

**INDUSTRIAL ARBITRATION (OIL INDUSTRY)
AMENDMENT ACT, 1980, No. 91**

New South Wales



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Act No. 91, 1980.

An Act to amend the Industrial Arbitration Act, 1940, to provide for the hearing and determination of industrial matters affecting certain employees in the oil industry. [Assented to, 1st May, 1980.]

Industrial Arbitration (Oil Industry) Amendment.

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

Short title. **1.** This Act may be cited as the "Industrial Arbitration (Oil Industry) Amendment Act, 1980".

Commence-ment. **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence upon such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 2, 1940. **3.** The Industrial Arbitration Act, 1940, is amended—

Sec. 2. (a) by inserting in section 2 after the matter relating to
(Division into Parts.) Division 4 of Part III the following matter :—

DIVISION 5.—*Oil Industry*—ss. 38A–38G.

Part III, Div. 5. (b) by inserting after Division 4 of Part III the following Division :—

DIVISION 5.—*Oil Industry*.

Interpre-tation. 38A. In this Division, except in so far as the context or subject-matter otherwise indicates or requires—

"commission" includes the commission in court session;

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“common negotiations” means negotiations that take place between the parties to a federal award for the oil industry in anticipation of the expiration of the award or in consequence of the service on the employer respondents to the award of a log of claims by the employee respondents to the award;

“Commonwealth Act” means the Conciliation and Arbitration Act 1904 of the Parliament of the Commonwealth, as amended by subsequent Acts of that Parliament;

“federal award” in relation to the oil industry means an award made under the Commonwealth Act and specified in Schedule 4 or any award made under that Act that extends or replaces an award so specified;

“industry standard” means any part of the subject-matter of a federal award for the oil industry as in force on the day appointed and notified under section 2 (2) of the Industrial Arbitration (Oil Industry) Amendment Act, 1980;

“joint sitting” means the commission and a Deputy President sitting together pursuant to an agreement under section 38E;

“oil industry industrial matter” means an industrial matter that pertains to the relations of a prescribed employer with prescribed employees of that employer;

“prescribed employee” means an employee who is, or is eligible to become, a member of the oil industry branch of the industrial union registered as the Australian Workers’ Union and is employed by a prescribed employer;

“prescribed employer” means Australian Lubricating Oil Refinery Limited, Australian Oil Refining Pty. Limited and Total Refineries Australia Limited;

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“Presidential Member” means a presidential member of the Australian Conciliation and Arbitration Commission.

Exclusive jurisdiction and powers of commission.

38B. (1) Notwithstanding any other provision of this Act, where, but for this section, any jurisdiction or powers in relation to an oil industry industrial matter would be exercisable by a conciliation commissioner, a conciliation committee or the chairman of a conciliation committee, the jurisdiction and powers may be exercised only by the commission constituted by one member or as the commission in court session.

(2) Section 30B does not operate to prevent the commission in court session from hearing and determining a matter at a joint sitting in accordance with this Division.

(3) Where, for the purposes of a joint sitting or of determining a question under section 38D, the commission is constituted by one member, an order, award, ruling or decision of the commission made at, or as a result of a hearing at, the joint sitting is, for the purposes of this Act, an order, award, ruling or decision of a member of the commission sitting alone.

Arrangements for execution of Division.

38C. The President of the commission may make such arrangements with the President of the Australian Conciliation and Arbitration Commission as are necessary or convenient for the execution of this Division.

Certain powers suspended during common negotiations.

38D. (1) The jurisdiction and powers conferred by this Act on the commission shall not, except to the extent provided by this section, be exercised in relation to an oil industry industrial matter that is the subject of common negotiations and has not been determined by agreement between the parties to the negotiations or by an order or award under the Commonwealth Act.

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(2) Where a question arises in relation to an industrial matter before the commission as to whether the industrial matter is an oil industry industrial matter referred to in subsection (1), the commission shall determine the question but shall not, unless the question arises as a result of a submission made to the commission, make its determination until it has conferred with a Presidential Member to ascertain his opinion on the matter.

(3) The commission may, in relation to an oil industry industrial matter referred to in subsection (1), exercise the jurisdiction and powers conferred by section 25 (1)–(3A).

38E. (1) Where an oil industry industrial matter ^{Joint} before the commission— _{sittings.}

- (a) has been the subject of common negotiations and has been determined by agreement between the parties to the negotiations or by an order or award under the Commonwealth Act; or
- (b) is not an oil industry industrial matter referred to in section 38D (1) and affects, or is likely to affect, industry standards,

the commission shall, pursuant to arrangements made under section 38C, consult a Presidential Member so that the commission and the Presidential Member may, between them, and without a hearing, decide whether the industrial matter should be heard and determined as a joint sitting.

(2) Where the commission and a Presidential Member—

- (a) agree to hear and determine an oil industry industrial matter at a joint sitting, the commission shall, in accordance with an arrangement under section 38C, take part in the joint sitting; or

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(b) do not so agree—the commission shall hear and determine the matter in accordance with the provisions of this Act other than this Division but, before making an order or award in relation to the matter, shall confer with the Presidential Member to ascertain his opinion on the matter.

(3) At, or after a hearing at, a joint sitting, the commission may make such order or award in relation to an industrial matter referred to in subsection (1) as it could make otherwise than at a joint sitting but, before making such an order or award, the commission shall confer with the Presidential Member taking part in the joint sitting to ascertain his opinion on the matter.

Appear-
ances.

38F. (1) An organisation specified in Schedule 3 is entitled to intervene, be represented and be heard before the commission for the purposes of section 38D or at a joint sitting under section 38E.

(2) The Governor may, by order published in the Gazette, amend Schedule 3 by omitting a name therefrom or by adding thereto the name of an employee or employer respondent to a federal award for the oil industry.

Procedure.

38G. Subject to any arrangements under section 38C, the procedure at a joint sitting under section 38E shall be such procedure under this Act as is determined by the commission and Presidential Member taking part in the joint sitting.

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(c) by inserting after Schedule 2 the following Schedules :— Schedules
3 and 4.

SCHEDULE 3.

Sec. 38F.

PART I.

Employee Respondents to Federal Oil Industry Awards.

The Amalgamated Metal Workers' and Shipwrights Union.
Australasian Society of Engineers.
The Australian Workers' Union.
Electrical Trades Union of Australia.
Federated Clerks Union of Australia.
The Federated Ironworkers' Association of Australia.
The Federated Storemen and Packers Union of Australia.
Transport Workers' Union of Australia.

PART II.

Employer Respondents to Federal Oil Industry Awards.

Altona Petrochemical Company Ltd.
Altona Petrochemical Company Pty Ltd.
Amoco Australia Limited.
Amoco Australia Pty Ltd.
Ampol Petroleum Limited.
Ampol Petroleum (Queensland) Pty Ltd.
Ampol Petroleum (Victoria) Pty Ltd.
Ampol Refineries Limited.
Australian Lubricating Oil Refinery Ltd.
Australian Oil Refining Pty Ltd.
BP Australia Limited.
BP (Fremantle) Ltd.
BP Petroleum Development Australia Pty Ltd.
BP Refinery (Kwinana) Pty Ltd.
BP Refinery (Westernport) Pty Ltd.
Caltex Oil (Aust.) Pty Ltd.
Castrol Australia Pty Ltd.
Esso Australia Ltd.
Essochem Aust. Ltd.
Liquefied Petroleum Gas Limited.
Mobil Oil Australia Limited.
Petroleum Refineries (Australia) Pty Ltd.
Shell Chemical (Aust.) Pty Ltd.
Shell Company of Australia Ltd.

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Shell Refining (Australia) Pty Ltd.
Sleigh, H.C. Limited.
South Coast Gas Co. Pty Ltd.
The Shell Co. of Aust. Ltd.
Total Australia Limited.

Sec. 38A.

SCHEDULE 4.

Federal Awards.

The Australian Workers' Union (Oil Companies) Award 1978.
Clerks (Oil Companies) Award 1978.
Engineering (Oil Companies) Award, 1978.
Storemen and Packers' (Oil Companies) Award, 1978.
Transport Workers (Oil Companies) Award 1978.
Storemen and Packers' (Oil Refineries) Award 1978.
