

## Industrial Relations Amendment Bill 2018

### Contents

<b>Part 1 — Preliminary</b>		
1.	Short title	2
2.	Commencement	2
<b>Part 2 — <i>Industrial Relations Act 1979</i> amended</b>		
3.	Act amended	3
4.	Section 7 amended	3
5.	Section 8 amended	4
6.	Section 9 amended	5
7.	Section 10 amended	5
8.	Section 11 amended	5
9.	Section 13 replaced	5
	13. Protection of commissioners and others	5
10.	Section 14 amended	6
11.	Section 14A amended	6
12.	Section 14B amended	7
13.	Section 15 amended	8
14.	Section 16 amended	8
15.	Section 16A amended	8
16.	Section 17 amended	9
17.	Section 18 amended	9
18.	Section 19 replaced	10
	19. Duty of commissioners	10
19.	Section 20 amended	10
20.	Section 21 amended	11
21.	Section 22 amended	11
22.	Section 27 amended	12
23.	Section 29AA amended	12
24.	Section 34 amended	12

**Contents**

---

25.	Section 35 amended	13
26.	Section 36 replaced	14
	36. Copy of decision must be given to parties and be available for inspection	14
27.	Section 39 amended	15
28.	Section 49 amended	15
29.	Section 49E amended	16
30.	Section 53 amended	17
31.	Section 54 amended	17
32.	Section 55 amended	17
33.	Section 58 amended	18
34.	Section 59 amended	19
35.	Section 60 amended	19
36.	Section 62 amended	19
37.	Section 66 amended	20
38.	Section 68 amended	21
39.	Section 69 amended	21
40.	Section 71 amended	22
41.	Section 72 amended	23
42.	Section 72A amended	23
43.	Section 73 amended	25
44.	Section 76 deleted	27
45.	Section 80D amended	28
46.	Section 80E amended	28
47.	Section 80H amended	29
48.	Section 80K amended	29
49.	Section 80L amended	29
50.	Section 80R amended	30
51.	Section 80V amended	30
52.	Section 80ZF replaced	31
	80ZF. Term used: Fair Work Commission	31
53.	Section 80ZG amended	31
54.	Section 80ZH amended	32
55.	Section 80ZI amended	32
56.	Section 81B amended	33
57.	Section 90 amended	33
58.	Section 92 amended	33
59.	Section 98 amended	34
60.	Section 99D amended	34
61.	Section 106 amended	34
62.	Section 113 amended	34

63.	Section 116 inserted	35
	116. Transitional provisions for <i>Industrial Relations Amendment Act 2018</i>	35
64.	Part VIII deleted	35
65.	Schedule 1 amended	35
66.	Schedule 6 inserted	35
	<b>Schedule 6 — Transitional provisions</b>	
	<b>Division 1 — Preliminary</b>	
	1. Terms used	35
	<b>Division 2 — Provisions for President</b>	
	2. Acting President: continuation in office	36
	3. Past President's pension entitlements	36
	4. Judicial notice of signature and appointment of President	36
	<b>Division 3 — Provisions for pending matters</b>	
	5. Pending matters	37
	6. Order under former s. 49 does not begin hearing of appeal	38
	7. Notices and applications under former s. 55	38
	8. Summonses under former s. 73	38
	<b>Part 3 — Consequential amendments to other Acts</b>	
67.	<i>Constitution Acts Amendment Act 1899</i> amended	40
68.	<i>Equal Opportunity Act 1984</i> amended	40
69.	<i>Juries Act 1957</i> amended	40
70.	<i>Police Act 1892</i> amended	40
71.	<i>Prisons Act 1981</i> amended	41
72.	<i>Young Offenders Act 1994</i> amended	43



Western Australia

LEGISLATIVE ASSEMBLY

## **Industrial Relations Amendment Bill 2018**

**A Bill for**

**An Act to amend the *Industrial Relations Act 1979* and to make consequential amendments to various Acts.**

The Parliament of Western Australia enacts as follows:

1  
2  
3  
4  
5  
6  
7  
8

**Part 1 — Preliminary**

**1. Short title**

This is the *Industrial Relations Amendment Act 2018*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

1           **Part 2 — *Industrial Relations Act 1979* amended**

2   **3.       Act amended**

3           This Part amends the *Industrial Relations Act 1979*.

4   **4.       Section 7 amended**

5   (1) In section 7(1) delete the following definitions:

6           ***Fair Work Australia***

7           ***member of the Commission***

8           ***President***

9           ***secondary office***

10 (2) In section 7(1) insert in alphabetical order:

11

12           ***Fair Work Commission*** means the body established by  
13           the *Fair Work Act 2009* (Commonwealth) section 575;

14           ***presiding commissioner***, of the Full Bench, means the  
15           presiding commissioner under section 15(1A);

16           ***secondary office***, in relation to a person who holds the  
17           office of commissioner and is subsequently appointed  
18           to an office of the Fair Work Commission under  
19           section 14A, means the office of member of the Fair  
20           Work Commission;

21

22 (3) In section 7(1) in the definition of ***office*** paragraph (e) delete  
23           “Full Bench pursuant to” and insert:

24

25           Commission under

26

**s. 5**

---

1 (4) In section 7(1) in the definition of *registration* delete “Full  
2 Bench;” and insert:

3

4 Commission in Court Session;

5

6 (5) In section 7(4) delete “subsection (3)(b)” and insert:

7

8 subsection (3)

9

10 **5. Section 8 amended**

11 In section 8(2):

12 (a) delete “shall consist of the following members — ” and  
13 insert:

14

15 is to consist of —

16

17 (b) delete paragraph (a);

18 (c) delete “shall be” and insert:

19

20 are

21

22 (d) delete “in Her Majesty’s name.” and insert:

23

24 under the Public Seal of the State.

25

26 Note: The heading to amended section 8 is to read:

27

**Commission constituted**



1   **6.       Section 9 amended**

2       Delete section 9(1), (1aa) and (1a).

3       Note: The heading to amended section 9 is to read:

4               **Qualifications for appointment of Chief Commissioner**

5   **7.       Section 10 amended**

6       In section 10 delete “member of the Commission and each  
7       member of the Commission shall retire from his” and insert:

8

9       commissioner and each commissioner must retire from

10

11       Note: The heading to amended section 10 is to read:

12               **Age limit for commissioners**

13   **8.       Section 11 amended**

14       In section 11(1) delete “his office each member of the  
15       Commission shall make oath before a judge that he will  
16       faithfully and impartially perform the duties of his office and  
17       that he” and insert:

18

19       office each commissioner must make oath before a judge that  
20       the commissioner will faithfully and impartially perform the  
21       duties of office of commissioner and

22

23   **9.       Section 13 replaced**

24       Delete section 13 and insert:

25

26   **13.      Protection of commissioners and others**

27       Each of the following persons has the same protection  
28       and immunity as a judge has when performing  
29       functions of a judge —

**s. 10**

---

- 1 (a) a commissioner when performing the functions  
2 of a commissioner;
- 3 (b) an industrial magistrate appointed under  
4 section 81B when performing the functions of  
5 an industrial magistrate;
- 6 (c) a member of a Board of Reference referred to  
7 in section 48 when performing the functions of  
8 a member of a Board of Reference;
- 9 (d) a constituent authority or a member of a  
10 constituent authority, as the case requires, when  
11 performing the functions of a constituent  
12 authority or a member of a constituent  
13 authority.  
14

15 **10. Section 14 amended**

- 16 (1) Delete section 14(1).
- 17 (2) In section 14(3) delete “member of the Commission” (each  
18 occurrence) and insert:

19  
20 commissioner  
21

22 Note: The heading to amended section 14 is to read:

23 **Exercise of powers and jurisdiction of Commission**

24 **11. Section 14A amended**

25 In section 14A:

- 26 (a) delete “A person who is a member of the Commission”  
27 and insert:

28  
29 A commissioner  
30

- 1           (b) delete “Fair Work Australia,” and insert:  
2  
3           the Fair Work Commission,  
4  
5           (c) delete “the offices of member of the Commission” and  
6           insert:  
7  
8           the office of commissioner  
9  
10          (d) delete “Fair Work Australia but” and insert:  
11  
12          the Fair Work Commission but  
13

14 **12. Section 14B amended**

15 Delete section 14B(1) and insert:  
16

- 17           (1) As agreed from time to time by the Chief  
18           Commissioner and the President of the Fair Work  
19           Commission, a person who holds the office of  
20           commissioner and an office of member of the Fair  
21           Work Commission —  
22               (a) may perform the duties of the secondary office;  
23               and  
24               (b) may exercise, in relation to a particular  
25               matter —  
26                   (i) any powers that the person has as a  
27                   commissioner; and  
28                   (ii) any powers that the person has as a  
29                   member of the Fair Work Commission.  
30

**s. 13**

---

1 **13. Section 15 amended**

2 Delete section 15(1) and insert:

3

4 (1) The Full Bench is to be constituted by 3  
5 commissioners, at least 1 of whom must be the Chief  
6 Commissioner or the Senior Commissioner, sitting or  
7 acting together.

8 (1A) The presiding commissioner of the Full Bench is the  
9 most senior of the commissioners who constitute the  
10 Full Bench.

11

12 Note: The heading to amended section 15 is to read:

13 **Constitution of Full Bench and Commission in Court Session**

14 **14. Section 16 amended**

15 (1) In section 16(1aa) delete “members of the Commission.” and  
16 insert:

17

18 commissioners.

19

20 (2) Delete section 16(2)(c).

21 **15. Section 16A amended**

22 In section 16A(1) delete “member of the Commission” and  
23 insert:

24

25 commissioner

26

1     **16.     Section 17 amended**

2           (1) In section 17(1):

3                   (a) delete “member of the Commission is, or is expected to  
4                           be, unable to attend to his” and insert:

5

6                           commissioner is, or is expected to be, unable to attend to  
7                           their

8

9                   (b) delete “acting President,”

10          (2) Delete section 17(1a) and (1b).

11          (3) In section 17(2) delete “shall not be appointed acting President  
12               or acting Chief Commissioner unless he” and insert:

13

14                   must not be appointed acting Chief Commissioner unless the  
15                   person

16

17               Note: The heading to amended section 17 is to read:

18                           **Appointment of acting commissioners**

19     **17.     Section 18 amended**

20           (1) In section 18(1):

21                   (a) delete “member of the Commission” (each occurrence)  
22                           and insert:

23

24                           commissioner

25

26                   (b) delete “his period” and insert:

27

28                           the commissioner’s period

29

**s. 18**

---

1 (c) delete “enable him” and insert:

2

3 enable the commissioner

4

5 (d) delete “he has” and insert:

6

7 the commissioner has

8

9 (2) Delete section 18(3) and (4) and insert:

10

11 (3) The continuation in office of a retired commissioner  
12 under subsection (1) does not prevent the appointment  
13 of a person to fill the office from which the  
14 commissioner retired.

15 (4) The continuation in office of an acting commissioner  
16 under subsection (1) does not prevent the appointment  
17 of another person to act in the office in which the  
18 acting commissioner acted.

19

20 **18. Section 19 replaced**

21 Delete section 19 and insert:

22

23 **19. Duty of commissioners**

24 Each commissioner must keep acquainted with  
25 industrial affairs and conditions.

26

27 **19. Section 20 amended**

28 (1) Delete section 20(1).

1       (2) In section 20(2) delete “the members of the Commission, other  
2       than the President” and insert:

3

4               commissioners

5

6       (3) Delete section 20(8c), (8d), (11), (12) and (13).

7               Note: The heading to amended section 20 is to read:

8                       **Conditions of service of commissioners**

9       **20. Section 21 amended**

10               In section 21 delete “A member of the Commission may resign  
11               his office by writing under his hand” and insert:

12

13               A commissioner may resign office by writing

14

15       **21. Section 22 amended**

16       (1) In section 22(1) delete “the members of the Commission shall”  
17       and insert:

18

19               commissioners

20

21       (2) Delete section 22(2) and insert:

22

23               (2) The office of a commissioner becomes vacant if the  
24               commissioner —

25                       (a) is removed from office under subsection (1); or

26                       (b) retires under section 10 or resigns under  
27                       section 21; or

**s. 22**

---

- 1 (c) except with the approval of the Governor,  
2 accepts the office of member of the Fair Work  
3 Commission.  
4

5 **22. Section 27 amended**

- 6 (1) In section 27(1)(t) delete “thereof” and insert:  
7

8 of the matter, including any question of interpretation of the  
9 rules of an organisation arising in the matter,  
10

- 11 (2) Delete section 27(1)(u) and insert:  
12

- 13 (u) with the consent of the Chief Commissioner  
14 refer to the Full Bench for hearing and  
15 determination by the Full Bench any question  
16 of law arising in the matter, other than a  
17 question of interpretation of the rules of an  
18 organisation; and  
19

20 **23. Section 29AA amended**

- 21 In section 29AA(1) and (2) delete “Fair Work Australia” (each  
22 occurrence) and insert:  
23

24 the Fair Work Commission  
25

26 **24. Section 34 amended**

- 27 (1) Delete section 34(1) and (2) and insert:  
28

- 29 (1) The decision of the Commission must be made in the  
30 form of an award, order or declaration and must be



- 1 signed and dated at the time it is made —
- 2 (a) in the case of a decision made by the
- 3 Commission constituted by a single
- 4 commissioner — by the commissioner; or
- 5 (b) in the case of a decision of the Commission in
- 6 Court Session — by the most senior
- 7 commissioner of the commissioners who
- 8 constitute the Commission in Court Session; or
- 9 (c) in the case of a decision by the Full Bench or its
- 10 presiding commissioner — by the presiding
- 11 commissioner of the Full Bench.
- 12 (1A) A decision of the Commission must be sealed with the
- 13 seal of the Commission.
- 14 (2) When the commissioners who constitute the
- 15 Commission in Court Session are divided in opinion on
- 16 a question, the question must be decided according to
- 17 the decision of the majority of the commissioners.
- 18
- 19 (2) In section 34(3) delete “the President, the Full Bench or”.
- 20 (3) In section 34(4):
- 21 (a) delete “the President, the Full Bench or”;
- 22 (b) delete “question by any” and insert:
- 23
- 24 question by or in any
- 25

26 **25. Section 35 amended**

- 27 (1) Delete section 35(1) and insert:
- 28
- 29 (1A) In this section —
- 30 *final decision* means a decision, determination or
- 31 ruling in proceedings that finally decides, determines

**s. 26**

---

1 or disposes of the matter to which the proceedings  
2 relate.

3 (1) Subject to subsection (4), a final decision must, before  
4 it is made, be drawn up in the form of minutes which  
5 must be handed down to the parties concerned and,  
6 unless in any particular case the Commission otherwise  
7 determines, its reasons for decision must be published  
8 at the same time.

9 (1AB) Subsection (1) does not apply to an order made for the  
10 purposes of section 27(1)(a) or an order or declaration  
11 made under section 32(8).  
12

13 (2) In section 35(3) delete “they are delivered as the decision of the  
14 Commission.” and insert:

15  
16 the final decision is made in the terms of the minutes.  
17

18 **26. Section 36 replaced**

19 Delete section 36 and insert:  
20

21 **36. Copy of decision must be given to parties and be**  
22 **available for inspection**

- 23 (1) The Commission must, as soon as practicable after  
24 making a decision —  
25 (a) give a copy of the decision to each party to the  
26 proceeding; and  
27 (b) deposit a copy of the decision in the office of  
28 the Registrar.

- 1           (2) A copy of each decision of the Commission lodged in  
2           the office of the Registrar must be open to inspection  
3           without charge during office hours by any person  
4           interested.  
5

6   **27. Section 39 amended**

- 7           (1) Delete section 39(1) and (2) and insert:  
8

- 9           (1) An award comes into operation —  
10           (a) on the day on which it is made; or  
11           (b) on such day or days as the Commission fixes  
12           and specifies in the award.  
13

- 14          (2) In section 39(4) delete “delivered.” and insert:  
15

16           made.  
17

18   **28. Section 49 amended**

- 19          (1) In section 49(1):

- 20           (a) delete “this section” and insert:  
21

22                   subsections (2) to (6a)  
23

- 24           (b) delete “section 80ZE.” and insert:  
25

26                   section 80ZE or subsection (11).  
27

- 28          (2) Delete section 49(7).

**s. 29**

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- 1 (3) Delete section 49(8) and insert:  
2
- 3 (8) When the commissioners who constitute the Full  
4 Bench are divided on a question, the question must be  
5 decided according to the decision of a majority of them  
6 but, if their decisions on the question are equally  
7 divided, the question must be decided according to the  
8 decision of the presiding commissioner of the Full  
9 Bench.  
10
- 11 (4) In section 49(9) delete “President may state a case for the  
12 decision of the Court thereon and shall” and insert:  
13
- 14 presiding commissioner of the Full Bench may state a case for  
15 the decision of the Court and must  
16
- 17 (5) In section 49(10) delete “(7),”.
- 18 (6) Delete section 49(12) and insert:  
19
- 20 (12) For the purposes of hearing and determining an  
21 application under subsection (11) for an order in  
22 respect of a decision, the Commission must be  
23 constituted by the presiding commissioner of the Full  
24 Bench allocated the appeal against the decision.  
25
- 26 **29. Section 49E amended**
- 27 In section 49E(4) in the definition of *relevant person* delete  
28 paragraph (d) and insert:  
29
- 30 (d) a Registrar’s Department officer authorised in  
31 writing by the Registrar.  
32

1   **30.     Section 53 amended**

2       (1)   In section 53(1) delete “Full Bench.” and insert:

3

4           Commission in Court Session.

5

6       (2)   In section 53(2) delete “Full Bench if the Full Bench” and  
7       insert:

8

9           Commission in Court Session if it

10

11   **31.     Section 54 amended**

12       (1)   In section 54(1) delete “Full Bench.” and insert:

13

14           Commission in Court Session.

15

16       (2)   In section 54(2) delete “Full Bench if the Full Bench” and  
17       insert:

18

19           Commission in Court Session if it

20

21   **32.     Section 55 amended**

22       (1)   In section 55(2)(c) delete “Full Bench that he” and insert:

23

24           Commission in Court Session that the person

25

26       (2)   In section 55(3) delete “Full Bench” and insert:

27

28           Commission in Court Session

29

**s. 33**

---

1 (3) In section 55(4) delete “Full Bench is satisfied for the purposes  
2 of section 53(2) or 54(2), the Full Bench shall” and insert:

3

4 Commission in Court Session is satisfied for the purposes of  
5 section 53(2) or 54(2), the Commission in Court Session must

6

7 (4) In section 55(5):

8 (a) delete “Full Bench shall” and insert:

9

10 Commission in Court Session must

11

12 (b) delete “Full Bench is” and insert:

13

14 Commission in Court Session is

15

16 **33. Section 58 amended**

17 (1) In section 58(1):

18 (a) delete “Full Bench to register an organisation he shall”  
19 and insert:

20

21 Commission in Court Session to register an organisation  
22 the Registrar must

23

24 (b) delete “shall thereupon”.

25 (2) In section 58(2) and (3) delete “Full Bench” (each occurrence)  
26 and insert:

27

28 Commission in Court Session

29

- 1   **34.   Section 59 amended**
- 2       (1) In section 59(1):
- 3           (a) delete “Full Bench shall” and insert:
- 4
- 5                   Commission in Court Session must
- 6
- 7           (b) delete “Full Bench, likely” and insert:
- 8
- 9                   Commission in Court Session, likely
- 10
- 11       (2) In section 59(3) delete “Full Bench” and insert:
- 12
- 13                   Commission in Court Session
- 14
- 15   **35.   Section 60 amended**
- 16       In section 60(1) delete “Full Bench,” and insert:
- 17
- 18                   Commission in Court Session,
- 19
- 20   **36.   Section 62 amended**
- 21       (1) In section 62(2) delete “Full Bench.” and insert:
- 22
- 23                   Commission in Court Session.
- 24
- 25       (2) In section 62(3) delete “President, he” and insert:
- 26
- 27                   Chief Commissioner, the Registrar
- 28

**s. 37**

---

- 1 **37. Section 66 amended**
- 2 (1) In section 66(1):
- 3 (a) delete “President” and insert:
- 4
- 5 Chief Commissioner
- 6
- 7 (b) in paragraph (c) delete “his own” and insert:
- 8
- 9 the Registrar’s own
- 10
- 11 (2) In section 66(2):
- 12 (a) delete “President may make” and insert:
- 13
- 14 Chief Commissioner may make
- 15
- 16 (b) delete “he considers” and insert:
- 17
- 18 the Chief Commissioner considers
- 19
- 20 (c) in paragraph (a) delete “President — ” and insert:
- 21
- 22 Chief Commissioner —
- 23
- 24 (d) in paragraph (b) delete “President may direct; and” and
- 25 insert:
- 26
- 27 Chief Commissioner may direct; and
- 28



1           (e) in paragraph (ca), (e) and (f) delete “President” (each  
2           occurrence) and insert:

3

4                           Chief Commissioner

5

6           (3) Delete section 66(3), (7) and (8).

7           (4) Delete section 66(9) and insert:

8

9                           (9) The power of the Chief Commissioner under  
10                           subsection (2)(d) may, on a reference made under  
11                           section 27(1)(t), be exercised by the Commission in  
12                           Court Session.

13

14                           Note: The heading to amended section 66 is to read:

15   **Power of Chief Commissioner to deal with rules of organisation**

16   **38. Section 68 amended**

17                           In section 68 delete “Full Bench” and insert:

18

19                           Commission

20

21                           Note: The heading to amended section 67 is to read:

22   **Declaration as to certain functions**

23   **39. Section 69 amended**

24                           In section 69(12):

25                           (a) delete “his” and insert:

26

27   the

28

**s. 40**

---

1 (b) delete “Full Bench” and insert:

2

3 Commission in Court Session

4

5 **40. Section 71 amended**

6 (1) In section 71(2) delete “Full Bench,” and insert:

7

8 Commission in Court Session,

9

10 (2) In section 71(3):

11 (a) delete “Full Bench” and insert:

12

13 Commission in Court Session

14

15 (b) in paragraph (a) delete “his”.

16 (3) In section 71(7) delete “Full Bench” and insert:

17

18 Commission in Court Session

19

20 (4) In section 71(8):

21 (a) delete “Full Bench approves an agreement under  
22 subsection (7) the Registrar shall —” and insert:

23

24 Commission in Court Session approves an agreement  
25 under subsection (7) the Registrar must —

26

27 (b) in paragraph (b) delete “Full Bench” and insert:

28

29 Commission in Court Session

30

- 1       (5) In section 71(9):  
2             (a) in paragraph (a) delete “Full Bench; and” and insert:  
3  
4                     Commission in Court Session; and  
5  
6             (b) in paragraph (b) delete “he is” and insert:  
7  
8                     the Registrar is  
9
- 10       (6) In section 71(10) delete “Full Bench” (each occurrence) and  
11       insert:  
12  
13             Commission in Court Session  
14
- 15       **41. Section 72 amended**  
16             In section 72(1) delete “Full Bench.” and insert:  
17  
18             Commission in Court Session.  
19
- 20       **42. Section 72A amended**  
21       (1) In section 72A(2) delete “Full Bench” and insert:  
22  
23             Commission in Court Session  
24
- 25       (2) In section 72A(3):  
26             (a) delete “shall publish” and insert:  
27  
28                     must publish  
29

**s. 42**

---

- 1 (b) delete “shall not be listed for hearing before the Full  
2 Bench” and insert:  
3  
4 must not be listed for hearing before the Commission in  
5 Court Session  
6
- 7 (3) In section 72A(4) delete “Full Bench” and insert:  
8  
9 Commission in Court Session  
10
- 11 (4) In section 72A(5):  
12 (a) delete “Full Bench shall” and insert:  
13  
14 Commission in Court Session must  
15
- 16 (b) delete “the opinion of the Full Bench,” and insert:  
17  
18 its opinion,  
19
- 20 (5) In section 72A(6) delete “Full Bench is to refer the matter to the  
21 President unless the Full Bench” and insert:  
22  
23 Commission in Court Session must refer the matter to the Chief  
24 Commissioner unless it  
25
- 26 (6) In section 72A(7):  
27 (a) delete “President shall,” and insert:  
28  
29 Chief Commissioner must,  
30

1           (b) delete “President’s opinion, necessary to reflect the  
2           order made by the Full Bench.” and insert:

3  
4           Chief Commissioner’s opinion, necessary to reflect the  
5           order made by the Commission in Court Session.  
6

7           (7) In section 72A(8) delete “shall be made by instrument in writing  
8           signed by the President and shall take” and insert:

9  
10           must be made by instrument in writing signed by the Chief  
11           Commissioner and takes  
12

13   **43.   Section 73 amended**

14           (1) In section 73(1):

15                   (a) after “the Commission” insert:

16  
17                               constituted by a commissioner  
18

19                   (b) delete “Full Bench” and insert:

20  
21                               Commission in Court Session  
22

23           (2) In section 73(2):

24                   (a) delete “shall ascertain from the President” and insert:

25  
26                               must ascertain from the Chief Commissioner  
27

28                   (b) delete “date shall” and insert:

29  
30                               date must  
31

**s. 43**

---

- 1 (3) In section 73(6) delete “shall not be a member of the Full  
2 Bench.” and insert:  
3  
4 must not be one of the commissioners who constitute the  
5 Commission in Court Session for the purposes of this section.  
6
- 7 (4) In section 73(7):  
8 (a) delete “Full Bench that” and insert:  
9  
10 Commission in Court Session that  
11  
12 (b) delete “Full Bench —” and insert:  
13  
14 Commission in Court Session —  
15
- 16 (5) In section 73(7a)(c) delete “Full Bench” and insert:  
17  
18 Commission in Court Session  
19
- 20 (6) In section 73(7b):  
21 (a) delete “Full Bench that” and insert:  
22  
23 Commission in Court Session that  
24  
25 (b) delete “Full Bench —” and insert:  
26  
27 Commission in Court Session —  
28

1       (7) In section 73(8) and (9) delete “Full Bench” (each occurrence)  
2       and insert:

3

4               Commission in Court Session

5

6       (8) In section 73(10):

7               (a) delete “Full Bench considers” and insert:

8

9                       Commission in Court Session considers

10

11               (b) delete “by the Full Bench” and insert:

12

13                       by the Commission in Court Session

14

15               (c) delete “appear to the Full Bench” and insert:

16

17                       appear to it

18

19       (9) In section 73(12) delete “Full Bench shall” and insert:

20

21               Commission in Court Session must

22

23       **44. Section 76 deleted**

24               Delete section 76.

**s. 45**

---

1 **45. Section 80D amended**

2 Delete section 80D(1), (2) and (3) and insert:

3

4 (1) The Chief Commissioner —

5 (a) must appoint 1 commissioner as a public  
6 service arbitrator within the Commission; and

7 (b) may appoint 1 or more commissioners as  
8 additional public service arbitrators within the  
9 Commission.

10 (2) Without limiting subsection (1), the Chief  
11 Commissioner may be appointed as a public service  
12 arbitrator under that subsection.

13

14 **46. Section 80E amended**

15 Delete section 80E(6)(a) and (b) and insert:

16

17 (a) with the consent of the Chief Commissioner  
18 refer to the Commission in Court Session for  
19 hearing and determination by the Commission  
20 in Court Session —

21 (i) an industrial matter referred to in  
22 subsection (1) or any part of that  
23 industrial matter; or

24 (ii) any question of interpretation of the  
25 rules of an organisation arising in a  
26 matter before the Arbitrator;

27 and

28 (b) with the consent of the Chief Commissioner  
29 refer to the Full Bench for hearing and  
30 determination by the Full Bench any question  
31 of law arising in a matter before the Arbitrator,



1 other than a question of interpretation of the  
2 rules of an organisation,  
3

4 **47. Section 80H amended**

5 (1) Delete section 80H(3).

6 (2) In section 80H(4) delete “In the case of an appeal referred to in  
7 section 80I(1)(d) or (e), the” and insert:  
8

9 The  
10

11 (3) In section 80H(5) delete “subsections (3) and” and insert:  
12

13 subsection  
14

15 **48. Section 80K amended**

16 In section 80K(2) delete “shall be given in writing and shall be  
17 signed and delivered” and insert:  
18

19 must be given in writing and must be signed and dated at the  
20 time it is made  
21

22 **49. Section 80L amended**

23 In section 80L(1) delete “(3), (5) and (6),” and insert:  
24

25 (3) and (5),  
26

**s. 50**

---

1 **50. Section 80R amended**

2 Delete section 80R(3)(a) and (b) and insert:

3

4 (a) with the consent of the Chief Commissioner  
5 refer to the Commission in Court Session for  
6 hearing and determination by the Commission  
7 in Court Session —

8 (i) an industrial matter referred to in  
9 subsection (1) or any part of that  
10 industrial matter; or

11 (ii) any question of interpretation of the  
12 rules of an organisation arising in a  
13 matter before the Board;

14 and

15 (b) with the consent of the Chief Commissioner  
16 refer to the Full Bench for hearing and  
17 determination by the Full Bench any question  
18 of law arising in a matter before the Board,  
19 other than a question of interpretation of the  
20 rules of an organisation,

21

22 **51. Section 80V amended**

23 In section 80V(3) delete “shall be in the form of an award,  
24 order, determination or declaration and shall be signed and  
25 delivered” and insert:

26

27 must be in the form of an award, order, determination or  
28 declaration and must be signed and dated at the time it is made

29

1   **52.     Section 80ZF replaced**

2           Delete section 80ZF and insert:

3

4           **80ZF.   Term used: Fair Work Commission**

5           In this Part —

6           ***Fair Work Commission*** includes a member of the Fair  
7           Work Commission.

8

9   **53.     Section 80ZG amended**

10          (1)     Delete section 80ZG(1)(a) to (c) and insert:

11

- 12                   (a)   the Fair Work Commission; and
- 13                   (b)   the parties to an industrial dispute in relation to  
14                   which the Fair Work Commission is exercising  
15                   power; and
- 16                   (c)   any witness summoned by the Fair Work  
17                   Commission,

18

19          (2)     In section 80ZG(2) delete “Fair Work Australia,” and insert:

20

21                   the Fair Work Commission,

22

23          (3)     In section 80ZG(3) delete “Fair Work Australia” and insert:

24

25                   the Fair Work Commission

26

27           Note: The heading to amended section 80ZG is to read:

28                   **Joint proceedings of Commission and Fair Work Commission**

**s. 54**

---

1 **54. Section 80ZH amended**

2 (1) In section 80ZH(1) delete “Fair Work Australia to nominate a  
3 member of Fair Work Australia” and insert:

4  
5 the Fair Work Commission to nominate a member of the Fair  
6 Work Commission

7  
8 (2) In section 80ZH(2) delete “Fair Work Australia nominates a  
9 member of Fair Work Australia,” and insert:

10  
11 the Fair Work Commission nominates a member of the Fair  
12 Work Commission,

13  
14 (3) In section 80ZH(3) and (4) delete “Fair Work Australia” and  
15 insert:

16  
17 the Fair Work Commission

18  
19 Note: The heading to amended section 80ZH is to read:

20 **Referring matters to Fair Work Commission for determination**  
21 **under this Act**

22 **55. Section 80ZI amended**

23 (1) In section 80ZI(1) delete “he may, if that authority is willing,  
24 confer with that authority, or arrange for another member of the  
25 Commission” and insert:

26  
27 the Chief Commissioner may, if that authority is willing, confer  
28 with that authority, or arrange for another commissioner  
29

1       (2) In section 80ZI(2) delete “he may confer with Fair Work  
2       Australia” and insert:

3

4             the Chief Commissioner may confer with the Fair Work  
5       Commission

6

7       (3) In section 80ZI(3) delete “Fair Work Australia” and insert:

8

9             the Fair Work Commission

10

11   **56.     Section 81B amended**

12             In section 81B(2) and (4) delete “joint recommendation of the  
13       President and” and insert:

14

15             recommendation of

16

17   **57.     Section 90 amended**

18             In section 90(1) and (3) delete “President, the Full Bench, or”  
19       and insert:

20

21             Full Bench, the Commission on an application under  
22       section 49(11) or

23

24   **58.     Section 92 amended**

25             Delete section 92(4).

**s. 59**

---

1 **59. Section 98 amended**

2 In section 98(7) delete “subsection (1).” and insert:

3

4 subsection (2A).

5

6 **60. Section 99D amended**

7 In section 99D(5) delete “the Minister,” and insert:

8

9 the CEO,

10

11 **61. Section 106 amended**

12 In section 106(a)(ii) delete “President.”

13 **62. Section 113 amended**

14 (1) In section 113(1):

15 (a) delete “members of the Commission,” and insert:

16

17 other commissioners,

18

19 (b) in paragraph (a) after “prescribing” insert:

20

21 or providing for the approval of

22

23 (2) In section 113(2) after “prescribe” insert:

24

25 or provide for the approval of

26

1 **63. Section 116 inserted**

2 At the end of Part VII insert:

3

4 **116. Transitional provisions for *Industrial Relations***  
5 ***Amendment Act 2018***

6 (1) Schedule 6 sets out transitional provisions.

7 (2) Schedule 6 does not affect the operation of the  
8 *Interpretation Act 1984* Part V.

9

10 **64. Part VIII deleted**

11 Delete Part VIII.

12 **65. Schedule 1 amended**

13 (1) Delete Schedule 1 item 2(c).

14 (2) In Schedule 1 item 6 delete “Court, the President,” and insert:

15

16 Court

17

18 **66. Schedule 6 inserted**

19 After Schedule 5 insert:

20

21 **Schedule 6 — Transitional provisions**

22

[s. 116]

23

**Division 1 — Preliminary**

24 **1. Terms used**

25 In this Schedule —

- 1 *amended Act* means this Act as amended by the amending  
2 Act;
- 3 *amending Act* means the *Industrial Relations Amendment*  
4 *Act 2018*;
- 5 *commencement day* means the day on which the amending  
6 Act section 66 comes into operation;
- 7 *former*, in relation to a section, means the section as in force  
8 immediately before commencement day;
- 9 *former acting President* — see clause 2(1);
- 10 *matter* includes any application, reference, proceeding or  
11 appeal.

12 **Division 2 — Provisions for President**

13 **2. Acting President: continuation in office**

- 14 (1) A person who holds the office of acting President  
15 immediately before commencement day (the *former acting*  
16 *President*) may, for a period approved by the Minister,  
17 remain in office with the functions and entitlements of the  
18 former acting President for the purpose of completing any  
19 matter or inquiry not completed by the former acting  
20 President before commencement day.
- 21 (2) The Minister may extend, or further extend, the period  
22 approved under subclause (1) and may do so even if the  
23 period has expired.

24 **3. Past President's pension entitlements**

25 Despite the amendments made by the amending Act  
26 section 19(3), former section 20(12) and (13) continues to  
27 apply in relation to a person who held office as President or  
28 acting President before commencement day or the surviving  
29 spouse, de facto partner or child of that person.

30 **4. Judicial notice of signature and appointment of**  
31 **President**

32 All courts and persons acting judicially must take judicial  
33 notice of the official signature of every person who has



1                   remained in office under clause 2 or has at any time been or  
2                   acted in the office of President of the Commission under the  
3                   Act and of the fact that the person has held or acted in the  
4                   office.

5                   **Division 3 — Provisions for pending matters**

6                   **5. Pending matters**

7                   (1) In this clause —

8                   *Commission* means the Commission constituted by the  
9                   former acting President, or constituted including the former  
10                  acting President;

11                  *former Act* means the Act as in force immediately before  
12                  commencement day.

13                  (2) A matter is to be dealt with in accordance with the relevant  
14                  provisions of the amended Act if —

15                         (a) the matter was before the Commission immediately  
16                         before commencement day; but

17                         (b) the Commission had not begun to hear the matter.

18                  (3) Except as provided in subclauses (4) and (5), if the  
19                  Commission has begun or completed hearing a matter, but  
20                  has not finally determined the matter immediately before  
21                  commencement day, the matter is to continue to be dealt  
22                  with on or after that day in accordance with the relevant  
23                  provisions of the former Act.

24                  (4) A matter is to be dealt with in accordance with the relevant  
25                  provisions of the amended Act if —

26                         (a) the matter was before the Commission immediately  
27                         before commencement day; and

28                         (b) the Commission has begun or completed hearing a  
29                         matter, but has not finally determined the matter;  
30                         and

31                         (c) the former acting President is not in the office of  
32                         acting President immediately after commencement  
33                         day, or ceases to remain in office after  
34                         commencement day.

- 1 (5) The Chief Commissioner may, after consulting with the  
2 former acting President, direct that —
- 3 (a) subclause (3) does not apply to a matter specified in  
4 the direction; and
- 5 (b) the matter is to be dealt with in accordance with the  
6 relevant provisions of the amended Act.
- 7 (6) A direction under subclause (5) has effect in accordance  
8 with its terms.
- 9 **6. Order under former s. 49 does not begin hearing of**  
10 **appeal**
- 11 An appeal under section 49 has not commenced to be heard  
12 merely because an application for an order under  
13 section 49(11) in respect of the decision appealed against  
14 has been made, heard or determined.
- 15 **7. Notices and applications under former s. 55**
- 16 (1) If a notice published under former section 55(2) in relation  
17 to an application refers to the Full Bench, but on  
18 commencement day the Full Bench has not begun to hear  
19 the application, the reference is taken to be a reference to the  
20 Commission in Court Session.
- 21 (2) If the hearing of an application made under former  
22 section 55 has not begun immediately before  
23 commencement day, the application must be dealt with  
24 under section 55 of the amended Act.
- 25 **8. Summonses under former s. 73**
- 26 (1) In this clause —  
27 *former section 73 summons* means a summons issued under  
28 former section 73.
- 29 (2) A former section 73 summons to appear before the Full  
30 Bench on a date that is on or after commencement day —
- 31 (a) is taken to be a summons issued under section 73 of  
32 the amended Act to appear before the Commission  
33 in Court Session on that date; and

1  
2  
3  
4  
5

(b) is to be dealt with under the amended Act as if it were a summons issued under section 73 of the amended Act to appear before the Commission in Court Session.

1 **Part 3 — Consequential amendments to other Acts**

2 **67. Constitution Acts Amendment Act 1899 amended**

3 (1) This section amends the *Constitution Acts Amendment Act 1899*.

4 (2) In Schedule V Part 1 Division 1 delete “President of The Western  
5 Australian Industrial Relations Commission.”.

6 **68. Equal Opportunity Act 1984 amended**

7 (1) This section amends the *Equal Opportunity Act 1984*.

8 (2) In section 66ZN(2)(g) delete “President or”.

9 **69. Juries Act 1957 amended**

10 (1) This section amends the *Juries Act 1957*.

11 (2) In Schedule 1 Division 1 clause 2(1)(g) delete “the President or”.

12 **70. Police Act 1892 amended**

13 (1) This section amends the *Police Act 1892*.

14 (2) In section 33S in the Table:

15 (a) delete “s. 31(6)”;

16 (b) in the item relating to section 32 delete the first  
17 paragraph and insert:  
18

Section 32(1) is to be read as if a reference to “Where an industrial matter has been referred to the Commission the Commission shall” were a reference to “If the Commission is dealing with an appeal instituted under the *Police Act 1892* section 33P, the Commission may recommend that the parties to the appeal”.

19

1 (c) delete the item relating to section 34 and insert:

2

s. 34 A reference in subsection (1) to “an award, order or declaration” is to be read as if it were a reference to “an order”.

A reference in subsection (4) to “no award, order, declaration, finding, or proceeding” is to be read as if it were a reference to “no decision, order, finding or proceeding”.

3

4 (d) delete the item relating to section 90 and insert:

5

s. 90 A reference in subsection (1) to “any decision of the Full Bench, the Commission on an application under section 49(11) or the Commission in Court Session” is to be read as if it were a reference to “a decision of the Commission under the *Police Act 1892* section 33U”.

6

7 **71. Prisons Act 1981 amended**

8 (1) This section amends the *Prisons Act 1981*.

9 (2) In section 110B in the Table:

10 (a) in the item relating to section 32 delete the first  
11 paragraph and insert:

12

Section 32(1) is to be read as if a reference to “Where an industrial matter has been referred to the Commission the Commission

**s. 71**

---

shall” were a reference to “If the Commission is dealing with an appeal instituted under the *Prisons Act 1981* section 106, the Commission may recommend that the parties to the appeal”.

1  
2  
3

(b) delete the item relating to section 34 and insert:

s. 34	A reference in subsection (1) to “an award, order or declaration” is to be read as if it were a reference to “an order”.  A reference in subsection (4) to “no award, order, declaration, finding, or proceeding” is to be read as if it were a reference to “no decision, order, finding or proceeding”.
-------	---

4  
5  
6

(c) delete the item relating to section 90 and insert:

s. 90	A reference in subsection (1) to “any decision of the Full Bench, the Commission on an application under section 49(11) or the Commission in Court Session” is to be read as if it were a reference to “a decision of the Commission under the <i>Prisons Act 1981</i> section 110E”.
-------	---

7

1   **72.     *Young Offenders Act 1994* amended**

2       (1) This section amends the *Young Offenders Act 1994*.

3       (2) In section 11CM in the Table:

4           (a) in the item relating to section 32 delete the first  
5               paragraph and insert:  
6

Section 32(1) is to be read as if a reference to “Where an industrial matter has been referred to the Commission the Commission shall” were a reference to “If the Commission is dealing with an appeal instituted under the *Young Offenders Act 1994* section 11CH, the Commission may recommend that the parties to the appeal”.

7

8       (b) delete the item relating to section 34 and insert:  
9

s. 34	A reference in subsection (1) to “an award, order or declaration” is to be read as if it were a reference to “an order”.  A reference in subsection (4) to “no award, order, declaration, finding, or proceeding” is to be read as if it were a reference to “no decision, order, finding or proceeding”.
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10

**s. 72**

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1  
2

(c) delete the item relating to section 90 and insert:

s. 90	A reference in subsection (1) to “any decision of the Full Bench, the Commission on an application under section 49(11) or the Commission in Court Session” is to be read as if it were a reference to “a decision of the Commission under the <i>Young Offenders Act 1994</i> section 11CP”.
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3  
4

