

STATUTORY RULES.

1921. No. 71:

REGULATIONS UNDER THE ARBITRATION (PUBLIC SERVICE) ACT 1920.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Regulations under the *Arbitration (Public Service) Act 1920*, to come into operation at the commencement of that Act.

Dated this thirty-first day of March, 1921.

FORSTER,
Governor-General.

By His Excellency's Command,

E. J. RUSSELL.

ARBITRATION (PUBLIC SERVICE) REGULATIONS 1921.

1. These Regulations may be cited as the Arbitration (Public Service) Regulations 1921. Short title.
 2. In these Regulations, unless the contrary intention appears— Definitions.
 - "Application" means an application under sub-section (5) of section 12 of the Act;
 - "Claim" means a claim under sub-section (2) of section 12 of the Act;
 - "Conference" means a conference in accordance with section 12 of the Act;
 - "Memorial" means the document in which any claim relating to the salaries, wages, rates of pay, or terms or conditions of service or employment of members of an organization is submitted to the Arbitrator;
 - "Respondent" means any party affected by a claim or application;
 - "The Act" means the Arbitration (Public Service) Act 1920.
 3. The office of the Arbitrator shall be open on ordinary working days from 10 a.m. to 3 p.m. and on Saturdays from 10 a.m. to 12 noon. Office hours.
 4. All documents filed in proceedings before the Arbitrator and all copies thereof shall be on foolscap paper with a quarter margin, written typewritten or printed on one side only, and having not less than two folios nor more than five folios of 72 words on each page, and divided into convenient paragraphs, numbered consecutively. Form of documents.
 5. Every memorial or other document submitted to the Arbitrator shall be entitled as in Form 1. Title of proceedings.
- C.5755.—PROM 3a.

Indorsement
of documents.

6. Every document filed in connexion with proceedings before the Arbitrator shall be indorsed with the name and address of the party filing the document and that address shall be deemed to be the full address for service of that party.

Forms.

7. (1) References to forms in these Regulations are to the forms in the schedule, which forms may be used where applicable.

(2) Strict compliance with the forms in the schedule shall not be necessary, and the Arbitrator shall have power to permit the use of any form which, in his opinion, substantially complies with the regulations.

(3) Where no form of summons, application, order or other document or instrument is prescribed by the Act or these Regulations, or where no adequate form is therein prescribed, the form shall be such as the Arbitrator directs or approves.

Affidavits.

8. The provisions of Order 35 of the Rules in the schedule to the *High Court Procedure Act 1903* shall, *mutatis mutandis*, apply as far as applicable to all affidavits in proceedings before the Arbitrator.

Mode of
Service.

9. When personal or other service of any proceedings is required by these Regulations or otherwise and it is made to appear to the Arbitrator that prompt service cannot be effected, the Arbitrator may make such order for substituted or other service or the substitution of notice by letter, telegram, public advertisement or otherwise as to the Arbitrator seems just.

Service of
documents
by post.

10. Service of any document under these Regulations may be effected by post, and service shall be deemed to be effected by properly addressing, prepaying, and posting the document as a letter, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Form of
submission to
Arbitrator.

11. (1) The memorial by which any claim is submitted to the Arbitrator in pursuance of sub-section (2) of section 12 of the Act shall be in Form 2.

(2) An application to vary a determination of the Arbitrator shall be submitted to the Arbitrator in Form 3.

Copies of
memorial

12. Every memorial or application submitted to the Arbitrator shall be accompanied by a sufficient number of copies of the memorial or application, as the case may be, to enable one to be filed in the office of the Arbitrator and one to be forwarded to each party affected by the claim or application.

Indorsement to
memorial or
application.

13. The Arbitrator shall cause to be indorsed upon every original memorial or application and copy thereof a memorandum in the form of Form 4.

Answer to
memorial.

14. The respondent shall within 14 days from the date indorsed on the memorial or application or such further period as the Arbitrator allows, file in the office of the Arbitrator and serve upon the memorialist or applicant an answer to the memorial or application as nearly as may be in the form set out in Form 5.

Failure to
file answer.

15. When the respondent has failed to file an answer within the time indorsed on the memorial or application or such further period as the Arbitrator allows, the Arbitrator shall determine the claim in favour of the party submitting the memorial or application.

Provided that where there are several respondents and an answer is filed on behalf of one or more, but not on behalf of all the respondents, the Arbitrator shall not be bound to determine the claim or application against the respondents who have not filed an answer.

16. Notwithstanding that a respondent has failed to file an answer within the prescribed time or such further period as the Arbitrator allows, the Arbitrator may let the respondent in to file an answer upon such terms as he thinks fit. Letting in respondents to file answer.

17. Where the Arbitrator directs other respondents to be joined each of those respondents shall file an answer to the memorial or application within such time as the Arbitrator directs at the time of making the order. Answers by added respondents.

18. (1) The Arbitrator may on the application of any party direct the memorialist, applicant or respondent to amend his claim, application or answer by supplying further particulars of the matters claimed or disputed. Amendment of memorial or answer.

(2) The Arbitrator may permit any respondent at any stage of the proceedings to amend his answer.

19. Where a party affected by any determination of the Arbitrator desires the Arbitrator to give an interpretation of the determination or any term thereof he or it shall give, to the Arbitrator and to the other parties affected by the determination, notice, in Form 6, that he intends to apply at a time specified in the notice not being less than 14 days after the date of the notice, or at such later time as the Arbitrator directs for an interpretation of the determination or term thereof. Application for interpretation of determination.

20. (1) A summons to a witness shall be in Form 7, and a summons to produce books or documents shall be in Form 8. Witnesses.

(2) Service shall be effected by delivering to the witness a copy of such summons stamped with the stamp of the Arbitrator.

(3) Any number of witnesses may be included in one summons but the copy served need contain only the name of the witness upon whom it is served.

21. Except where otherwise expressly provided by these Regulations, if any summons, application or other document is required by the Act or these Regulations to be taken out, made or signed, or any step is required to be taken by any organization, that summons, application or other document may be taken out, made or signed, and that step taken on behalf of the organization by an officer or person duly authorized under the Rules of the organization to represent the organization in proceedings under the Act; or, in the absence of express provision in the Rules, by a person authorized by resolution of the organization to represent the organization generally in proceedings under the Act; or, in the absence of express provisions in the Rules or authorization by resolution, by the registered officer of the organization. Representation of organizations.

22. (1) The Arbitrator shall have a seal bearing the words "The Seal of the Public Service Arbitrator, Commonwealth of Australia". The Seal.

(2) The seal shall be in the custody of the Arbitrator and shall be affixed by him to all determinations and to such other documents as he directs.

Stamp.	<p>23. (1) The Arbitrator shall have a stamp bearing the words "Public Service Arbitrator".</p> <p>(2) The stamp shall be used on all documents lodged with or issued by the Arbitrator except where the use of the Seal is prescribed or directed.</p>
Order of hearing.	24. All claims and applications shall be heard or dealt with in the order in which they are filed unless the Arbitrator otherwise directs.
Skills of Arbitrator.	25. The Arbitrator shall give notice to the parties to any proceedings before him of the calling of a conference, which notice shall be given not less than seven days before the day fixed for the conference.
Notice of date of hearing evidence.	<p>26. (1) Where the Arbitrator thinks it necessary to hear evidence in respect of any matters in any proceeding pending before him, he shall cause notice of the place at and the day on which the hearing shall be commenced to be given to the parties to the proceeding and published for the information of the public.</p> <p>(2) The day on which the hearing shall be commenced shall not, except with the concurrence of the parties, be less than fourteen days after the date of the notice.</p>
Adjournments.	27. The Arbitrator may adjourn any conference or hearing from time to time and from place to place as he thinks fit.
Representation at conference.	<p>28. (1) The Arbitrator when calling a conference shall intimate the number of representatives of the parties whom he desires to be present at the conference.</p> <p>(2) Should the Arbitrator decide that evidence shall be taken, he shall intimate to the parties the number of representatives who may appear on the hearing of the evidence.</p>
Evidence.	<p>29. (1) If the claimant or applicant in a proceeding before the Arbitrator desires to call evidence he shall notify that desire in his memorial or application.</p> <p>(2) The Arbitrator shall at the conference called in the matter notify the parties whether he thinks that it is necessary to hear evidence.</p>
Assessors.	30. A request by a party to a proceeding before the Arbitrator that the Arbitrator shall appoint assessors as provided in sub-section (2) of section 13 of the Act, shall be made in the memorial, application or answer filed by that party, and shall be accompanied by the name of the person who it is proposed shall be appointed as assessor.
Exhibits.	31. No party to any proceeding shall be at liberty to take any exhibits out of Court without an order of the Arbitrator.
Searches.	32. No person shall, without an order of the Arbitrator, be at liberty to search the proceedings in any matter to which he is not a party, or by which he is not bound.
Common rule.	<p>33. (1) The day named in any notification published in accordance with paragraph (e) of sub-section (1) of section 14 of the Act shall be a day not less than fourteen days after the date on which the notification is published in the Gazette.</p> <p>(2) Any party or organization interested who or which is desirous of being heard shall, by notice in Form 9, lodged with the Arbitrator not less than four days before the day fixed for the hearing, notify the Arbitrator that he or it intends to appear or be represented before him and shall in that notice state generally the matters which he or it desires to submit to the Arbitrator.</p>

(8) Every order of the Arbitrator declaring that any term of a determination shall be a Common-Rule of the Public Service or of any Branch or part of the Public Service shall be signed by the Arbitrator and filed in his office and shall be published in the *Gazette* and in such newspapers as the Arbitrator directs.

34. (1) The following fees shall be paid to the Arbitrator in respect Fees of matters under the Act and these Regulations:—

	s.	d.
On filing any document	1	0
On searching the proceedings in any matter	1	0
On inspection of documents in any matter	1	0
For office copies of documents (including determinations or orders of the Arbitrator), per folio of 72 words ..	0	3
On every summons issued, including filing fee	1	0
For affixing seal of Arbitrator to any documents	1	0
On filing claim or application	1	0
On filing application for interpretation of determination ..	1	0
On filing answer to claim or application	1	0

(2) The fees payable under these Regulations are to be paid in advance, and the Arbitrator may refuse to receive or issue any document or to do any act in respect of which a fee is payable until the fee is paid.

Arbitration (Public Service) Act 1920.

FORM 1 (REGULATION 5).

TITLE OF PROCEEDINGS.

Proceedings before the Commonwealth Public Service Arbitrator.
In the matter of*

*Here state the names of the parties.

Arbitration (Public Service) Act 1920.

FORM 2 (REGULATION 11 (1)).

MEMORIAL.

(Title of Proceedings as in Form 1.)

The following claims for determination by the Public Service Arbitrator:—
1. Association submits the
2.
3.

Arbitration (Public Service) Act 1920.

FORM 3 (REGULATION 11 (2)).

APPLICATION TO VARY DETERMINATION OF ARBITRATOR.

(Title of Proceedings as in Form 1.)

1. I do hereby submit, for the determination of the Public Service Arbitrator, an application to vary the determination of the Public Service Arbitrator in the above matter, dated the day of , 1920, in the following manner:—
2. *Here state "Public Service Commissioner," or name of Minister of State or organization making application, as the case may be.

Arbitration (Public Service) Act 1920.

FORM 4 (REGULATION 13).

FORM OF MEMORANDUM TO BE INDORSED ON MEMORIAL OR APPLICATION.

(In the case of a memorial)—To the above-named respondent.

(In the case of an application to vary)—To the^a

Take notice that the Memorial (or application) herein was filed in the Arbitrator's Office on the _____ day of _____ 19____ and that you may, within fourteen days from that date, lodge any objections you see fit to make to the granting of the claim (or the application).

If no objection is lodged by you (or any other of the parties in the above matter) the Arbitrator will determine the claim in favour of the^b

^aHere state "Public Service Commissioner" or the name of the Minister of State or organization affected by the application, as the case may be.

^bHere state name of organization submitting the claim, or, in the case of an application, "Public Service Commissioner" or the name of the Minister of State or organization making the application.

Arbitration (Public Service) Act 1920.

FORM 5 (REGULATION 14).

(Title of Proceedings as in Form 1.)

ANSWER.

The _____ makes answer to the memorial or application to vary as follows:—

(In the case of a memorial)—The Respondent admits (or objects to) the claim in paragraph _____ of the memorial, and says that:—

(In the case of an application to vary)—The Respondent agrees to (or objects to) the variation of the determination in the manner specified in paragraph _____ of the application, and says that:—

^aHere state "Public Service Commissioner" or name of Minister of State or organization making answer, as the case may be.

Arbitration (Public Service) Act 1920.

FORM 6 (REGULATION 15).

APPLICATION FOR INTERPRETATION OF DETERMINATION.

(Title of Proceedings as in Form 1.)

To

Take notice that the^a _____ intends to apply to the Public Service Arbitrator at _____ on the _____ day of _____, 19____ at half-past Ten o'clock in the forenoon, or on such later day as the Arbitrator directs for the interpretation of clauses _____ of the determination in the above matter, dated the _____ day of _____ 19____.

^aHere state "Public Service Commissioner" or name of Minister of State or organization making application as the case may be.

Arbitration (Public Service) Act 1920.

FORM 7 (REGULATION 20).

SUMMONS TO WITNESS.

(Title of Proceedings as in Form 1.)

To

You are hereby summoned to appear before the Public Service Arbitrator
at _____ on the _____ day of _____
at half-past Ten o'clock in the forenoon to
give evidence in the above proceeding, and to continue in attendance until
notified by the Arbitrator that your presence is no longer required.

Arbitrator—

(STAMP.)

Arbitration (Public Service) Act 1920.

FORM 8 (REGULATION 20).

SUMMONS TO PRODUCE BOOKS, ETC.

(Title of Proceedings as in Form 1.)

To

You are hereby summoned to appear before the Public Service Arbitrator
at _____ on the _____ day of _____
at half-past Ten o'clock in the forenoon, to produce the following (set out the
books or documents required to be produced)

Arbitrator—

(STAMP.)

Arbitration (Public Service) Act 1920.

FORM 9.

NOTICE OF APPEARANCE UNDER REGULATION 33.

(Title of Proceedings as in Form 1.)

To the Public Service Arbitrator.

With reference to the notification in the *Gazette* of the _____ (date)
(to the effect that it is proposed to declare that a term
of the determination in the above matter shall be a Common Rule) I hereby
notify you that the X. Y. Association (or the Public Service Commissioner, or
the Minister for _____ as the case may be) is
desirous of being heard before effect is given to such proposal, and will be
represented at the hearing on the date named in the *Gazette*.

It is intended to submit to you that _____ (here set
out generally the nature of the matters to be brought forward).