

## **INDUSTRIAL ARBITRATION (OIL INDUSTRY) AMENDMENT BILL, 1980**

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### **EXPLANATORY NOTE**

#### **(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Commonwealth Government has agreed to introduce legislation to exclude from the jurisdiction of the Australian Conciliation and Arbitration Commission ("the Australian commission") industrial matters affecting certain employees in oil refineries situated at Kurnell and Matraville.

The object of this Bill is to provide, in accordance with an agreement reached with the Commonwealth Government, for the procedure whereby the Industrial Commission of New South Wales ("the commission") will hear and determine those industrial matters.

The Bill proposes to insert Division 5 into Part III of the Industrial Arbitration Act, 1940.

The proposed Division contains the following provisions:—

Section 38A. Interpretation. This provision includes definitions of "common negotiations", "industry standard", "oil industry industrial matter" and "prescribed employee". References to "common negotiations" are references to the negotiations that take place between the parties to federal awards for the oil industry in anticipation of the expiration of those awards or that succeed the periodic service on the employer respondents to those awards of a log of claims by employee respondents to those awards. References to an "industry standard" are references to any part of the subject-matter of a federal award for the oil industry as in force at the commencement of the proposed Act. References to "oil industry industrial matter" are references to industrial matters affecting the relations of prescribed employees with their employers. References to "prescribed employees" are references to persons who are, or are eligible to become, members of the oil industry branch of the Australian Workers' Union and are employed at the refineries at Kurnell and Matraville.

Section 38B removes oil industry industrial matters from the jurisdiction of a conciliation commissioner, a conciliation committee or the chairman of a conciliation committee and clarifies certain procedural matters.

Section 38C enables the President of the commission to make arrangements with the President of the Australian commission with respect to the execution of the new Division.

Section 38D prohibits, except for the purpose of deciding jurisdiction or exercising conciliatory powers in the event of a dispute, the exercise by the commission of its jurisdiction in relation to an oil industry industrial matter that is still under negotiation in common negotiations.

Section 38E deals with joint sittings of the commission and a Presidential Member (the President or a Deputy President) of the Australian Commission. Where an oil industry industrial matter comes before the commission and it is a matter—

- (a) that was the subject of common negotiations but has been determined by agreement or federal award; or
- (b) is not the subject of common negotiations but affects, or might affect, industry standards,

the commission and a Presidential Member decide, without a hearing, whether they should hold a joint sitting to determine the matter. Whether or not a joint sitting is held, any order or award is made by the commission but, before making an order or award, the commission is required to ascertain the opinion of the Presidential Member.

Section 38F authorises any respondent to a federal award that affects the oil industry to intervene and be heard before the commission when it is dealing with an oil industry industrial matter.

Section 38G deals with the procedure at a joint sitting.

The Bill also proposes to insert in the Industrial Arbitration Act, 1940, Schedule 3 which specifies the employee and employer respondents to relevant federal awards and which may be amended by the Governor as occasion requires.

The Bill also contains provisions of a formal nature.

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1980 Act No. 10

**INDUSTRIAL ARBITRATION (OIL INDUSTRY)  
AMENDMENT BILL, 1980**

No. , 1980.

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**A BILL FOR**

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.

[MR HILLS—27 March, 1980.]

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*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 :—

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

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

10 (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.

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

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

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

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

DIVISION 5.—*Oil Industry.*

20 38A. In this Division, except in so far as the context or subject-matter otherwise indicates or requires— Interpre-  
tation.

"commission" includes the commission in court session;

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*Industrial Arbitration (Oil Industry) Amendment.*

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5 “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;

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

15 “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;

20 “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;

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

30 “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;

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



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*Industrial Arbitration (Oil Industry) Amendment.*

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

5 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.

Exclusive jurisdiction and powers of commission.

10 (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.

15 (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.

20 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.

Arrangements for execution of Division.

25 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.

Certain powers suspended during common negotiations.

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*Industrial Arbitration (Oil Industry) Amendment.*

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5 (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.

10 (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).

15 38E. (1) Where an oil industry industrial matter before the commission— Joint 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

20 (b) is not an oil industry industrial matter referred to in section 38D (1) and affects, or is likely to affect, industry standards,

25 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.

30 (2) Where the commission and a Presidential Member—

35 (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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*Industrial Arbitration (Oil Industry) Amendment.*

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5 (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.

10 (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.

15 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. <sup>Appear-</sup><sub>ances.</sub>

20 (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.

25 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. <sup>Procedure.</sup>



*Industrial Arbitration (Oil Industry) Amendment.*

(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.*

- 5 The Amalgamated Metal Workers' and Shipwrights Union.  
Australasian Society of Engineers.  
The Australian Workers' Union.  
Electrical Trades Union of Australia.  
10 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.*

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

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*Industrial Arbitration (Oil Industry) Amendment.*

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

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SCHEDULE 4.

Sec. 38A.

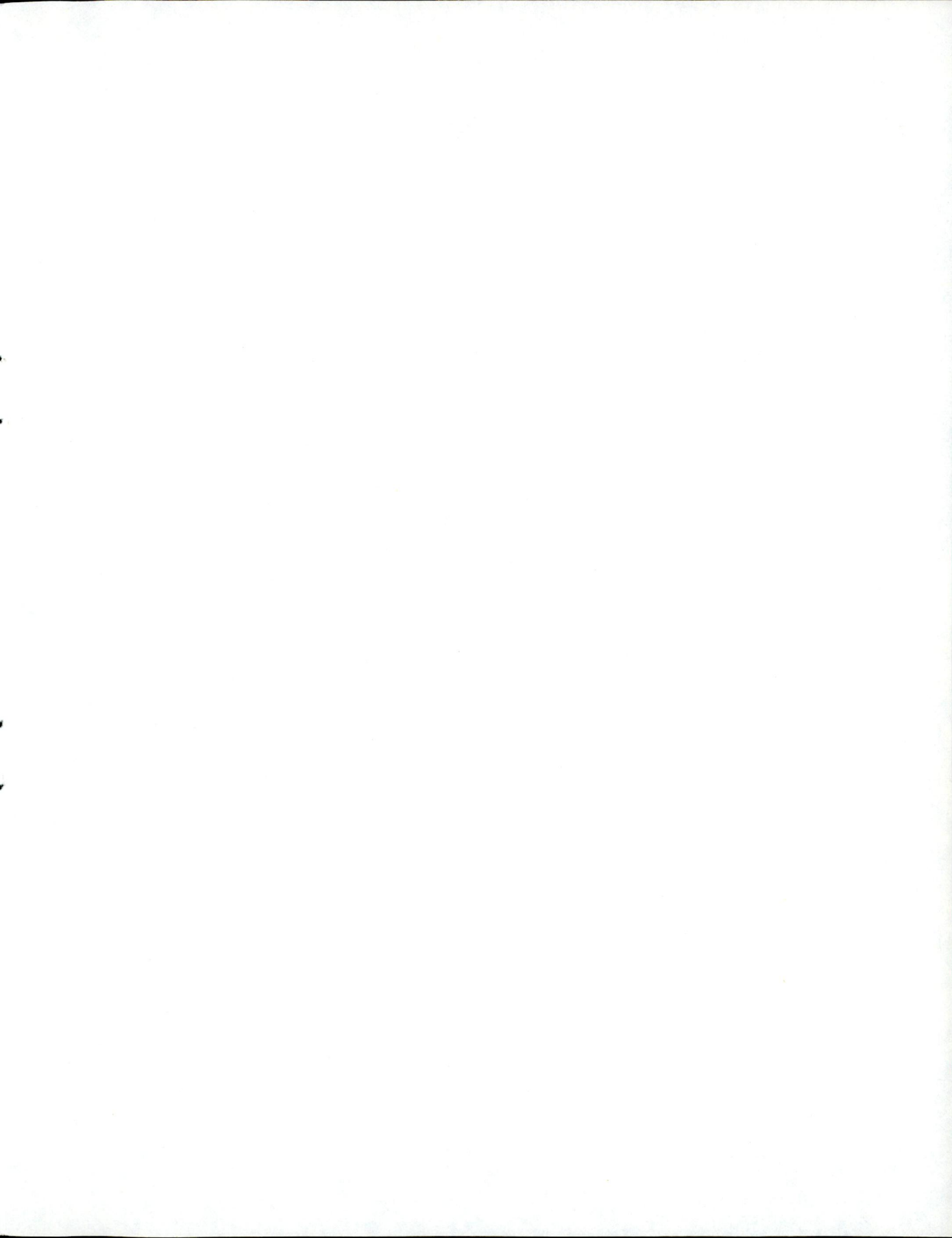
*Federal Awards.*

- 10      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.

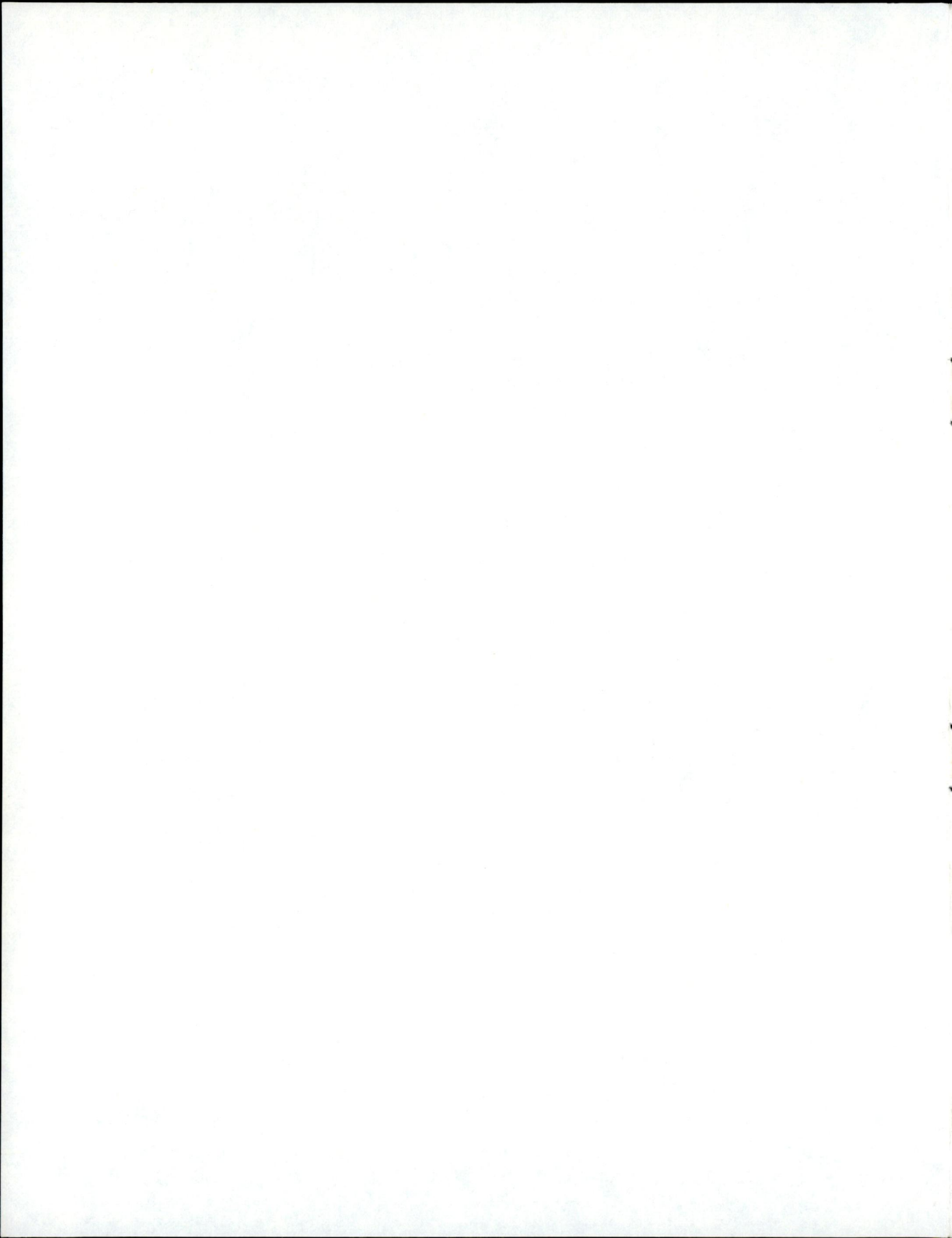
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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980  
(20c)







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

**New South Wales**



ANNO VICESIMO NONO

**ELIZABETHÆ II REGINÆ**

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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.]

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*Industrial Arbitration (Oil Industry) Amendment.*

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**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-      **2.** (1) This section and section 1 shall commence on the date  
ment.            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      **3.** The Industrial Arbitration Act, 1940, is amended—  
of Act No.  
2, 1940.

Sec. 2.  
(Division  
into  
Parts.)            (a) by inserting in section 2 after the matter relating to  
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-            38A. In this Division, except in so far as the context  
tation.            or subject-matter otherwise indicates or requires—

"commission" includes the commission in court  
session;



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*Industrial Arbitration (Oil Industry) Amendment.*

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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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*Industrial Arbitration (Oil Industry) Amendment.*

---

“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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*Industrial Arbitration (Oil Industry) Amendment.*

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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 before the commission— <sup>Joint sittings.</sup>

- (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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*Industrial Arbitration (Oil Industry) Amendment.*

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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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*Industrial Arbitration (Oil Industry) Amendment.*

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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.

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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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*Industrial Arbitration (Oil Industry) Amendment.*

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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.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 1st May, 1980.*

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1980