

## INDUSTRIAL ARBITRATION.

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No. 47 of 1968.

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### AN ACT to amend the Industrial Arbitration Act, 1912-1966.

[Assented to 8th November, 1968.]

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:—

1. (1) This Act may be cited as the *Industrial Arbitration Act Amendment Act, 1968*. Short title and citation.

(2) In this Act the Industrial Arbitration Act, 1912-1966, is referred to as the principal Act. Vol. 18  
Reprinted  
Acts.  
Approved for  
reprint 22nd  
January,  
1964 as  
amended by  
Acts Nos. 63  
and 66 of  
1966.

(3) The principal Act as amended by this Act may be cited as the Industrial Arbitration Act, 1912-1968.

Commence-  
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

Amendment  
to s. 2.  
(Act divided  
into Parts.)

3. Section two of the principal Act is amended—

(a) by substituting for the passage “PART VII.—BASIC WAGE. Ss. 123-127A.” the passage “PART VII.—BASIC WAGE. Ss. 123-127F.”; and

(b) by substituting for the passage “PART X.—GOVERNMENT OFFICERS. Ss. 143-165.”, the passage “PART X.—EQUAL PAY FOR MALE AND FEMALE WORKERS. Ss. 143-146.” .

Part VII  
repealed and  
Part  
substituted.

4. Part VII of the principal Act is repealed and the following Part substituted—

PART VII.—BASIC WAGE.

Interpreta-  
tion.

123. In this Part, unless the contrary intention appears—

*Vide s.*  
154(4) Act  
No. 36 of  
1935.

“Attorney General” includes the Minister for Justice;

“basic wage” means that wage or that part of a wage which in the opinion of the Commission, is just and reasonable for a worker to whom it applies, without regard to the circumstances pertaining to the work upon which, or the industry in which, such worker is employed;

“commencing day” means the date on which the Industrial Arbitration Act Amendment Act, 1968, comes into operation;

“the Commission” means the Commission in Court Session;

“the Council” means the body known as the Trades and Labor Council of Western Australia;

“the Federation” means the body known as the Western Australian Employers’ Federation (Incorporated).

124. Notwithstanding the provisions of any Act other than this Act or any law but subject to this Part, it is hereby declared that on and from the commencing day—

Basic wage on and from commencing day.

- (a) the basic wage to be paid to male workers and the basic wage to be paid to female workers under any award or industrial agreement that is for the time being in force shall be deemed to be an amount of thirty-five dollars forty-five cents in the case of male workers and twenty-seven dollars eight cents, in the case of female workers; and
- (b) any provision of an award or industrial agreement under which the basic wage is deemed to have been increased by a special loading shall be of no effect.

125. Subject to this Part and for the purposes of this or any other Act, the Commission may at any time and from time to time, by order—

Determination and declaration of basic wage.

- (a) determine and declare a basic wage for male workers;
- (b) determine and declare a basic wage for female workers; and
- (c) vary any basic wage for the time being in force,

and any such basic wage so determined and declared or so varied shall be for all purposes, the basic wage for male workers or female workers throughout the State.

126. In determining a basic wage the Commission shall take into consideration—

Commission to consider certain matters in determining basic wage.

- (a) the amount that the Commission considers sufficient to enable the average worker to whom that basic wage shall apply, to live in reasonable comfort; and

- (b) the economic capacity of industry and any other matters (including rates of wages determined on economic grounds by any other person or body of persons authorised or required by a law of the Commonwealth or of another State of the Commonwealth to fix or determine the wages to be paid to workers) that, and to the extent that the Commission considers it relevant and advisable so to do, but not so as to reduce that basic wage below an amount considered necessary by the Commission to meet the requirements of paragraph (a) of this section and determined by the Commission without regard for the matters mentioned in this paragraph,

and in determining a basic wage the Commission is not bound by any previous decision that determines a minimum or basic wage, whether the decision is made under this Act or otherwise.

Power of  
Commission  
to act on  
own motion  
or that of  
specified  
persons.

127. (1) The Commission may exercise its jurisdiction under paragraphs (a) and (b) of section one hundred and twenty-five of this Act, either on its own motion or on the motion of the Council, the Federation or the Attorney General.

(2) Where the jurisdiction referred to in subsection (1) of this section is exercised by the Commission otherwise than on its own motion, a declaration of a basic wage for male workers, or, as the case may be, for female workers, resulting from the exercise of that jurisdiction shall be made so as to take effect only after the expiration of a period of twelve months after the last preceding declaration of a corresponding wage.

(3) When and as often as the Commission exercises the jurisdiction referred to in subsection (1) of this section—

- (a) the Council, the Federation and the Attorney General; and
- (b) any other person who, in the opinion of the Commission, has a sufficient interest in the proceedings before the Commission in the exercise of that jurisdiction and who obtains leave of the Commission,

may appear and be heard in those proceedings.

127A. (1) The jurisdiction conferred on the Commission under paragraph (c) of section one hundred and twenty-five shall be exercised only by the Commission on its own motion.

Power of  
Commission  
only to vary  
basic wage.

(2) The Commission shall review each basic wage declared pursuant to section one hundred and twenty-four or section one hundred and twenty-five of this Act that is for the time being in force not later than twelve months from—

- (a) the commencing day;
- (b) the day on which that basic wage was declared; or
- (c) the day on which that basic wage was last varied,

whichever is the latest, but any variation of that basic wage shall be made to take effect only after the expiration of such twelve months, unless in the opinion of the Commission there are special reasons existing in the circumstances of any particular case and it is just and equitable to otherwise determine.

(3) In exercising the jurisdiction referred to in this section, the Commission may inform itself in any way that appears to it to be just, but before determining the manner in which it will proceed to exercise that jurisdiction the Commission shall consult with the Council, the Federation and the Attorney General.

Power of  
Commission  
to allow  
costs.

127B. The Commission may, in respect of proceedings under this Part, allow to any person such reasonable costs as it thinks sufficient, and any costs so allowed are payable from moneys appropriated by Parliament for the purposes of this Act.

Operation  
and effect of  
declaration  
and varia-  
tion of basic  
wage.

127C. When and as often as a basic wage for male workers or a basic wage for female workers is declared or varied by or under this Part, the order of the Commission declaring or varying the basic wage—

- (a) shall operate and have effect, subject to this Part, from such date as the Commission determines and specifies in the order and shall remain in force until but not including the date on which the next such order of the Commission with respect to that basic wage operates and has effect;
- (b) shall, in accordance with its terms, be deemed to vary the basic wage for male workers or, as the case requires, the basic wage for female workers that is prescribed in any award or industrial agreement;
- (c) shall provide, where that basic wage has been increased, that payment of the amount by which the basic wage is increased may be delayed by any employer at his option until the end of the first pay period that commences after the publication of the order in the *Gazette*; and
- (d) shall be sent by the Commission to the Minister, who shall cause it to be published forthwith in the *Gazette*.

Basic wage  
to be  
written into  
award or  
industrial  
agreement.

127D. On and from the commencing day an award or industrial agreement shall not be made if it prescribes for male workers or female workers a lesser wage than the basic wage for male workers or, as the case may be, for female

workers that is in force by virtue of this Part, except in the case of junior, infirm or aged workers or apprentices.

127E. Nothing in this Part prevents the Commission, however constituted, from prescribing a minimum rate of wage for male workers or a minimum rate of wage for female workers under section ninety-four of this Act and, in the course of any proceedings under this Part, the Commission may, on its own motion, prescribe in any award or industrial agreement a minimum rate of wage for male workers or a minimum rate of wage for female workers or vary any minimum rate of wage relating to any such workers that is prescribed in any award or industrial agreement.

Saving of power of Commission to prescribe minimum wage.

127F. Nothing in this Part prevents the Commission, however constituted, from prescribing, which it is hereby authorised to do, a rate of wage, including a wage for female workers, junior workers or apprentices, by reference to a wage other than a basic wage.

Power of Commission to prescribe rate of wage for female workers, etc.

5. The principal Act is amended by adding after section one hundred and forty-two A the following Part—

Part X added.

#### PART X.—EQUAL PAY FOR MALE AND FEMALE WORKERS.

143. Subject to this Part, the Commission shall, upon application made therefor, insert by way of variation or otherwise, in any award or industrial agreement that fixes rates of wages for male and female workers performing work of the same or a like nature and of equal value, provisions for equal pay as between the sexes based upon the principles set out in this Part.

Equal pay for male and female workers in certain circumstances.

144. (1) Where the Commission is satisfied that male and female workers are performing work of the same or a like nature and of equal value, the same rates of wages shall, in the manner and within the time provided by subsection (3) of this section, be fixed irrespective of the sex of the workers.

Determination of equal pay for male and female workers.

(2) For the purpose of determining under this Part whether female workers are performing work of the same or a like nature and of equal value as male workers, the Commission shall, in addition to any other relevant matters, take into consideration whether the female workers are performing the same work or work of a like nature as male workers and doing the same range and volume of work as male workers and under the same conditions.

(3) The rates of wages of such female workers as are referred to in subsection (1) of this section shall be fixed by the Commission by removing the difference between the basic wage for male workers and the basic wage for female workers in such manner and at such times as the Commission thinks fit; but if an application is made pursuant to section one hundred and forty-three of this Act prior to the thirtieth day of June, nineteen hundred and seventy, that difference shall be removed no later than the first day of January, nineteen hundred and seventy-two.

*Saving.*

145. Except as provided in this Part, the provisions thereof do not limit or affect the powers, authorities, duties and functions conferred or imposed on the Commission by or under this Act in respect of rates of wages for female workers.

*Application  
of this Part  
of this Act.*

146. (1) This Part applies to and in respect of awards and industrial agreements that are in force and whether made before or after the coming into operation of the Industrial Arbitration Act Amendment Act, 1968.

(2) This Part does not apply to or in respect of those provisions of any award or industrial agreement that apply to persons engaged in work essentially or usually performed by female workers but upon which male workers may also be employed. .