notice"; and

(d) by adding after subsection (4) the following subsection—

(5) In determining an application submitted to him for his determination pursuant to subsection (3) of section seventeen of this Act, the Arbitrator may determine that his decision to vary or alter the award shall be deemed to have commenced to take effect on a day that preceded the date of the making of the decision but did not precede the day on which the application was so submitted to him for his determination pursuant to subsection (3) of section seventeen of this Act. .

9. The principal Act is amended by adding after S. 23A added. section 23, the following section—

23A. Every agreement entered into under Agreements. this Act that has been filed in the prescribed manner shall—

(a) be binding on the parties who have executed the agreement; and

(b) be enforced in the same manner as an award, order or decision of the Arbitrator. .

10. Subsection (2) of section 24 of the principal Act is amended by adding after the word "Act" in line two, the passage, "or of any provision of an agreement duly entered into under this Act, and may amend the provision of an award for the purpose of remedying any defect therein or of giving proper effect thereto". S 24 amended.

S. 24A added.

11. The principal Act is amended by adding after section 24 the following section—

Compulsory conferences.

24A. (1) Whenever in the opinion of the Arbitrator it is desirable so to do for the purpose of preventing or settling a dispute or disagreement between an employer and the Association in relation to any of the matters concerning which a claim or application may be made under this Act, the Arbitrator may, at the request of an employer or the Association or on his own motion, direct a person, either orally or in writing, to attend at a time and place specified in the direction, at a conference presided over by the Arbitrator.

(2) Any conference convened by the Arbitrator under subsection (1) of this section shall be held in private unless the Arbitrator and all the parties at the conference otherwise agree.

(3) At any conference convened by the Arbitrator under subsection (1) of this section, the Arbitrator may examine the parties and may make all such suggestions and recommendations as he considers desirable for effecting a reconciliation and for preventing and settling any dispute.

(4) The Arbitrator may prepare a report in writing of any of the proceedings of any conference convened by him under subsection (1) of this section and shall forward a copy of any such report to each of the parties.

S. 26 amended.

12. Subsection (1) of section 26 of the principal Act is amended by substituting for the passage, "(d) or (e)" in line six, the passage, "(ca), (d), (e) or (ea)".

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13. Subsection (1) of section 27 of the principal Act is amended by substituting for the passage, ^{S. 27} amended. “(d) or (e)” in line three, the passage, “(ca), (d), (e) or (ea)”.
