

**INDUSTRIAL ARBITRATION (WORKERS
COMPENSATION) AMENDMENT BILL 1987**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Workers Compensation Bill 1987.

The object of this Bill is to amend the Industrial Arbitration Act 1940—

- (a) to make it an offence to dismiss an employee within 6 months after the employee is incapacitated by a work related injury unless the incapacity is permanent;
- (b) to make provision for the reinstatement of an employee dismissed from employment because of a work related injury, but who has recovered; and
- (c) to clarify the powers of an industrial magistrate and the Industrial Commission to hear and determine proceedings for criminal offences under other Acts.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that, with minor exceptions, the proposed Act will commence on a day appointed by the Governor-in-Council.

Clause 3 is a formal provision that gives effect to the Schedules of amendments to the Principal Act.

Industrial Arbitration (Workers Compensation) Amendment 1987

SCHEDULE 1—AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
IN RESPECT OF THE PROTECTION OF INJURED EMPLOYEES.

Schedule 1 inserts proposed Part XV into the Principal Act (proposed sections 154–154k):

- (a) Proposed section 154 defines “injured employee” in the proposed Part to mean an employee who receives an injury as defined in the proposed Workers Compensation Act 1987 or who is entitled to compensation for a dust disease under the Workers’ Compensation (Dust Diseases) Act 1942.
- (b) Proposed section 154A deems an employer to have dismissed an employee if the employer imposes unreasonable conditions on employment which are intended to cause and which do cause the employee to resign.
- (c) Proposed section 154B prohibits an employer from dismissing an injured employee who is unfit for employment because of injury for at least 6 months after the employee became unfit unless there is medical evidence that the employee is permanently unfit for employment. It is a defence to a prosecution if the employee refuses or fails unreasonably to undergo a medical examination.
- (d) Proposed section 154C provides for an application by a dismissed injured employee to his or her employer for reinstatement to the employee’s former position. The application must be accompanied by medical evidence of fitness for employment.
- (e) Proposed section 154D empowers an appropriate tribunal (the Industrial Commission or a conciliation committee) to order the reinstatement of a dismissed injured employee who has been refused reinstatement under proposed section 154C.
- (f) Proposed section 154E creates a rebuttable presumption that an injured employee was dismissed because he or she was not fit for employment as a result of the injury received.
- (g) Proposed section 154F provides that reinstatement to a position includes reinstatement to a no less advantageous position.
- (h) Proposed section 154G provides for the referral by the appropriate tribunal to a medical panel or medical referee (under the proposed Workers Compensation Act 1987) of disputes concerning the condition or fitness of injured employees.
- (i) Proposed section 154H requires an employer, before employing a person in a former position of a dismissed injured employee, to warn the person that the dismissed employee may be entitled to be reinstated.
- (j) Proposed section 154I provides that the dismissal and subsequent reinstatement of an injured employee does not interrupt continuity of service with the employer.
- (k) Proposed section 154J provides that the proposed Part does not affect any rights of an employee under the Principal Act, any other Act or any award, agreement or contract of employment. The provisions of the proposed Part cannot be annulled, varied or excluded by a contract or agreement.

Industrial Arbitration (Workers Compensation) Amendment 1987

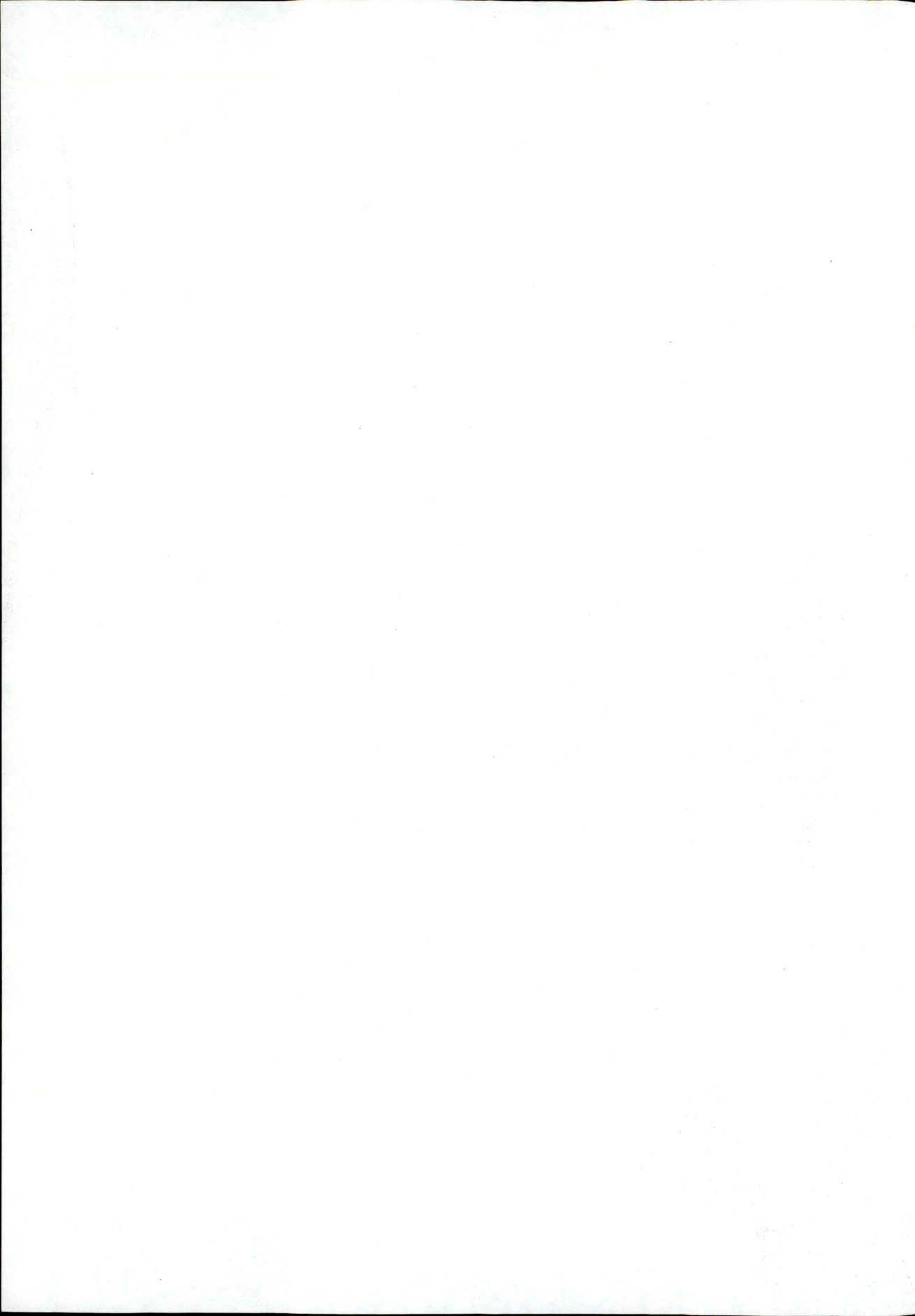
- (l) Proposed section 154k empowers the Governor to make regulations for the purposes of the proposed Part.

**SCHEDULE 2—AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE INDUSTRIAL
COMMISSION AND INDUSTRIAL MAGISTRATES**

Schedule 2 (1) inserts proposed Division 9 into Part III of the Principal Act (proposed sections 39–43)—

- (a) Proposed section 39 defines “criminal proceeding” in the proposed Division to mean an offence against the Occupational Health and Safety Act 1983 or the proposed Workers Compensation Act 1987 (and the regulations under those Acts) or any other offence which an Act provides may be prosecuted before the Industrial Commission;
- (b) Proposed section 40 makes it clear that the jurisdiction of the Industrial Commission includes the power to hear and determine such criminal proceedings. The provision is consequential on provisions in the Acts referred to in paragraph (a) which authorise the prosecution of offences before the Commission. The Commission’s jurisdiction in criminal proceedings may be exercised only by a judicial member.
- (c) Proposed section 41 grants to the Industrial Commission all the powers, authorities, duties and functions of an industrial magistrate in respect of criminal proceedings.
- (d) Proposed section 42 provides for an appeal from a decision of, and the stating of a case by, the Commission in criminal proceedings to the Commission in court session.
- (e) Proposed section 43 makes it clear that in criminal proceedings the Commission is bound by the rules of evidence.

Schedule 2 (2) makes it clear that the jurisdiction of an industrial magistrate includes criminal jurisdiction vested in an industrial magistrate under other Acts.



INDUSTRIAL ARBITRATION (WORKERS COMPENSATION) AMENDMENT BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 2, 1940

SCHEDULE 1—AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
IN RESPECT OF THE PROTECTION OF INJURED EMPLOYEES

SCHEDULE 2—AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE
INDUSTRIAL COMMISSION AND INDUSTRIAL MAGISTRATES

INDUSTRIAL ARBITRATION (WORKERS COMPENSATION) AMENDMENT BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Industrial Arbitration Act 1940 to make provision for the protection from dismissal of employees who suffer work related injuries and to make further provision for the criminal jurisdiction of industrial magistrates and the Industrial Commission.

Industrial Arbitration (Workers Compensation) Amendment 1987

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 Short title

1. This Act may be cited as the "Industrial Arbitration (Workers Compensation) Amendment Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this
10 Act.

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

Amendment of Act No. 2, 1940

15 3. The Industrial Arbitration Act 1940 is amended in the manner set forth in Schedules 1 and 2.

SCHEDULE 1

(Sec. 3)

**20 AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES**

Part XV—

After Part XIVA, insert:

PART XV

25 PROTECTION OF INJURED EMPLOYEES

Injured employee

154. In this Part—

"injured employee" means an employee who receives an injury,
being—

30 (a) an injury within the meaning of the Workers Compensation Act 1987; or

SCHEDULE 1—*continued*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES—
continued

- (b) a dust disease for which the employee is entitled to receive compensation under the Workers' Compensation (Dust Diseases) Act 1942.

Dismissal

5 154A. For the purposes of this Part, an employer shall be deemed to have dismissed an employee if—

- (a) the employer imposes any unreasonable condition on employment which is designed to make the employee leave the employment; and
- 10 (b) the employee leaves the employment.

Dismissal an offence

15 154B. (1) An employer shall not dismiss an injured employee after the commencement of this section solely or principally because the employee is not fit for employment in a position as a result of the injury received, unless—

- (a) at least 6 months have elapsed since the employee first became unfit for employment; or
- 20 (b) the employer believes (at the time of dismissal) on the basis of a certificate issued by a legally qualified medical practitioner that the employee will be permanently unfit for employment in the position concerned.

Penalty: \$10,000.

25 (2) It is a defence to a prosecution under this section if the employer satisfies the court that at the time of dismissal the employee would not undergo a medical examination reasonably required to determine fitness for employment.

(3) This section applies even if the employee became unfit for employment before the commencement of this section.

Industrial Arbitration (Workers Compensation) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES—
continued

Application to employer for reinstatement

5 154C. (1) If an injured employee is dismissed because he or she is not fit for employment in a position as a result of the injury received, the employee may apply to the employer for reinstatement to his or her former position.

(2) An injured employee's former position is—

(a) the position from which the employee was dismissed; or

10 (b) if the employee was transferred to a less advantageous position before dismissal, the position which the employee held when he or she became unfit for employment,

at the option of the employee.

(3) The employee must produce to the employer a certificate given by a legally qualified medical practitioner to the effect that the employee is fit for employment in the former position.

15 (4) This section does not apply to a dismissal which occurred before the commencement of this section.

Order for reinstatement

154D. (1) In this section—

“appropriate tribunal” means—

20 (a) the commission; or

(b) a conciliation committee to which is assigned the relevant industry or calling.

25 (2) If an employer refuses or fails under section 154C to reinstate an employee forthwith, the employee may apply to an appropriate tribunal for a reinstatement order.

(3) The secretary of an industrial union of which the employee is a member may make the application on behalf of the employee.

*Industrial Arbitration (Workers Compensation) Amendment 1987*SCHEDULE 1—*continued*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES—
continued

(4) On such an application, the appropriate tribunal may order the employer to reinstate the employee, in accordance with the terms of the order, if the tribunal is satisfied that the employee is fit for employment in the position concerned.

5 **Presumption as to reason for dismissal**

154E. (1) In proceedings for a reinstatement order it shall be presumed that the injured employee was dismissed because he or she was not fit for employment in the position as a result of the injury received.

10 (2) That presumption is rebutted if the employer satisfies the appropriate tribunal that the employee was dismissed for reasons not solely or principally related to the injury.

Reinstatement

15 154F. For the purposes of this Part, it is sufficient reinstatement of an employee to a position if the employee is reinstated to another position which is no less advantageous to the employee.

Disputes as to fitness—medical panels and referees

20 154G. (1) The appropriate tribunal may refer to a medical referee or a medical panel (established under the Workers Compensation Act 1987) any dispute as to the employee's condition and fitness for employment.

(2) The referee or panel shall submit a report to the appropriate tribunal in accordance with the terms of the reference.

25 **Duty to inform replacement employee**

154H. An employer shall not employ a person in the former position of a dismissed injured employee unless the employer has informed the person that the dismissed employee may be entitled to be reinstated to the position under this Part.

30 Penalty: \$1,000.

SCHEDULE 1—*continued*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES—
*continued***Continuity of service of reinstated employee**

5 154i. (1) If an employee is reinstated to a position under this Part, the dismissal and subsequent reinstatement of the employee shall not, for any purpose, be regarded as interrupting or otherwise affecting the continuity of the service by the employee with the employer.

(2) The period between dismissal and reinstatement shall not be taken into account in calculating for any purpose the period of service of the employee with the employer.

Other provisions not affected

10 154j. (1) This Part does not affect any other rights of a dismissed employee under this or any other Act or under any award, agreement or contract of employment.

15 (2) No contract or agreement, made or entered into before or after the commencement of this section, shall operate to annul, vary or exclude any of the provisions of this Part.

Regulations

20 154k. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Part is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) A regulation may create an offence punishable by a penalty not exceeding \$500.

SCHEDULE 2

(Sec. 3)

5 AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
 CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE
 INDUSTRIAL COMMISSION AND INDUSTRIAL MAGISTRATES

(1) Part III, Division 9—

At the end of Part III, insert:

DIVISION 9—*Special criminal jurisdiction of commission***Interpretation**

10 39. In this Division—

“criminal proceeding” means a proceeding for any of the following offences:

An offence against the Occupational Health and Safety Act 1983 or the regulations under that Act.

15 An offence against the Workers Compensation Act 1987 or the regulations under that Act.

Any other offence which an Act provides may be prosecuted before the commission.

Jurisdiction of commission

20 40. (1) The jurisdiction of the commission includes the power to hear and determine criminal proceedings.

(2) That jurisdiction may be exercised only by a judicial member of the commission.

Powers of commission in criminal proceedings

25 41. For the purposes of hearing and determining a criminal proceeding, the commission shall have and may exercise all the powers, authorities, duties and functions of an industrial magistrate in relation to such a proceeding.

SCHEDULE 2—*continued*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE
INDUSTRIAL COMMISSION AND INDUSTRIAL MAGISTRATES—
*continued***Appeal etc.**

42. (1) An appeal lies to the commission in court session from any order of the commission in a criminal proceeding imposing a penalty, ordering the payment of a penalty or ordering that the proceeding be dismissed for any reason.

(2) The commission may, on application by any party to a criminal proceeding, state a case for the opinion of the commission in court session, setting forth the facts and the grounds for any conviction made by the commission.

(3) Section 120 applies to an appeal from an order of, and the stating of a case by, the commission in a criminal proceeding to the commission in court session in the same way as it applies to an appeal from an order of, and the stating of a case by, an industrial magistrate to the commission.

Rules of evidence

43. Without limiting the operation of any other provision of this Division, the commission shall be bound by the rules of evidence in the exercise of its jurisdiction under this Division.

(2) Section 126 (**Industrial magistrate**)—

Section 126 (3)—

After section 126 (2), insert:

(3) The provisions of this Act and the regulations relating to proceedings before an industrial magistrate and to appeals from, and the stating of a case by, an industrial magistrate to the commission apply in respect of proceedings before an industrial magistrate for any of the following offences:

An offence against the Occupational Health and Safety Act 1983 or the regulations under that Act.

An offence against the Workers Compensation Act 1987 or the regulations under that Act.

Industrial Arbitration (Workers Compensation) Amendment 1987

SCHEDULE 2—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE
INDUSTRIAL COMMISSION AND INDUSTRIAL MAGISTRATES—
continued

Any other offence which an Act provides may be prosecuted
before an industrial magistrate.



**INDUSTRIAL ARBITRATION (WORKERS
COMPENSATION) AMENDMENT ACT 1987 No. 77**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 2, 1940

SCHEDULE 1—AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
IN RESPECT OF THE PROTECTION OF INJURED EMPLOYEES

SCHEDULE 2—AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE
INDUSTRIAL COMMISSION AND INDUSTRIAL MAGISTRATES

**INDUSTRIAL ARBITRATION (WORKERS COMPENSATION)
AMENDMENT ACT 1987 No. 77**

NEW SOUTH WALES



Act No. 77, 1987

An Act to amend the Industrial Arbitration Act 1940 to make provision for the protection from dismissal of employees who suffer work related injuries and to make further provision for the criminal jurisdiction of industrial magistrates and the Industrial Commission. [Assented to 10 June 1987]

Industrial Arbitration (Workers Compensation) Amendment 1987

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 (Workers Compensation) Amendment Act 1987".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

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

Amendment of Act No. 2, 1940

3. The Industrial Arbitration Act 1940 is amended in the manner set forth in Schedules 1 and 2.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES

Part XV—

After Part XIVA, insert:

PART XV

PROTECTION OF INJURED EMPLOYEES

Injured employee

154. In this Part—

"injured employee" means an employee who receives an injury, being—

- (a) an injury within the meaning of the Workers Compensation Act 1987; or

Industrial Arbitration (Workers Compensation) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES—
continued

- (b) a dust disease for which the employee is entitled to receive compensation under the Workers' Compensation (Dust Diseases) Act 1942.

Dismissal

154A. For the purposes of this Part, an employer shall be deemed to have dismissed an employee if—

- (a) the employer imposes any unreasonable condition on employment which is designed to make the employee leave the employment; and
- (b) the employee leaves the employment.

Dismissal an offence

154B. (1) An employer shall not dismiss an injured employee after the commencement of this section solely or principally because the employee is not fit for employment in a position as a result of the injury received, unless—

- (a) at least 6 months have elapsed since the employee first became unfit for employment; or
- (b) the employer believes (at the time of dismissal) on the basis of a certificate issued by a legally qualified medical practitioner that the employee will be permanently unfit for employment in the position concerned.

Penalty: \$10,000.

(2) It is a defence to a prosecution under this section if the employer satisfies the court that at the time of dismissal the employee would not undergo a medical examination reasonably required to determine fitness for employment.

(3) This section applies even if the employee became unfit for employment before the commencement of this section.

Industrial Arbitration (Workers Compensation) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES—
continued

Application to employer for reinstatement

154C. (1) If an injured employee is dismissed because he or she is not fit for employment in a position as a result of the injury received, the employee may apply to the employer for reinstatement to his or her former position.

(2) An injured employee's former position is—

- (a) the position from which the employee was dismissed; or
- (b) if the employee was transferred to a less advantageous position before dismissal, the position which the employee held when he or she became unfit for employment,

at the option of the employee.

(3) The employee must produce to the employer a certificate given by a legally qualified medical practitioner to the effect that the employee is fit for employment in the former position.

(4) This section does not apply to a dismissal which occurred before the commencement of this section.

Order for reinstatement

154D. (1) In this section—

“appropriate tribunal” means—

- (a) the commission; or
- (b) a conciliation committee to which is assigned the relevant industry or calling.

(2) If an employer refuses or fails under section 154C to reinstate an employee forthwith, the employee may apply to an appropriate tribunal for a reinstatement order.

(3) The secretary of an industrial union of which the employee is a member may make the application on behalf of the employee.

Industrial Arbitration (Workers Compensation) Amendment 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES—
continued

(4) On such an application, the appropriate tribunal may order the employer to reinstate the employee, in accordance with the terms of the order, if the tribunal is satisfied that the employee is fit for employment in the position concerned.

Presumption as to reason for dismissal

154E. (1) In proceedings for a reinstatement order it shall be presumed that the injured employee was dismissed because he or she was not fit for employment in the position as a result of the injury received.

(2) That presumption is rebutted if the employer satisfies the appropriate tribunal that the employee was dismissed for reasons not solely or principally related to the injury.

Reinstatement

154F. For the purposes of this Part, it is sufficient reinstatement of an employee to a position if the employee is reinstated to another position which is no less advantageous to the employee.

Disputes as to fitness—medical panels and referees

154G. (1) The appropriate tribunal may refer to a medical referee or a medical panel (established under the Workers Compensation Act 1987) any dispute as to the employee's condition and fitness for employment.

(2) The referee or panel shall submit a report to the appropriate tribunal in accordance with the terms of the reference.

Duty to inform replacement employee

154H. An employer shall not employ a person in the former position of a dismissed injured employee unless the employer has informed the person that the dismissed employee may be entitled to be reinstated to the position under this Part.

Penalty: \$1,000.

SCHEDULE 1—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940 IN
RESPECT OF THE PROTECTION OF INJURED EMPLOYEES—
continued

Continuity of service of reinstated employee

154i. (1) If an employee is reinstated to a position under this Part, the dismissal and subsequent reinstatement of the employee shall not, for any purpose, be regarded as interrupting or otherwise affecting the continuity of the service by the employee with the employer.

(2) The period between dismissal and reinstatement shall not be taken into account in calculating for any purpose the period of service of the employee with the employer.

Other provisions not affected

154j. (1) This Part does not affect any other rights of a dismissed employee under this or any other Act or under any award, agreement or contract of employment.

(2) No contract or agreement, made or entered into before or after the commencement of this section, shall operate to annul, vary or exclude any of the provisions of this Part.

Regulations

154k. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Part is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) A regulation may create an offence punishable by a penalty not exceeding \$500.

SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE
INDUSTRIAL COMMISSION AND INDUSTRIAL MAGISTRATES

(1) Part III, Division 9—

At the end of Part III, insert:

DIVISION 9—*Special criminal jurisdiction of commission***Interpretation**

39. In this Division—

“criminal proceeding” means a proceeding for any of the following offences:

An offence against the Occupational Health and Safety Act 1983 or the regulations under that Act.

An offence against the Workers Compensation Act 1987 or the regulations under that Act.

Any other offence which an Act provides may be prosecuted before the commission.

Jurisdiction of commission

40. (1) The jurisdiction of the commission includes the power to hear and determine criminal proceedings.

(2) That jurisdiction may be exercised only by a judicial member of the commission.

Powers of commission in criminal proceedings

41. For the purposes of hearing and determining a criminal proceeding, the commission shall have and may exercise all the powers, authorities, duties and functions of an industrial magistrate in relation to such a proceeding.

SCHEDULE 2—*continued*AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE
INDUSTRIAL COMMISSION AND INDUSTRIAL MAGISTRATES—
*continued***Appeal etc.**

42. (1) An appeal lies to the commission in court session from any order of the commission in a criminal proceeding imposing a penalty, ordering the payment of a penalty or ordering that the proceeding be dismissed for any reason.

(2) The commission may, on application by any party to a criminal proceeding, state a case for the opinion of the commission in court session, setting forth the facts and the grounds for any conviction made by the commission.

(3) Section 120 applies to an appeal from an order of, and the stating of a case by, the commission in a criminal proceeding to the commission in court session in the same way as it applies to an appeal from an order of, and the stating of a case by, an industrial magistrate to the commission.

Rules of evidence

43. Without limiting the operation of any other provision of this Division, the commission shall be bound by the rules of evidence in the exercise of its jurisdiction under this Division.

(2) Section 126 (**Industrial magistrate**)—

Section 126 (3)—

After section 126 (2), insert:

(3) The provisions of this Act and the regulations relating to proceedings before an industrial magistrate and to appeals from, and the stating of a case by, an industrial magistrate to the commission apply in respect of proceedings before an industrial magistrate for any of the following offences:

An offence against the Occupational Health and Safety Act 1983 or the regulations under that Act.

An offence against the Workers Compensation Act 1987 or the regulations under that Act.

Industrial Arbitration (Workers Compensation) Amendment 1987

SCHEDULE 2—*continued*

AMENDMENTS TO THE INDUSTRIAL ARBITRATION ACT 1940
CONCERNING THE SPECIAL CRIMINAL JURISDICTION OF THE
INDUSTRIAL COMMISSION AND INDUSTRIAL MAGISTRATES—
continued

Any other offence which an Act provides may be prosecuted
before an industrial magistrate.

