

The Industrial Relations Commission

of

New South Wales

Annual Report



Year Ended 31 December 2013

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Cover: *2003 State Wage Case Bench Newcastle* – the second time the Commission had sat in Newcastle to hear the State Wage Case. This sitting, as well as being held to reflect the significant contribution of the people and enterprises of Newcastle and the Hunter region, was also to mark the centenary of the first sitting of the Commission held in Newcastle in 1902. This photograph is unique in that it depicts two former Presidents and the current President and the two current longest serving members of the Commission.

(L-R: Justice Roger Boland (now Acting Justice Boland, President 2008 – 2014); Vice-President Justice Michael Walton (President 2014-); Justice Lance Wright (President 1998-2008); Deputy President Rod Harrison (26 years); Commissioner Inaam Tabbaa (22 years); Commissioner Jim Redman (retired)).

The principal place of business of the Commission is 47 Bridge Street, Sydney. We acknowledge that this land is the traditional lands of the Gadigal people of the Eora nation and that we respect their spiritual relationship with their country. The Industrial Relations Commission of NSW also conducts proceedings in other locations across the State and we acknowledge the traditional custodians of other regions.



The Industrial Relations Commission

of

New South Wales

Annual Report

Year Ended 31 December 2013



Industrial Relations Commission of New South Wales
47 Bridge Street, Sydney

CONFIDENTIAL

The Hon. Mr Andrew Constance MP
Treasurer
Minister for Industrial Relations
Level 36, Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

9 May 2014

Dear Minister,

I have the honour of furnishing to you for presentation to Parliament the Eighteenth Annual Report of the Industrial Relations Commission of New South Wales made pursuant to section 161 of the *Industrial Relations Act 1996* in respect of the year ended 31 December 2013.

Yours sincerely,

The Honourable Justice M J Walton
President

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INTRODUCTION

The Eighteenth Annual Report of the Industrial Relations Commission of New South Wales is presented to the Minister pursuant to section 161 of the *Industrial Relations Act* 1996.



The Commission operates at two distinct levels. As an industrial tribunal the Commission seeks to ensure that industrial disputes arising between parties in this State are resolved quickly, in a fair manner and with the minimum of legal technicality. As a superior court within the New South Wales justice system, the Industrial Court interprets and applies the law with regard to matters, both criminal and civil, filed and the rules of evidence and other formal procedures apply.

I wish to note, with appreciation, the work of three former Members of the Commission, his Honour Justice Wayne Haylen and Commissioners Elizabeth Bishop and Alastair Macdonald.

Justice Wayne Haylen, who was appointed to this Commission on 27 July 2001, retired with effect on 24 October 2013. On that day, the then President, Justice Roger Boland, paid tribute in the following way:

“Justice Haylen was admitted to the Bar in 1976 and took silk in 1990. At the Bar his Honour's main areas of practise were Industrial Law; Administrative Law; Anti-Discrimination and Legal Professional Standards & Discipline.

His Honour brought a wealth of experience and knowledge of industrial law and practice to the Commission and the Industrial Court that few could match.

Justice Haylen made a tremendously important contribution to the Commission's work especially in the area of occupational health and safety law, but also across the full spectrum of the Commission's jurisdiction.

The Industrial Relations Commission has been fortunate, over very many years, to have drawn some of the finest minds from the Industrial Bar. Justice Haylen's approach to his work, reflected in his incisive, detailed and timely judgments in some of the more complex matters to come before the Commission and the Court, has carried on the long tradition of judicial work of the highest quality in the field of industrial law in the New South Wales jurisdiction.

Following his retirement, the Honourable Wayne Haylen took up an appointment as a Deputy President of the newly formed Civil and Administrative Tribunal of New South Wales.

Commissioner Elizabeth Bishop, who was appointed to the Commission on 9 April 1997, retired with effect on 23 January 2013. In his tribute to her at an informal function to mark her retirement the then President, Justice Boland, noted:

"Elizabeth has been a Commissioner since 9 April 1997, so she has been with the Commission for nearly 16 years. She has also been a member of the Transport Appeals Boards since July 2010. Elizabeth was well qualified for those roles.

In the early part of her career, Elizabeth was a teacher for 8 years. I am told that the Federated Miscellaneous Workers' Union then spotted her as something of an activist in her teacher's role and in about 1975 she joined the Misco's, firstly as an Industrial Officer appearing in both State and Federal IR jurisdictions (but principally State), then as an elected Divisional Assistant Secretary.

During her time with the Union Elizabeth gained her law degree, doing it the hard way by studying part time whilst she worked. In her Union role Elizabeth held a number of Ministerial appointments to various committees and bodies particularly in the area of industrial relations and equal employment, including three years as a part-time member of the New South Wales Equal Opportunity Tribunal.

Commissioner Bishop is one of those rare individuals who have maintained their enthusiasm and exuberance right up to the end of their working career.

Commissioner Bishop is widely known in IR circles, highly respected and, by her closest colleagues, much loved. Like all of us over the past few years she has had to endure a serious state of turmoil and uncertainty regarding the future of the Commission but she has never wavered from fulfilling her oath of office.

The Commission has historically performed two major functions: conciliation and arbitration in order to resolve industrial disputes and to settle matters such as unfair dismissals. The Commission has been most fortunate in having someone like Elizabeth Bishop to undertake that work. Elizabeth is a person with a great sense of humanity but not such that it impairs her judgment as to what is just and fair between opposing parties. Not everyone who brings a claim to this place has right on their side and it takes a particular insight into human behaviour that allows one in the position of a conciliator and arbitrator to discern what is right and wrong, what is fair and just. Elizabeth possesses such insight.

When it comes to arbitration, Commissioner Bishop's decisions are legendary for their length and consummate detail.

Commissioner Bishop can be very proud of the fact she has served this Institution with distinction and happy in the knowledge she has well and truly earned her retirement."

Commissioner Alastair Macdonald was appointed to the Commission on 4 February 2002 and retired on 8 November 2013 having reached the statutory retirement age. At an informal function held by the Commission to farewell Commissioner Macdonald, the then President said:

“Commissioner Macdonald is retiring three months short of 12 years with the Commission.

Prior to his appointment Commissioner Macdonald was with the Federated Clerks Union, latterly known as the ASU, Clerical and Administrative Branch. Alastair served the Clerks' Union for 29 years as an organiser, industrial officer and senior industrial officer.

Alastair came to the Commission not only with a background of nearly 30 years as a union official and the wealth of experience he accumulated in that role, but also he was a qualified Australian lawyer and possessed a Masters degree in Labour Law and Relations. He continued the long tradition of Commissioners being appointed to the Commission with a strong practical background in industrial relations and more often than not, in the law as well.

Commissioner MacDonald did all that was asked of him and more. He took his role seriously and carried out his duties with diligence and dedication and a strong sense of fair play. Alastair is a naturally quiet man; not given to boasting or hyperbole, but rather goes about his business with a sense of purpose and, importantly, delivers.

Alastair is, until Friday of next week, also a member of the Fair Work Commission. Whilst his appointment to that body was on a shared basis initially he has, since 2011, worked full time for the federal Commission whilst remaining a member of the NSW Commission. I am told he undertook the federal work with the same dedication he had applied to his State responsibilities and I am sure that is right.

He has also had the additional responsibility as Chairperson of the Clothing Trades Industrial Committee, which he has administered competently and efficiently

Retirement is a new phase in one's life albeit a phase that is often not given much thought until it becomes a reality. Alastair is still a relatively young man and with his background and connections, still has a great deal to offer in the field he has occupied for over 40 years. I cannot imagine his retirement will be wasted.”

On behalf of the Members and staff of this Commission, I wish all of them the very best for the future.



Justice Wayne Haylen



Commissioner Elizabeth Bishop



Commissioner Alastair Macdonald

One Commissioner was appointed during the year. Peter Justin Newall was appointed as a Commissioner on and from 29 April 2013. Commissioner Newall comes to the Commission with extensive industrial relations experience having practiced at the Bar for over 30 years and appeared on many occasions before both the State and Federal Commissions.

I note with appreciation the work of the staff in the Registry who have greatly assisted the Members of the Commission in meeting the demands made during the year. Their dedication is greatly appreciated by the Commission.

I would also take this opportunity to thank the staff of Members. The skill and professionalism with which they dealt with matters passing through Chambers and their dedication to their duties provides invaluable assistance to the efficient running of the Commission.

During the year every effort was made to ensure that the Commission remained focussed and continued to meet the objectives of the *Industrial Relations Act*, particularly in making sure that the Commission's processes are timely and effective. Specific reference is made to those matters elsewhere in this report.

I acknowledge the dedication and commitment of the Members of the Commission in their approach to their duties and responsibilities under the Act. This must be doubly appreciated given the somewhat difficult circumstances under which they worked in the second half of the reporting year.

WHAT WE DO¹

The Industrial Relations Commission of New South Wales is the industrial tribunal and Industrial Court for the State of New South Wales. It has jurisdiction to hear proceedings arising under various industrial and related legislation. The Industrial Court of New South Wales is constituted as a superior court of record.

The Commission is established by and operates under the *Industrial Relations Act 1996*. The Court of Arbitration (subsequently renamed and re-established as the Industrial Commission of New South Wales) was first established in New South Wales in 1901 and commenced operation in 1902. The present Commission is the legal and practical successor of that Court, the Industrial Commission which existed between 1927 and 1992, and also of the Industrial Court and Industrial Relations Commission which existed between 1992 and 1996.

Broadly, the Commission (other than when sitting as the Industrial Court) exercises its jurisdiction in relation to:

- establishing and maintaining a system of enforceable awards which provide for fair minimum wages and conditions of employment;
- approving enterprise agreements;
- preventing and settling industrial disputes, initially by conciliation, but, if necessary, by arbitration;
- inquiring into, and reporting on, any industrial or other matter referred to it by the Minister;
- determining unfair dismissal claims, by conciliation and, if necessary, by arbitration to determine if a termination is harsh, unreasonable or unjust;
- claims for reinstatement of injured workers;
- proceedings for relief from victimisation;

¹ For a brief history of the Commission see Appendix 9

- dealing with matters relating to the registration, recognition and regulation of industrial organisations;
- dealing with major industrial proceedings, such as State Wage Cases;
- applications under the *Commission for Children and Young People Act 1998*²;
- various proceedings relating to disciplinary and similar actions under the *Police Act 1990*
- various proceedings relating to promotional and disciplinary actions under the *Industrial Relations Act 1996* (Chapter 2, Part 7) and the *Transport Appeal Boards Act 1980*³.

The Industrial Court has jurisdiction to hear a range of civil matters arising under legislation as well as criminal proceedings. The Industrial Court determines proceedings for avoidance and variation of unfair contracts (and may make consequential orders for the payment of money); prosecutions for breaches of occupational health and safety laws; proceedings for the recovery of underpayments of statutory and award entitlements; superannuation appeals; proceedings for the enforcement of union rules and challenges to the validity of union rules.

The Full Bench of the Commission has appellate jurisdiction in relation to decisions of single Members of the Commission and the Industrial Registrar. The Full Bench of the Industrial Court has jurisdiction in relation to decisions of single judges of the Court, industrial magistrates and certain other bodies. The Full Bench of the Industrial Court is constituted by at least three judicial Members.

Specifically, the Industrial Court exercises jurisdiction in the following circumstances:

- proceedings for an offence which may be taken before the Court (including proceedings for contempt). The major area of jurisdiction exercised in this area relates to residual breaches of the *Occupational Health and Safety Act 2000* commenced in the Court prior to 1 January 2012;
- proceedings for declarations of right under s 154;

² The Industrial Relations Commission lost jurisdiction in this area with the commencement of the *Child Protection (Working with Children) Act 2012* from 15 June 2013

³ In 2013 the Board only dealt with residual matters carried over from 2012

- proceedings for unfair contract (Part 9 of Chapter 2);
- proceedings under s 139 for contravention of dispute orders;
- proceedings under Parts 3, 4 and 5 of Chapter 5 – registration and regulation of industrial organisations;
- proceedings for breach of an industrial instrument;
- proceedings for the recovery of money payable under an industrial instrument other than small claims under s 380 (which are dealt with by the Chief Industrial Magistrate or an Industrial Magistrate);
- superannuation appeals under s 40 or s 88 of the *Superannuation Administration Act 1996*;
- proceedings on appeal from a Member of the Commission exercising the functions of the Industrial Court;
- proceedings on appeal from an Industrial Magistrate or any other court, and
- proceedings on appeal from a decision of a Member of the Commission exercising functions under Chapter 2, Part 7 of the *Industrial Relations Act 1996* or from a Board Member exercising functions under the *Transport Appeal Boards Act 1980*, restricted to a point or points of law.

MEMBERSHIP OF THE COMMISSION

JUDGES AND PRESIDENTIAL MEMBERS

The Judicial and Presidential Members of the Commission during the year were:

President

The Honourable Justice Roger Patrick Boland, appointed President 9 April 2008; and as judicial Member and Deputy President 22 March 2000.

Vice-President

The Honourable Justice Michael John Walton, appointed 18 December 1998.

Presidential Members

Deputy President Rodney William Harrison, appointed Deputy President 2 September 1996; and as a Commissioner 4 August 1987;

The Honourable Justice Wayne Roger Haylen, appointed 27 July 2001; retired 24 October 2013;

The Honourable Justice Conrad Gerard Staff, appointed 3 February 2004;

The Honourable Justice Anna Frances Backman, appointed 19 August 2004.

COMMISSIONERS

The Commissioners holding office pursuant to the *Industrial Relations Act 1996* during the year were:

Commissioner Inaam Tabbaa AM, appointed 25 February 1991;

Commissioner Elizabeth Ann Rosemary Bishop, appointed 9 April 1997; retired 23 January 2013;

Commissioner Alastair William Macdonald, appointed 4 February 2002; retired 8 November 2013;

Commissioner John David Stanton, appointed 23 May 2005;

Commissioner Peter Justin Newall, appointed 29 April 2013.

INDUSTRIAL REGISTRAR

The Industrial Registrar is responsible to the President of the Commission in relation to the work of the Industrial Registry and, in relation to functions under the *Public Sector Employment and Management Act 2002*, to the Director General of the Department of Attorney General and Justice.

Mr George Michael Grimson held office as Industrial Registrar and Principal Courts Administrator of the Industrial Relations Commission from 26 August 2002 to 12 December 2008. He was reappointed as Industrial Registrar from 2 February 2009.

DUAL APPOINTMENTS

The following Members of the Commission also held dual appointments as members of the federal tribunal - *Fair Work Commission*:

Deputy President Rodney William Harrison (until 26 April 2013);

Commissioner Alastair William Macdonald (until 8 November 2013); and

Commissioner John David Stanton.

ANCILLARY APPOINTMENTS

The Honourable Justice Conrad Gerard Staff has constituted the Parliamentary Remuneration Tribunal since 28 August 2008.

The Honourable Justices Conrad Gerard Staff and Anna Frances Backman hold appointments as Deputy Chairpersons of the Medical Tribunal of New South Wales. Their Honours have held such appointment since 24 September 2008.

HOW THE COMMISSION OPERATES

The President is responsible for the arrangement of the business of the Commission (section 159) and there are a number of delegations in place that assist in the allocation of work to Members and are designed to ensure the speedy and effective resolution of issues brought before the Commission:

INDUSTRY PANELS

Industry panels were reconstituted during 1998 to deal with applications relating to particular industries and awards and have been reviewed regularly since that time to ensure that panels reflect and are able to respond to the ongoing needs of the community. Consequent upon the transfer of the jurisdiction of the former *Government and Related Employees Appeals Tribunal* and an alteration to the manner in which *Transport Appeal Boards* are constituted, two new panels were created with effect from 1 July 2010. With the retirements and an appointment during 2013 a further rationalisation was undertaken. Five panels are now in operation, each comprising a mix of Presidential Members and Commissioners. Each panel is chaired by a Presidential Member of the Commission who allocates or oversees the allocation of matters to the members of the panel. The panels deal with applications for awards or variations to awards, applications for the approval of enterprise agreements and dispute notifications arising in relevant industries together with disciplinary and promotional appeals brought by public sector employees (both general public sector and transport public sector employees).

One panel now deals with metropolitan (or Sydney-based) matters (down from four in 2007), two panels specifically deal with applications from regional areas (down from three) and two panels deal specifically with promotional and disciplinary appeals. The panel dealing with applications in the north of the State (including the Hunter region) is chaired by Deputy President Harrison. The panel dealing with applications from the southern areas of the State (including applications from the Illawarra-South Coast region) is chaired by the Vice-President.

The membership of the panels at the end of the year is set out at Appendix 1.

REGIONAL AND COUNTRY SITTINGS

The Commission has its own dedicated court premises located in Newcastle and Wollongong. The Commission also has an arrangement with the Registrar of the Local Court at Parramatta to provide registry services for clients of the Commission at the Parramatta Court Complex, Cnr George and Marsden Streets, Parramatta.

The policy of the Commission in relation to unfair dismissal applications (s 84) and rural and regional industries is to sit in the country centre at or near where the events have occurred. The Commission's assessment is that it has a beneficial and moderating effect on parties to the industrial disputation and other proceedings who can often attend the proceedings and then better understand decisions or recommendations made.

There were a total of 231 (232)⁴ sitting days in a wide range of country courts and other country locations during 2013. There are two regional Members based permanently in Newcastle - Deputy President Harrison and Commissioner Stanton. The Commission sat in Newcastle for 173 (147) sitting days during 2013 and dealt with a wide range of industrial matters in Newcastle and the Hunter district.

The regional Member for the Illawarra - South Coast region, the Honourable Justice Walton, Vice-President, and other Members sit regularly in Wollongong and environs. There were a total of 58 (46) sitting days in Wollongong during 2013.

The Commission convened in other regional locations in 2013 including Ballina, Bathurst, Cessnock, Dubbo, Murwillumbah and Tweed Heads.

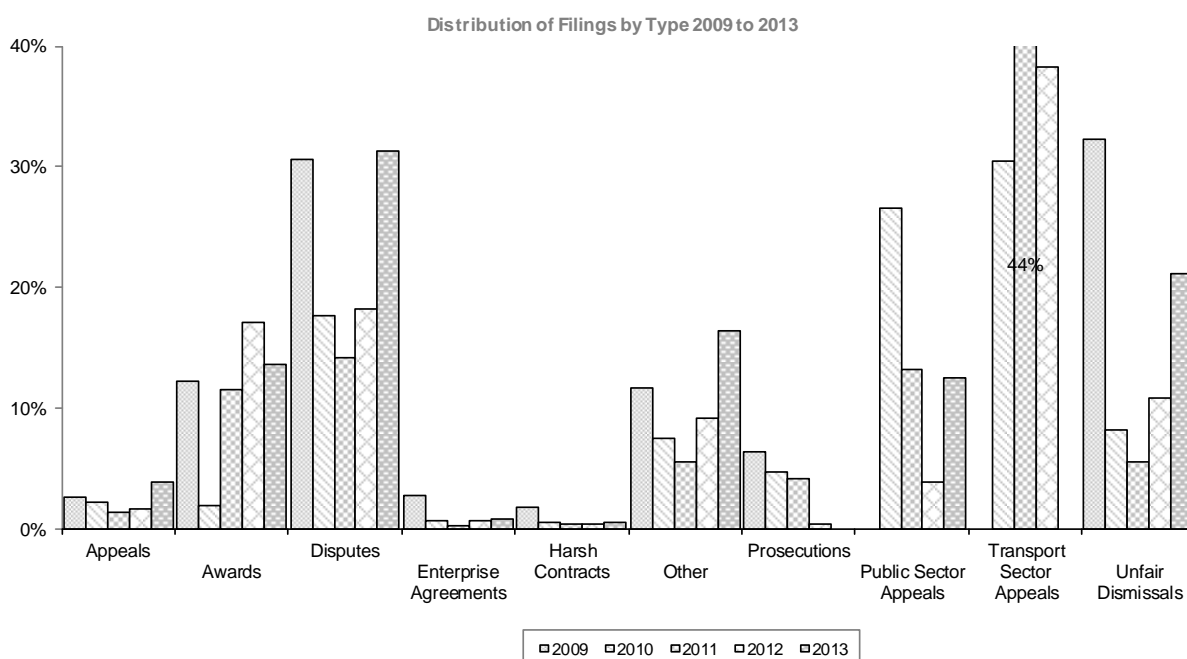
⁴ Numbers in brackets are figures from 2012

JURISDICTIONAL AREAS OF THE COURT AND THE COMMISSION

THE CHANGING NATURE OF OUR WORK

With the introduction of the *Work Choices* legislation⁵ in March 2006 the nature of the work undertaken by the Commission and the Court commenced to change. As will be seen from previous *Annual Reports*, there was a significant decrease in what had been until then the Commission's largest jurisdictional area, unfair dismissals, together with a marked fall in the unfair contract areas, in the period 2005-2006. Unfair dismissal work steadily increased from a low in 2007. However, this work fell away as a consequence of the transfer to the federal jurisdiction of the balance of the private sector from 1 January 2010. The repeal of the *Occupational Health and Safety Act* from 1 January 2012 has also had a significant effect. The changes in this area impacted greatly in 2012 but the true ramifications manifested this reporting period. While a significant area of the Commission's work arose from appeals brought against disciplinary and promotional decisions by public sector (particularly transport sector) employees, with the amendments to the relevant transport legislation in late 2012⁶ this was not the case in 2013.

FIGURE A



⁵ *Workplace Relations Amendment (Work Choices) Act 2005* (Cth)

⁶ *Transport Administration (Staff) Regulation 2012*

UNFAIR DISMISSALS

The Act provides that each matter is initially dealt with by listing for conciliation conference (s 86) with a view to reaching an early settlement between the parties. Where the conciliation is unsuccessful, the matter proceeds to an arbitrated hearing.

The graphs following show matters filed and disposed of in the past five years (Figure B); the method of disposal in this reporting period (Figure C); and median listing times (Figure D).

FIGURE B

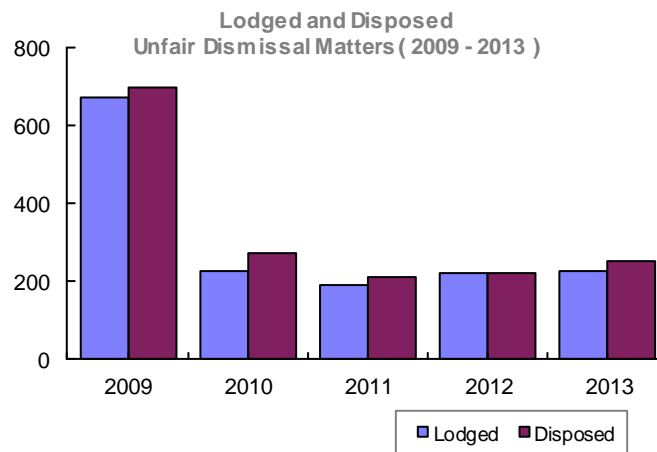


FIGURE C

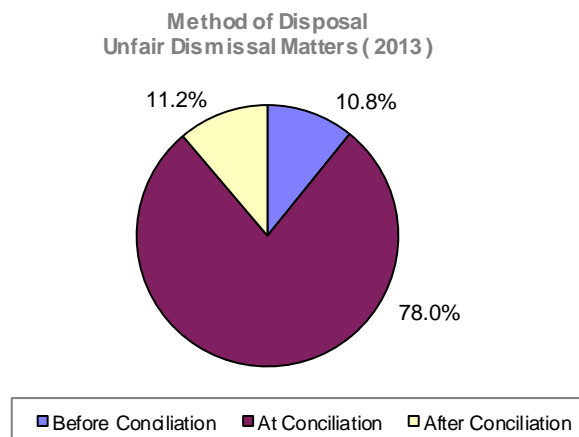
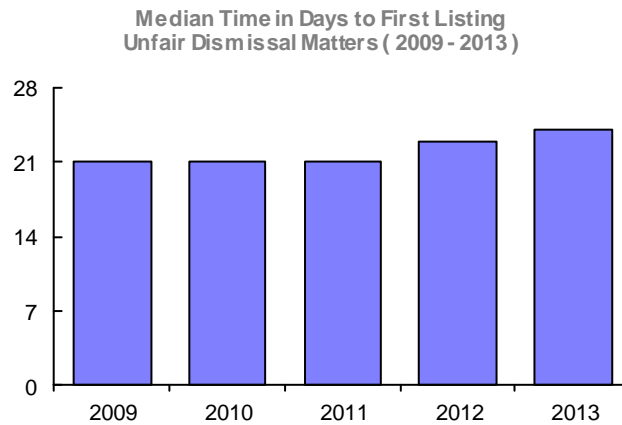


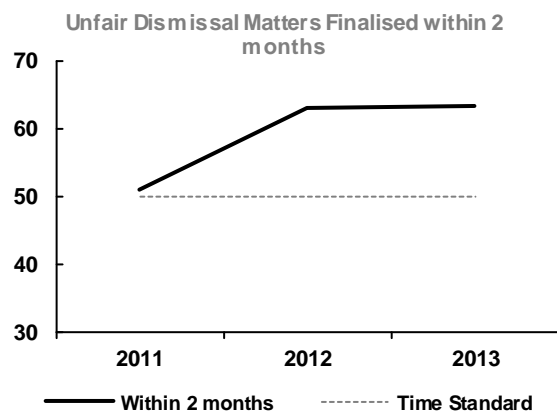
FIGURE D

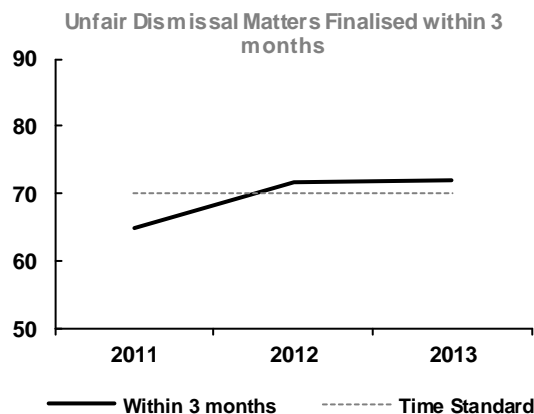


It will be noted that the median time to first listing has continued to rise. This is as a consequence of the decrease in the number of Commissioner Members and the Commission’s capacity to list within the 21 day standard.

Nevertheless, between 2011 and 2012 the finalisation of matters within two months showed significant improvement meeting clearance standards (see graphs in Figure E). During 2013 the disposal rate plateaued. There are concerns that the finalisation rate may decline in 2014 but this will be dependent on resourcing.

FIGURE E





INDUSTRIAL DISPUTES

The procedure for dealing with industrial disputes is set out in Chapter 3 of the *Industrial Relations Act* 1996. The allocation of disputes is dealt with under the “Industry Panels” system referred to earlier in this report. The nature of this area of the Commission's jurisdiction often requires that the matters be listed at short notice and the Commission sits outside normal working hours. The Commission may sit at venues outside the Commission premises where necessary. Wide powers are granted to the Commission in respect of dealing with industrial disputes, with the statutory and practical focus on resolving such matters by conciliation.

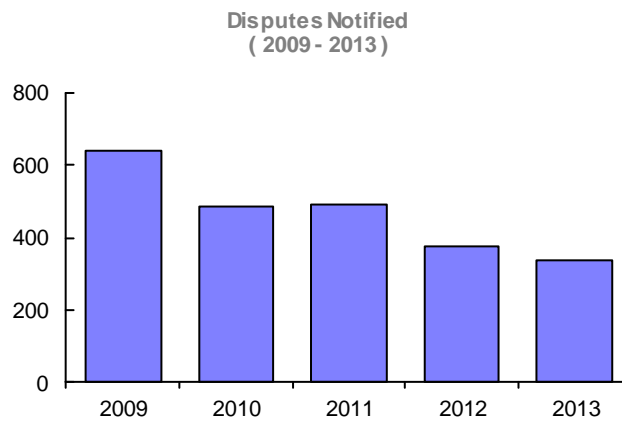
"Industrial dispute" is a broadly defined term linked, as it is, to the definition of "industrial matter" in s 6 of the *Industrial Relations Act* and this area of the Commission's jurisdiction remains significant.

The *Industrial Relations Act* was amended in 2009 to repeal s 146A, which provided that the Commission may assist parties who wished to refer disputes to the Commission where there is an agreement between the parties for this to occur. This was consequent upon the transfer of the balance of the private sector from the State system to the federal system.

However, at the same time s 146B was amended to ensure that parties who had previously agreed could continue to nominate Members of the Commission to perform dispute resolution services.

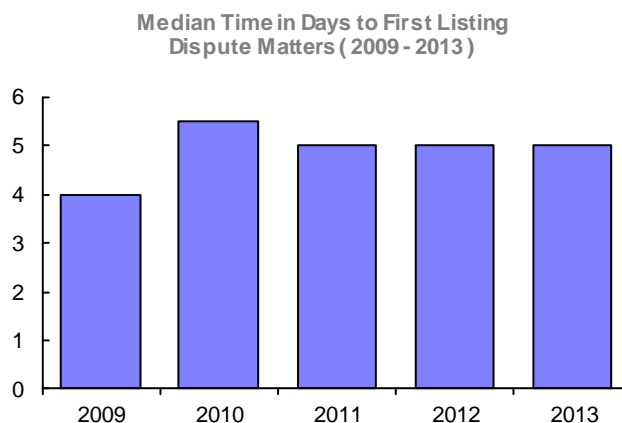
Members of the Commission have extensive experience in the wide range of alternative dispute resolution practices. Over many years Members have developed the skills necessary to help employers and employees resolve their differences drawing, as they do, on both their industrial and legal knowledge. Widely recognised as an 'independent umpire' that can achieve a fair and reasonable result, the Commission has always indicated a preparedness to move quickly to determine any application brought under this or any other provision of the Act. The graph below, in Figure F, shows disputes filed in the last five years.

FIGURE F



The Commission must respond in a timely way when an industrial dispute is lodged. Figure G shows the median times from lodgement to first listing. Measures will be put in place to improve these listing times, however, resourcing issues in the coming year may impact upon such outcomes.

FIGURE G



DETERMINATION OF AWARDS AND APPROVAL OF ENTERPRISE AGREEMENTS

One of the important objects of the *Industrial Relations Act 1996* is to facilitate the appropriate regulation of employment through awards, enterprise agreements and other industrial instruments.

The Commission is given power to:

- make or vary awards (s 10 and s 17 respectively);
- make or vary enterprise agreements (s 28 and s 43);
- review awards triennially (s 19); and
- consider the adoption of National decisions for the purpose of awards and other matters under the Act (s 50) (for example, the State Wage Case).

AWARD REVIEW

The last triennial Award Review process was effectively completed during 2012. It may be expected that the next phase of award review will commence at the end of 2014.

The principles of the Award Review process were defined by the Full Bench in *Principles for Review of Awards - State Decision 1998* (1998) 85 IR 38. The Full Bench of the Commission further considered the principles in *Poultry Industry Preparation (State) Award and other Awards* [2003] NSWIRComm 129; (2003) 125 IR 64.

Figure H provides details of filings in the award and enterprise agreement areas in the last five years.

FIGURE H

Awards and Enterprise Agreements	2009	2010	2011	2012	2013
Awards					
<i>Application to make award</i>	34	13	31	56	46
<i>Application to vary award</i>	216	37	61	55	96
Enterprise Agreements					
<i>Application for an enterprise agreement</i>	57	16	10	13	8
<i>Terminated enterprise agreement</i>	30	4	4	9	12
Review of Awards					
<i>Notice of Review issued</i>	0	0	306	236	0
<i>Awards reviewed</i>	47	5	1	217	2
<i>Awards rescinded</i>	3	0	0	17	0
<i>Awards determined to have effect as enterprise agreements</i>	3	0	6	0	0
<i>Declaration of Non-operative awards</i>	n/a	n/a	299	0	0

STATE WAGE CASE

On 7 December 2012, pursuant to the provisions of Part 3 of the *Industrial Relations Act* and Clause 4 of the Wage Fixing Principles mentioned above, the Commission caused to issue Summonses to Show Cause why it should not act on the *Annual Wage Review* decisions⁷ of the *Minimum Wage Panel*. In *State Wage Case 2011* and *State Wage Case 2012* determined on 15 May 2013 the Full Bench stated:

In conciliation proceedings before his Honour Walton J most issues arising out of Unions NSW's application were resolved, as is evident from a document marked exhibit 1 in the proceedings before the Vice President. Orders were subsequently made reflecting the parties' agreement. However, in respect of some nine awards identified at [28] of Unions NSW's submissions in these proceedings an agreement between the relevant union and employer parties to flow on the national decision in the manner proposed at [20] of Unions NSW's submissions was opposed by the Australian Federation of Employers and Industries (AFEI).

AFEI's principal objection was that to grant the agreed position in respect of the nine awards would result in a continuing disparity between the State and Federal awards. AFEI, we note, has no members covered by the nine awards and its objection is made on the basis of its capacity as a State Peak Council. We note also that the extent of disparity referred to by AFEI is not identified. The principal employer interests in the nine awards is the Local Government and Shires Association (LGSA) and it has members covered by the awards and it, of course, consents to Unions NSW's proposal regarding variation of those awards.

We do not propose to reject the agreed position on the basis of AFEI's submissions.

*Whilst we have been given little assistance regarding s 50 of the *Industrial Relations Act 1996* and whether it is open to us to adopt the decisions of the *Minimum Wage Panel of Fair Work Australia*, having regard to the provisions of Part 3 of Chapter 2 of the *Industrial Relations Act* and our decision in the 2010 *State Wage Case* decision, we are satisfied that it is appropriate to vary the nine awards in the terms sought at [20] of Unions NSW's submissions in these proceedings. Accordingly, we make an order in those terms. The operative date shall be from the beginning of the first pay period to commence on or after 15 May 2013.*

*Nothing has been put by any party regarding the Wage Fixing Principles which would apply in New South Wales and nothing has been put regarding the appropriate level of the minimum wage. Accordingly, the principles and that wage remain unchanged and as they are identified in the 2010 *State Wage Case* decision.*

The variation of awards in accordance with the decision of the Full Bench was further dealt with in *Re Applications to vary awards pursuant to decisions in State Wage Cases 2011 and 2012* [\[2013\] NSWIRComm 68](#).

⁷ *Annual Wage Review 2010-11* [2011] FWAFB 3400; *Annual Wage Review 2011-12* [2012] FWAFB 5000

UNFAIR CONTRACTS

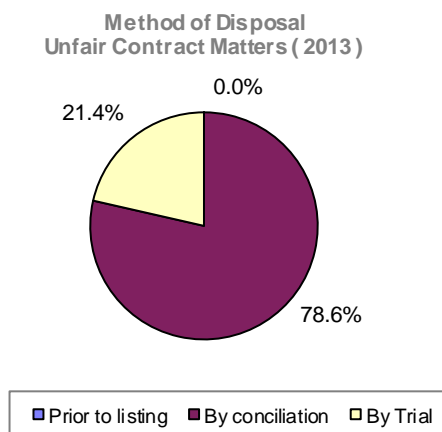
Under s 106 of the *Industrial Relations Act 1996* the Court is granted power to declare contracts, whereby a person performs work in any industry, either wholly or partly void, or to vary any such contract, if satisfied that the contract is unfair. As with the unfair dismissal jurisdiction, the introduction of the *Work Choices* legislation in 2006 and the transfer to the federal jurisdiction of the balance of the private sector from 1 January 2010 significantly impacted filings in this area. Figure I shows that trend continues with this area in 2013 providing negligible workload:

FIGURE I

Unfair Contracts	2009	2010	2011	2012	2013
Filings	35	13	12	6	5

The graph below shows the breakdown in the method of disposal.

FIGURE J



OCCUPATIONAL HEALTH AND SAFETY PROCEEDINGS

The *Occupational Health and Safety Act 2000* and the *Occupational Health and Safety Regulation 2001* had, as their primary focus, workplace safety. That legislation has been repealed and replaced with the *Work Health and Safety Act 2011* and the *Work Health and Safety Regulation 2011* with effect from 1 January 2012. While this legislation has the

same focus, it significantly curtailed the Court’s jurisdiction. The Court retained jurisdiction to deal with matters filed before the 31 December 2011 under the OHS legislation to finality.

The majority of proceedings that remain for determination before the Industrial Court have been initiated by the WorkCover Authority of New South Wales. As a matter of policy, WorkCover prosecutions relating to workplace fatalities and incidents involving serious injury are instituted in the Industrial Court rather than in the Chief Industrial Magistrate's Court.

In 2012 and 2013 this remained a significant area of the Commission's workload given the complexity and seriousness of the matters that fall for determination.

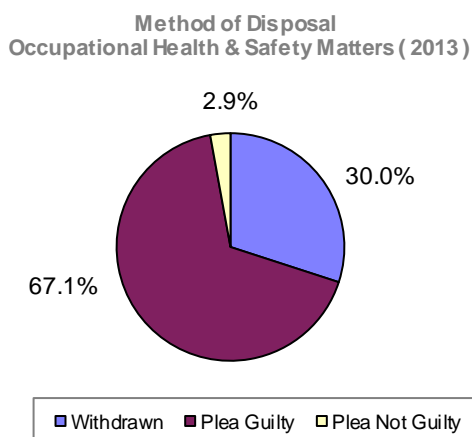
The figure below shows the impact of the legislative change on filings:

FIGURE K

Occupational Health and Safety Proceedings	2009	2010	2011	2012	2013
Filings	131	131	144	6	-

The graph below shows the breakdown of how matters finalised during 2013 were determined:

FIGURE L



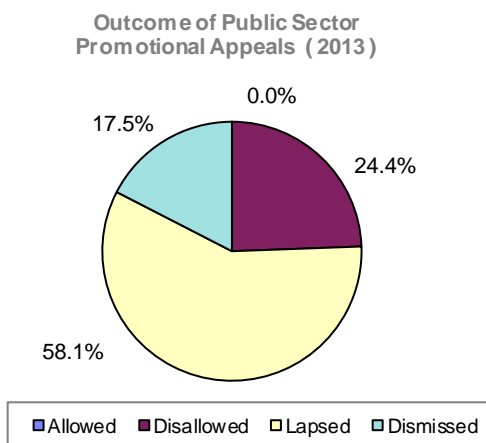
PUBLIC SECTOR AND TRANSPORT SECTOR APPEALS

On 1 July 2010 the *Government and Related Employees Appeal Tribunal (GREAT)* was abolished and the jurisdiction of that Tribunal was ceded to the Commission with the essential provisions incorporated in a new Part 7 of the *Industrial Relations Act 1996*. At the same time, the constitution of the Transport Appeal Boards was altered to provide that a Board was constituted by the President of the Industrial Relations Commission or his delegate⁸.

Two panels were established to deal with the new jurisdictions - the *Public Sector Appeals Panel (PSA)* and the *Transport Appeal Boards Panel (TAB)* and two Presidential Members were appointed as head of each panel with a number of Commissioner Members appointed to each panel.

The charts below show how the matters filed in 2013 were disposed of by the Commission and the Board:

FIGURE M Promotional Appeals



⁸ s 5 [Transport Appeal Boards Act 1980](#)

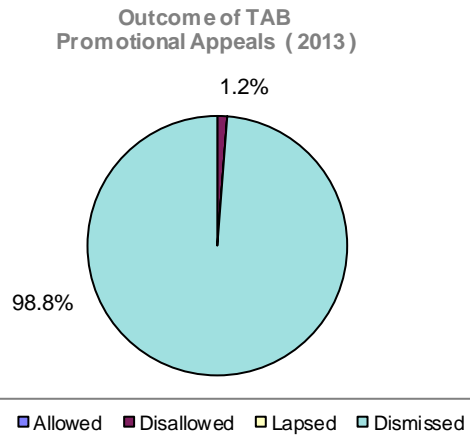
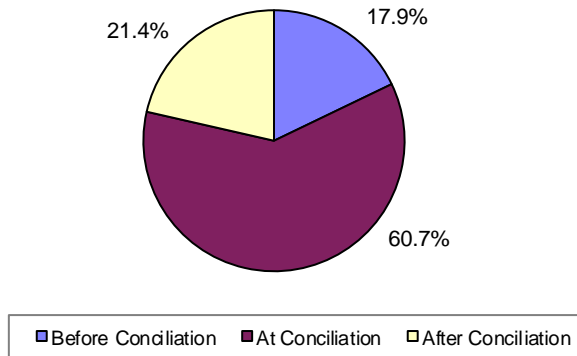
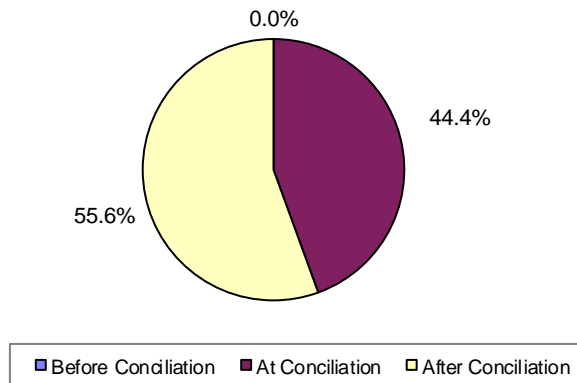


FIGURE N Disciplinary Appeals

Method of Disposal Public Sector Disciplinary Appeals (2013)



Method of Disposal TAB Disciplinary Appeals (2013)



With the enactment of the *Transport Administration (Staff) Regulation 2012*⁹, public sector transport workers could no longer bring promotional or disciplinary proceedings before the

⁹ commenced on 1 September 2012

Board¹⁰. The Board retained jurisdiction to determine matters pending at the time of commencement. This impacted on the workload of the Commission in 2013.

SECTION 146B

As mentioned earlier, s 146B of the *Industrial Relations Act* operates to permit industrial parties in the federal system to nominate the Industrial Relations Commission of New South Wales as the dispute resolution provider.

Section 186(6) of the *Fair Work Act 2009* (Cth) requires an enterprise agreement to include a term that provides a procedure that requires or allows the Fair Work Commission or another person who is independent of the employer, employees or employee organisation covered by the agreement, to resolve disputes.

In many cases the Commission will not be aware of such an arrangement between the parties in agreements approved by the Fair Work Commission until a dispute arises and the assistance of the Commission is sought.

Many parties to s 146B agreements seek the assistance of the Commission to facilitate work practice change leading to improved efficiency and productivity. This is reflected in the significant use of s 146B in the Hunter Valley construction industry, the electricity industry and steel industries. Many agreements have adopted or adapted the model s 146B settlement procedure found on the Commission's [website](#).

FULL BENCH

Full Benches of the Commission and of the Court are constituted by the President usually pursuant to s 156, s 187 or s 193 of the *Industrial Relations Act 1996* and must consist of at least three Members. The constitution of a Full Bench will vary according to the nature of proceedings being determined. The nature of proceedings range from appeals against decisions of single Members, Industrial Magistrates and the Industrial Registrar; matters referred by a Member (s 193) and major test case decisions (s 51).

¹⁰ in most cases, State Transit employees are able to bring disciplinary proceedings under the *Industrial Relations Act 1996*

During 2013, Full Benches finalised 40 matters the majority of which involved appeals. All decisions may be accessed from the Commission's *CaseLaw* [website](#).

TIME STANDARDS

The Commission formally adopted time standards for the disposition of work in the major areas of the Commission's jurisdiction in 2004. In doing so, the Commission developed standards that reflect the unique range of jurisdiction which the Commission exercises. The standards, and how the Commission performed against those standards, are set out in Appendix 2 of this report.

At the same time, the Commission released its policy on the delivery of decisions and judgments. That policy is set out below for the information of stakeholders and clients:

"The diverse nature of matters that come before the Commission for determination will often result in the decision of a presiding member or Full Bench being reserved. Until recently it was very rare for any decision to be delivered extempore. However, it has now become a common feature of the Commission's work - in appropriate cases – to deliver extempore judgments at the conclusion of a hearing.

The Commission has set a target for the delivery of judgments of three months from the date a judgment is reserved to the date when it should be delivered. Industrial disputes will generally require decision (particularly interim decisions or recommendations), within a shorter time frame, if one is necessary. In respect of unfair dismissal matters the Commission has set a target of 80 per cent of reserved judgments being delivered within two months and 100 per cent within three months. This policy will take effect with respect to decisions or judgments reserved after 30 September 2004.

The capacity for the Commission to achieve this target is dependent on the complexity of the matter for determination and other factors such as the availability of resources in relation to the workload of the Court, leave, timeliness in the replacement of appointments, etc. Because of their size and complexity major industrial cases fall outside the general target, however, every effort has been and is being made to deliver the judgment as soon as possible after the decision has been reserved consistent with the exigencies of the particular proceedings.

The President is provided with information on reserved judgments and will consult with any Member where the judgment is undelivered within the relevant timeframe.

If the legal representative or a party to proceedings in which there has been a reserved decision or judgment desires to complain about delays over delivery of the decision or judgment, the complaint should be made by letter and should be addressed to the President of the Commission or the Industrial Registrar.

The matter will then be taken up with the Member or Members involved in the reserved decision but this will be done without disclosing the identity of the party making the complaint. If the matter is not satisfactorily resolved, the President or the Registrar should again be informed."

THE REGISTRY

The Industrial Registrar has overall administrative responsibility for the operation of the Commission. The Registrar reports to the President of the Commission in terms of the day to day operational procedures and, as a Business Centre Manager within the Department of Attorney General and Justice with reporting and budgetary responsibilities, to the Assistant Director General, Courts and Tribunal Services.

The Registry provides administrative support to the Members of the Commission and focuses on providing high level services to both its internal and external clients. The major sections of the Registry are:

REGISTRY CLIENT SERVICES

The Registry Client Services team provides assistance to users of the Commission seeking information about the work of, or appearing before, the Commission. This team is responsible for receiving all applications and claims, guiding applicants and claimants through the management of their matter, listing matters to be heard by Members and providing formal orders made by the Commission or Industrial Court. In addition, the team provides support to Members and their staff by providing infrastructure for the requisition of stores, etc. It also has responsibilities under the *Public Finance and Audit Act 1983*.

Client Service staff are situated in four locations - 47 Bridge Street, Sydney (Principal Registry); 237 Wharf Road, Newcastle; 90 Crown Street, Wollongong; and Parramatta Local Court, Cnr George and Marsden Streets, Parramatta.

The role of Client Service staff is crucial as they are usually the initial point of contact for the Commission's users. The Commission is fortunate that the staff within this area approach their duties with dedication and efficiency.

INFORMATION MANAGEMENT, ELECTRONIC SERVICES & COMMISSIONER SUPPORT TEAM

The Information Management, Electronic Services and Commissioner Support Team is responsible for the preparation of industrial awards, enterprise agreements and other orders made by Members of the Commission, for publication in the New South Wales

Industrial Gazette, which is available in electronic format. This process is required and driven by legislative requirements and enables the enforcement and implementation of awarded or approved employment conditions for employees. This team is also responsible for the maintenance of records relating to parties to awards and records relating to Industrial Committees and their members.

Additionally, this team provides information management, technology services and support to the Commission, the Industrial Registrar and Registry staff. The demand for the provision of on-line services and information has continued to grow and this team's main functions include - caseload reporting; maintenance and support of the Commission's case management system - *CITIS* (Combined Industrial Tribunals Information System) and other internal systems; updating the Commission's *Intranet* and *Internet* sites and the maintenance of the *NSW Industrial Gazette* [website](#).

Importantly, this team also provides administrative support to Commissioner Members.

INDUSTRIAL ORGANISATIONS TEAM

This team processes a diverse range of applications that are determined by the Industrial Registrar, which include:

- registration, amalgamation and consent to alteration of the rules of industrial organisations;
- election of officers of industrial organisations or for special arrangements in relation thereto;
- Authority to Enter Premises and Work Health and Safety Entry Permits for union officials;
- Certificates of Conscientious Objection to membership of industrial organisations;
- special rates of pay for employees who consider that they are unable to earn the relevant award rate because of the effects of impairment; and
- special arrangements in respect of the keeping of time and wage records and the provision of pay slips.

With respect to industrial organisations, the team also administers provisions relating to the regulation and corporate governance of industrial organisations under Chapter 5 of the *Industrial Relations Act 1996* and provides assistance in the research of historical records.

In addition, the team processes applications for registration of employers of outworkers for determination by the Clothing Trades (State) Industrial Committee.

EXECUTIVE TEAM

The principal function of this team is to provide information, support and advice to the members of the Registry to ensure that services are maintained at a high level. This team is also responsible for high level planning and provision of various information and reports to the program group and the Department.

OTHER MATTERS

JUDICIAL EDUCATION

The Annual Conference of the Industrial Relations Commission was held from 16 - 18 October 2013. The first day covered a variety of topics with presentations by Deputy President Adrian Bloomfield, Queensland Industrial Relations Commission (*A View from the North: Developments in Queensland*); his Honour Magistrate David Heilpern, Local Court of NSW (*Controlling the Court*); Mr Arthur Moses, SC, Barrister (*Judicial Recusal*); Professor Simon Willcock, Head, Discipline of General Practice, Sydney Medical Program, University (*Judge Yourself: Professionals Keeping Healthy*); Mr Murali Sagi PSM, Director, Information Management and Corporate Services and Ms Joy Blunt, Senior Systems Officer – Training, Judicial Commission of New South Wales (*Developments in On-line Resources*);. The second day of the conference was disrupted by bushfires in the area and number of presenters being unable to attend. An important session was delivered by his Honour Judge Michael Boylan, District Court, South Australia (*Assessing the Credibility of Witness*).

Professional Development is an important facet to ensure that Members stay abreast of changes and their development by exposure to different areas of learning. The Annual Conference continues to provide an invaluable opportunity for Members of the Commission to discuss matters relevant to their work. The presentations and ensuing discussions were relevant and practical and appreciation is, once again, expressed to the eminent presenters, to all those who contributed as participants and the officers of the Judicial Commission whose assistance is invaluable. The development of the Annual Conference, substantially assisted by the Judicial Commission exercising its mandate to advance judicial education, has, once again, proved a successful initiative. Thanks go to those members of the Commission's Education Committee who designed and delivered a conference that has added much to the professionalism with which the Commission seeks to advance in all its work.

TECHNOLOGY

Medium Neutral Citation

Since February 2000, the Commission has utilised an electronic judgments database and a system of court designated medium neutral citation. The system is similar to that in use in the Supreme and other New South Wales courts and allows judgments to be delivered electronically to a database maintained by the Department of Attorney General and Justice (Caselaw). The judgment database allocates a unique number to each judgment and provides for the inclusion of certain standard information on the judgment cover page.

The adoption of the system for the electronic delivery of judgments has provided a number of advantages to the Commission, the legal profession, other users of the Commission and legal publishers. The system allows unreported judgments to be identified by means of the unique judgment number and paragraph numbers within the body of the judgment. The judgments are now available shortly after they are handed down through both the Department of Attorney General and Justice's website (<https://www.caselaw.nsw.gov.au>) and the Australian Legal Information Institute website (AustLII).

Decisions of Presidential Members made in relation to industrial disputes where the Commission might make a statement, recommendation(s) and/or directions with a view to resolving the dispute are not usually published on Caselaw.

All arbitrated decisions of Commissioner Members and those of the Transport Appeal Boards (decisions made after taking evidence from the parties) are published. The exception to this rule is decisions that are read onto the record - these will only be published where the matter involves a particular matter of interest, topicality or noteworthiness.

The Caselaw database was substantially upgraded towards the end of 2010 and the Commission has actively promoted the redevelopment of that system to ensure that decisions of the Commission are more readily available to the community.

COMMITTEES

A list of the committees in operation within the Commission is set out at Appendix 3.

COMMISSION RULES

Pursuant to section 186 of the *Industrial Relations Act*, the Rules of the Commission are to be made by a Rules Committee comprising the President of the Commission and two other Presidential Members appointed by the President. There is also scope for co-option of other Members.

From the commencement of the 2010 Law Term (1 February 2010) the Commission transitioned to the *Uniform Civil Procedure* regime that operates in the Supreme, Land and Environment, District and Local Courts. Essentially, this means that much of the procedure of the Commission is now determined under the *Civil Procedure Act 2005* and the *Uniform Civil Procedure Rules 2005*, however, there are 'local rules' that prevail. These local rules are known as the Industrial Relations Commission Rules 2009 and also took effect from 1 February 2010.

There were no changes to the Industrial Relations Commission Rules during 2013.

AMENDMENTS TO LEGISLATION, ETC

The legislative amendments enacted during 2013, or which came into force that year affecting the operation and functions of the Commission, are reported at Appendix 4.

Amendments to Regulations affecting the Commission are reported at Appendix 5.

PRACTICE NOTES

There were no new Practice Notes issued in 2013.

CONCLUSION

The introduction of the *Work Choices* legislation, the transfer of the balance of the private sector to the Federal jurisdiction and the transfer of the Occupational Health and Safety prosecutions to the District Court resulted in significant reductions to the Commission's workload. That reduction appears to have reached its floor in 2013 with consistent trends in all jurisdictional areas being maintained.

The workload falling on Members did not significantly alter during the period because of successive reductions in the total number of Members. Further, the Commission has been able to maintain the high performance levels it has sustained in over a century of service to the State. However, the Commission will experience a 'seachange' in 2014 with the retirement of a further three judges. That will impact significantly upon the discharge of the functions of the Commission.

The trend in filings in the Commission will remain in 2014. In the previous two years the judicial Members of the Commission have undertaken, on average, 35% of their workload in the non-judicial areas of the Commission's jurisdiction. The retirements mentioned above have the potential to impact on the timely disposal of matters brought before the Commission unless an appropriate resourcing model is settled early in the new year. Careful consideration will also need to be given in any future resourcing because of the significant role played by judges in managing the more substantial and important matters in the Commission's non-judicial areas.

I look forward to working with the Members, government, major stakeholders, relevant departments and the wider community as we strive to ensure that this well established and successful model of industrial relations is maintained over time.

ANOTHER TIME



L to R: Justice Monica Schmidt, Commissioner Inaam Tabbaa, Elizabeth Bishop, the Honourable Leone Glynn, the Honourable Tricia Kavanagh, Janice McLeay, Commissioner Donna McKenna

This photograph taken during the Centenary Celebrations in 2002 is indicative of the Commission's proud record of female representation on the Industrial Court and Industrial Commission bench during its history.

At a time when there were growing calls for greater gender equity on the bench across Australia, the Court and Commission, with three female judges and four female commissioners, set the example that many other jurisdictions have now followed or hope to follow.

APPENDIX 1

INDUSTRY PANELS

Metropolitan, Industry Specific and Regional Panels

to operate with effect from **Monday 29 April 2013**

Metropolitan

Divisional Head: Walton J, Vice President

Members

Haylen J
Staff J
Backman J
Tabbaa C
Newall C

Corrections

Education

Emergency Services

(Emergency Services includes Dept of Police and Emergency Services, NSW Police, Fire Brigades, Rural Fire Service including Emergency Management NSW, State Emergency Service and NSW Crime Commission and Ambulance Service)

Health

(Includes Dept of Health, Area/Local Health Services/Networks, Cancer Institute and Health Care Complaints Commission)

Juvenile Justice

Government/Public Sector

(Any other Government sector that is not separately referred to in this document)

Public Transport

Local Government

Private

(Private includes any residual private matters remaining within the State system by virtue of new s 146B or similar provisions under Federal legislation)

Industry Specific

Transport Appeal Boards (TAB) Panel - Divisional Head - Staff J

Members

Tabbaa C
Stanton C >
Newall C

Industries: The President has, pursuant to section 5(4) of the *Transport Appeal Boards Act* 1980, delegated to all the members of this Panel the power to Act as the Board in matters arising to be determined under this Act.

> Stanton C to be utilised as required

Public Sector Appeal (PSA) Panel - Divisional Head - Staff J

Members

Tabbaa C
Stanton C >
Newall C

Industries: While all Members of the Commission have jurisdiction to determine matters under Part 7 of Chapter 2 of the *Industrial Relations Act* 1996, the President has determined that these matters are most appropriately dealt with at the Commissioner level.

> Stanton C to be utilised as required for matters arising in Panel N areas

Regional

Panel N - Divisional Head - Harrison DP

Members

Stanton C

Industries: Relevant geographical areas north of Gosford
(excluding Broken Hill)
all Power Industry including County Councils such as
they remain within the State system

Panel S - Divisional Head - Walton J, Vice-President

Members

Staff J

Tabbaa C

Industries: Relevant geographical areas south of Gosford
plus Broken Hill and
all Steel Manufacturing and Allied Industries such as
they remain within the State system

APPENDIX 2

TIME STANDARDS

Industrial Relations Commission

Time from commencement to finalisation	Standard for 2012/ Achieved in 2012		Standard for 2013/ Achieved in 2013	
Applications for leave to appeal and appeal				
<i>Within 6 months</i>	50%	73.4%	50%	72.3% ↑
<i>Within 12 months</i>	90%	93.4%	90%	100% ↑
<i>Within 18 months</i>	100%	93.4%	100%	100% ↑
Award Applications [including Major Industrial Cases]				
<i>Within 2 months</i>	50%	86.4%	50%	53.0% ↑
<i>Within 3 months</i>	70%	88.4%	70%	58.0%
<i>Within 6 months</i>	80%	97.4%	80%	87.0% ↑
<i>Within 12 months</i>	100%	99.7%	100%	91.0%
Enterprise Agreements				
<i>Within 1 months</i>	75%	100%	75%	80.0% ↑
<i>Within 2 months</i>	85%	100%	85%	80.0%
<i>Within 3 months</i>	100%	100%	100%	100% ↑
Time to first listing				
Industrial Disputes				
<i>Within 72 Hours</i>	50%	40.3%	50%	42.3%
<i>Within 5 Days</i>	70%	55.0%	70%	58.9%
<i>Within 10 Days</i>	100%	76.7%	100%	80.7%
Time from commencement to finalisation				
Applications relating to Unfair Dismissal				
<i>Within 2 months</i>	50%	62.9%	50%	63.2% ↑
<i>Within 3 months</i>	70%	71.5%	70%	72.0% ↑
<i>Within 6 months</i>	90%	87.3%	90%	85.2%
<i>Within 9 months</i>	100%	93.6%	100%	91.6%
Public Sector Promotional Appeals				
<i>Within 1 months</i>	30%	43.2%	30%	57.5% ↑
<i>Within 2 months</i>	60%	71.6%	60%	81.6% ↑
<i>Within 3 months</i>	90%	84.1%	90%	98.8% ↑
<i>Within 6 months</i>	100%	100%	100%	100% ↑
Public Sector Disciplinary Appeals				
<i>Within 1 months</i>	30%	26.1%	30%	76.1% ↑
<i>Within 2 months</i>	60%	52.2%	60%	82.6% ↑
<i>Within 3 months</i>	90%	60.9%	90%	82.6%
<i>Within 6 months</i>	100%	73.9%	100%	88.8%

Key: ↑ = areas where the Commission has equalled or exceeded time standard

TIME STANDARDS

Industrial Court

Time from commencement to finalisation	Standard for 2012/ Achieved in 2012		Standard for 2013/ Achieved in 2013	
Applications for leave to appeal and appeal				
<i>Within 9 months</i>	50%	65.2%	50%	90.0% ↑
<i>Within 12 months</i>	90%	73.9%	90%	95.0% ↑
<i>Within 18 months</i>	100%	91.3%	100%	100% ↑
Prosecutions under OHS legislation				
<i>Within 9 months</i>	50%	18.0%	50%	1.5%
<i>Within 12 months</i>	75%	34.0%	75%	9.9%
<i>Within 18 months</i>	90%	59.0%	90%	21.2%
<i>Within 24 months</i>	100%	74.0%	100%	46.6%
Applications for relief from Harsh/Unjust Contracts				
<i>Within 6 months</i>	30%	11.1%	30%	14.3%
<i>Within 12 months</i>	60%	33.3%	60%	35.7%
<i>Within 18 months</i>	80%	33.3%	80%	36.0%
<i>Within 24 months</i>	100%	44.4%	100%	42.8%
Key: ↑ = areas where the Court has equalled or exceeded time standard				

TIME STANDARDS

Transport Appeal Boards

Time from commencement to finalisation	Standard for 2012/ Achieved in 2012		Standard for 2013/ Achieved in 2013	
Promotional Appeal				
<i>Within 1 months</i>	30%	9.5%	30%	0%
<i>Within 2 months</i>	60%	22.4%	60%	0%
<i>Within 3 months</i>	90%	66.9%	90%	0%
<i>Within 6 months</i>	100%	100%	100%	100% ↑
Disciplinary appeals				
<i>Within 1 months</i>	30%	32.5%	30%	0%
<i>Within 2 months</i>	60%	41.3%	60%	0%
<i>Within 3 months</i>	90%	48.8%	90%	11.1%
<i>Within 6 months</i>	100%	86.3%	100%	44.4%
Key: ↑ = areas where the Court has equalled or exceeded time standard				

APPENDIX 3

COMMITTEES

Library Committee

The Hon. Justice Staff (Chair)
Commissioner Macdonald
Mick Grimson, Industrial Registrar
Vanessa Blackmore, Acting Director, Library Services
Bhagya Puran, Librarian, IRC of NSW

Education Committee

The Hon. Justice Haylen (Chair to 24 October)
The Hon. Justice Staff (Chair from 25 October)
Commissioner Tabbaa
Mick Grimson, Industrial Registrar
Ruth Windeler, Judicial Commission of NSW
Ruth Sheard, Judicial Commission of NSW

Rules Committee

The Hon. Justice Boland, President (Chair)
The Hon. Justice Walton, Vice-President
Mick Grimson, Industrial Registrar (Secretary)

APPENDIX 4

LEGISLATIVE AMENDMENTS

Road Transport Legislation (Repeal and Amendment) Act 2013 No 19

This Act was assented to on 3 April 2013 and commenced from 1 July 2013. This Act repealed and amended various legislation as a consequence of the enactment of the *Road Transport Act 2013*. This amended the definition of motor vehicle in the Industrial Relations Act.

Government Sector Employment Act 2013 No 40

This Act was assented to on 25 June 2013 but had not commenced as at 31 December 2013. The Act will repeal the *Public Sector Employment and Management Act 2002* and provide the new legislative basis for government employment in NSW. When commenced it will remove the Commission's jurisdiction to hear promotional appeals for government sector employees under Chapter 2, Part 7.

Entertainment Industry Act 2013 No 73

The Act was assented to on 1 October 2013 and had not commenced as at 31 December 2013. On commencement the Commission will have jurisdiction to assist parties to resolve a question, dispute or difficulty that may arise between and an entertainment industry representative or entertainment industry hirer. The Industrial Court (in conjunction with the Local Court) will also have jurisdiction to deal with applications for the imposition of a civil penalty for breaches of the Act.

Industrial Relations Amendment (Industrial Court) Act 2013 No 85

The Act was assented to on 31 October 2013 and commenced on 20 December 2013. On commencement the Act was amended to provide - the Industrial Court may only be constituted by a single judicial member (judge) and not by a Full Bench of judicial members (judges); a judge of the Supreme Court may act as a judge of the Industrial Court; transferred the jurisdiction of a Full Bench of the Industrial Court to deal with cancellation of industrial organisations to the Industrial Relations Commission and provides that a Full Bench of the Commission for that purpose is to be constituted by a judge of the Industrial Court and two members who are Australian Lawyers; transferred the jurisdiction of a Full Bench of the Industrial Court to deal with contempt to a single judge of the Court; transferred the jurisdiction of a Full Bench of the Industrial Court to hear appeals from the Local Court or appeals on a question of law in relation to a public sector promotional or disciplinary appeal to a single judge of the Court; transferred the jurisdiction of a Full Bench of the Industrial Court to hear appeals from a judge of the Industrial Court to the Supreme Court;

Civil and Administrative Legislation (Repeal and Amendment) Act 2013 No 95

An Act assented to on 20 November 2013 to commence on 1 January 2014. On commencement it will amend a reference in the *Industrial Relations Act 1996* to the Administrative Decisions Tribunal to the Civil and Administrative Tribunal.

APPENDIX 5

AMENDMENTS TO REGULATIONS AFFECTING THE COMMISSION

Industrial Relations (General) Amendment (Registration) Regulation 2013

The amendments to the *Industrial Relations Act 1996* by the *Industrial Relations Amendment (Industrial Representation) Act 2012* provided for circumstances in which specified bodies, including the Emergency Medical Service Protection Association (NSW) Inc (EMPSANSW), could be registered as State organisations of employees even if another body represented the same employees. To avoid doubt, this Regulation prescribed the Emergency Medical Service Protection Association (NSW) as a body that was capable of registration as a State organisation of employees even if it would not otherwise be capable of registration because of provisions of the *Industrial Relations Act 1996* that prevent registration where there is another industrial organisation of employees to which its members could belong.

Industrial Relations (General) Amendment (Fees) Regulation 2013

This Regulation commenced on 1 July 2013 increasing certain fees charged by the Industrial Relations Commission.

APPENDIX 6

MATTERS FILED IN THE INDUSTRIAL RELATIONS COMMISSION

(OTHER THAN IN THE INDUSTRIAL COURT)

Matters filed during period 1 January 2013 to 31 December 2013 and matters completed and continuing as at 31 December 2013 which were filed under the *Industrial Relations Act 1996*.

Nature of Application	Filed 1.1.2013 – 31.12.2013	Completed 1.1.2013 – 31.12.2013	Continuing as at 31.12.2013
APPEALS	16	18	6
<i>Appeal – Award</i>	1	0	1
<i>Appeal – Dispute</i>	4	3	3
<i>Appeal - Unfair dismissal</i>	9	13	2
<i>Appeal - Relief from victimisation</i>	2	2	0
AWARDS	146	100	66
<i>Application to make an award</i>	47	41	12
<i>Application to vary an award</i>	96	51	53
<i>State Wage Case</i>	1	4	1
<i>Review of an award</i>	0	2	0
<i>Other - incl. rescission, interpretation</i>	2	2	0
DISPUTES	336	385	82
<i>s130 of the Act</i>	305	348	71
<i>s332 of the Act</i>	17	18	5
<i>s146B of the Act</i>	14	19	6
ENTERPRISE AGREEMENTS	8	5	3
<i>Application for approval with employees</i>	0	0	0
<i>Application for approval with industrial organisation</i>	8	5	3
UNFAIR DISMISSALS	227	250	45
<i>Application by the employee</i>	44	52	9
<i>Application by a represented employee</i>	78	76	20
<i>Application by an industrial organisation on behalf of employee</i>	105	122	16
PUBLIC SECTOR AND POLICE APPEALS	126	139	27
<i>Public Sector promotional appeal</i>	84	87	2
<i>Public Sector disciplinary appeal</i>	31	28	8
<i>Appeal by Police Officer relating to leave when hurt on duty</i>	11	24	17
OTHER	133	116	46
<i>Contract agreements</i>	6	4	2
<i>Contract determinations</i>	13	13	6
<i>Compensation for termination of certain contracts of carriage</i>	7	2	5
<i>Registration pursuant to the Clothing Trades Award</i>	36	36	4
<i>Protection of injured workers from dismissal - Workers Compensation Act</i>	15	11	9
<i>Application for review of order s181D Police Service Act</i>	20	15	12
<i>Application for rescission of order s173 Police Service Act</i>	8	8	3
<i>Application for order enforcing principles of association s213 of the Act</i>	9	8	5
<i>Application for external review Work Health Safety Act</i>	1	1	0
<i>Appeal for an Assisted Appointment Review</i>	18	18	0
SUB-TOTAL	992	1013	275

APPENDIX 7

MATTERS FILED IN THE INDUSTRIAL COURT

Matters filed during period 1 January 2013 to 31 December 2013 and matters completed and continuing as at 31 December 2013 which were filed under the *Industrial Relations Act 1996*.

Nature of Application	Filed 1.1.2013 – 31.12.2013	Completed 1.1.2013 – 31.12.2013	Continuing as at 31.12.2013
APPEALS	25	20	18
<i>Appeal – Industrial Magistrate</i>	3	3	0
<i>Appeal – superannuation</i>	7	4	9
<i>Appeal – OHS prosecution</i>	4	4	3
<i>Appeal – s106 matter</i>	1	1	1
<i>Appeal – Declaratory jurisdiction</i>	1	2	0
<i>Appeal – Dispute</i>	0	1	0
<i>Appeal – Transport Appeal Board</i>	3	2	1
<i>Appeal – Vocational Training Appeal Panel</i>	4	3	2
<i>Appeal – Public Sector Discipline</i>	2	0	2
CONTRAVENTION	0	1	0
<i>Contravention of Dispute Order s139 of the Act</i>	0	1	0
HARSH CONTRACTS	5	14	11
<i>Application under s106 of the Act</i>	5	14	11
PROSECUTIONS	0	70	23
<i>Prosecution – s8(1) OHS Act 2000</i>	0	30	13
<i>Prosecution – s8(2) OHS Act 2000</i>	0	13	8
<i>Prosecution – s9 OHS Act 2000</i>	0	1	1
<i>Prosecution – s10(1) OHS Act 2000</i>	0	11	0
<i>Prosecution – s10(2) OHS Act 2000</i>	0	2	1
<i>Prosecution – s11 OHS Act 2000</i>	0	4	0
<i>Prosecution – s26(1) OHS Act 2000</i>	0	3	0
<i>Prosecution – RSA Act 2008</i>	0	6	0
OTHER	50	43	37
<i>Declaratory jurisdiction (s154, s248)</i>	16	13	13
<i>Registration of organisations Pt3 Ch5</i>	3	4	1
<i>Civil Penalty for breach of industrial instrument</i>	15	8	8
<i>Recovery of remuneration and other amounts</i>	15	14	15
<i>Regulation of State industrial organisations Pt4 of Ch5</i>	0	1	0
<i>Associations of employing contractors, drivers and carriers Pt5 of Ch6</i>	0	1	0
<i>Entry and inspection by officers of industrial organisations Pt7 of Ch5</i>	1	1	0
<i>Proceedings Pt4.1 FWA 2009</i>	0	1	0
SUB-TOTAL	80	148	89

APPENDIX 8

MATTERS FILED IN THE TRANSPORT APPEAL BOARD

Matters filed during period 1 January 2013 to 31 December 2013 and matters completed and continuing as at 31 December 2013 which were filed under the *Transport Appeal Boards Act 1980*.

Nature of Application	Filed 1.1.2013 – 31.12.2013	Completed 1.1.2013 – 31.12.2013	Continuing as at 31.12.2013
APPEALS	0	255	0
<i>Promotional Appeal</i>	0	246	0
<i>Disciplinary Appeal</i>	0	9	0
SUB-TOTAL	0	255	0
TOTAL	1072	1416	364
<i>IRC, IC & TAB Matters</i>			

APPENDIX 9

A BRIEF HISTORY OF THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

The Court of Arbitration, established by the *Industrial Arbitration Act* 1901, was a court of record constituted by a President (a Supreme Court judge) and two members representing employers and employees respectively. The Court came about as a result of the failure of employers and unions to use a system of voluntary arbitration. The Court had jurisdiction to hear and determine any industrial dispute or matter referred to it by an industrial union or the Registrar, prescribe a minimum wage and make orders or awards pursuant to such hearing or determination. This Court and its registry, the Industrial Arbitration Office, came under the administration of the Department of Attorney-General and of Justice from 12 December 1901.

The Industrial Court, established by the *Industrial Disputes Act* 1908, was constituted by a Supreme Court or District Court Judge appointed for a period of seven years. The Court did not require the existence of a dispute to ground its jurisdiction and had power to arbitrate on conditions of employment and could hear prosecutions. Together with its registry, known during 1911 as the Industrial Registrar's Office, the Court remained under the administration of the Department of Attorney-General and of Justice. The Act also established a system of **Industrial Boards** that consisted of representatives of employers and employees sitting under a chairman. The Industrial Court heard appeals from the Industrial Boards.

The Court of Industrial Arbitration was established by the *Industrial Arbitration Act* 1912. It was constituted by judges, not exceeding three, with the status of judges of the District Court. The Court was vested with all the powers conferred on all industrial tribunals and the chairman thereof. The Act empowered the Minister to establish Conciliation Committees with powers of conciliation but not arbitration. They fell into disuse after about twelve months and a Special Commissioner (later known as the Industrial Commissioner) was appointed on 1 July 1912. This Court and its registry were placed under the jurisdiction of the Department of Labour and Industry, which administered the Act from 17 April 1912.

A Royal Commission on Industrial Arbitration in 1913 led to some major changes under the *Industrial Arbitration (Amendment) Act* 1916, which resulted in an increase in the membership of the Court and the transfer of powers of the Industrial Boards to the Court.

The **Board of Trade** was established by the *Industrial Arbitration (Amendment) Act* 1918. It functioned concurrently with the Court of Industrial Arbitration and was constituted by a President (a Judge of the Court), a Vice-President and representatives of employers and employees. The Board's functions were to conduct a public inquiry into the cost of living and declare an adult male and female living wage each year for industry generally and for employees engaged in rural occupations. In addition, it was to investigate and report on conditions in industry and the welfare of workers. The Board was in practice particularly concerned with matters relating to apprenticeships.

The *Industrial Arbitration (Amendment) Act* 1926 abolished the Court of Industrial Arbitration and the Board of Trade and set up an **Industrial Commission** constituted by a Commissioner and a Deputy Commissioner. The Commissioner or Deputy Commissioner sat with employer and employee representatives selected from a panel. On any reference or application to it the Commission could make awards fixing rates of pay and working conditions and determine the standard hours to be worked in industries within its jurisdiction and had power to determine any "industrial matter". The Commission had authority to adjudicate in cases of illegal strikes, lockouts or unlawful dismissals, and could summon persons to a compulsory conference and hear appeals from determinations of the subsidiary industrial tribunals. The former boards, which had not exercised jurisdiction since 1918, continued in existence but as Conciliation Committees with exclusive new jurisdiction in arbitration proceedings.

A number of controversial decisions by the Industrial Commission led to the proclamation of the *Industrial Arbitration (Amendment) Act* 1927, which abolished the position of Industrial Commissioner (but not Deputy Industrial Commissioner) and the constitution of the Commission was altered to that of three members with the status of Supreme Court Judge. The Committees were still the tribunals of first instance and their decisions were to be the majority of members other than the chairman, whose decision could be accepted by

agreement if the members were equally divided. Otherwise the chairman had no vote and no part in the decision. Where a matter remained unresolved in committee it passed to the Commission for determination.

In 1932, under the *Industrial Arbitration (Amendment) Act*, the emphasis fell on conciliation. The offices of Deputy Industrial Commissioner and Chairman of Conciliation Committees were abolished and a Conciliation Commissioner was appointed to fill the latter position. This Act also provided for the appointment of an Apprenticeship Commissioner and for the establishment of Apprenticeship Councils. The Conciliation Commissioner could call compulsory conferences in industrial disputes to effect an agreement between the parties when sitting alone or between the members of the committee when sitting as chairman. Any such agreement, when reduced to writing, took effect as an Award but was subject to appeal to the Industrial Commission. In addition, the Conciliation Commissioner or a conciliation committee could not call witnesses or take evidence except as directed by the Industrial Commission. Unresolved matters were referred to the Commission.

The membership of the Commission was increased to four by the *Industrial Arbitration Act 1936*, and certain provisions regarding appeals were altered under this Act.

The *Industrial Arbitration (Amendment) Act 1937* repealed the Commission's power of determining a standard of living and living wages and provided for the adoption of the needs basic wage and fixed loadings determined by the Commonwealth Court of Conciliation and Arbitration.

In 1938 the number of members of the Commission was increased to no less than five and no more than six and the Act, the *Industrial Arbitration and Workers Compensation (Amendment) Act*, made provisions regarding investigation of rents and certain price fixing. The Act was again amended in 1939 mainly to address the fixing of maximum prices.

The *Industrial Arbitration Act 1940* consolidated all previous Acts and an attempt was made to refine and rationalise the procedures and operation of the **Industrial Commission**. The Act provided for the establishment of an Industrial Commission, Conciliation Committees, Conciliation Commissioners, Special Commissioners, Industrial Magistrates Courts and the Industrial Registrar.

The *Industrial Arbitration (Amendment) Act 1943* empowered the Chairman, with the agreement of the members or by special authorisation of the Industrial Commission, to decide matters where there was division. The number of Commissioners who might be appointed was also increased to five. The *Industrial Arbitration (Amendment) Act 1948* allowed the Commissioners to decide matters upon which the members were equally divided as well as make an Award where the disputing parties had been called into a compulsory conference.

In 1955 the maximum number of members of the Industrial Commission was increased to 12 and the next raft of significant changes came with the *Industrial Arbitration (Amendment) Act 1959*. These changes included defining the wage fixing powers of industrial committees and appeal provisions were also reformed.

In 1979 the Act was again amended to make provision for the establishment of Contract Regulation Tribunals. Generally, this gave the Commission jurisdiction over contracts for the bailment of taxi cabs and private hire cars and over contracts for the transportation by motor lorry of loads other than passengers.

In 1981 and again in 1989 the Commission's powers in relation to dealing with apprentices were clarified. In 1989 the *Industrial and Commercial Training Act* was passed and apprentices were treated as other employees for all industrial purposes.

By 1989 the Act provided that the Industrial Commission consisted of not more than 12 members, one of whom was the President and one of whom was the Vice-President. The Act also provided for the appointment of "non judicial" members who did not have to be legally qualified as well as "judicial" members. There were certain jurisdictional limitations for "non judicial" appointees.

In 1988 the then coalition government commissioned a comprehensive review of the State's industrial laws and procedures. The subsequent report, the Niland Report, had far reaching recommendations and became the basis for the *Industrial Relations Act 1991*. The former Commission was abolished and replaced by the **Industrial Relations Commission** and a separate **Industrial Court**. Two of the key features of the report were the introduction of enterprise bargaining outside the formal industrial relations system with agreements specifically tailored to individual workplaces or businesses and the provisions relating to unfair dismissal.

Individuals could access the Commission if they believed they had been unfairly dismissed. Their remedy was reinstatement and/or compensation.

On 2 September 1996, the *Industrial Relations Act 1996* came into force. It repealed and replaced the 1991 Act and is an example of plain English statute law. Chapter 4 of the Act established a **new Industrial Relations Commission**. Unlike the federal approach the States have not separated judicial and administrative functions in relation to the Commission's powers. The 1991 Act, for the first time, sought to adopt the federal approach and established the Industrial Relations Commission and the Industrial Relations Court (although the judges' remained members of the Commission at all times). The 1996 Act restored the traditional arrangement by merging these two bodies. When the Commission was dealing with judicial matters it was called the **Industrial Relations Commission of New South Wales in Court Session** and was a superior court of record of equivalent status to the Supreme Court.

On 9 December 2005 the *Industrial Relations Amendment Act 2005* was proclaimed to commence. This Act enables the Industrial Relations Commission of New South Wales in Court Session to be called the **Industrial Court of New South Wales**.

On 1 January 2010 the *Industrial Relations (Commonwealth Powers) Act 2009* was proclaimed to commence. This Act referred certain matters relating to industrial relations to the Commonwealth for the purpose of section 51 (37) of the Australian Constitution and to amend the *Industrial Relations Act 1996*. The primary role of the Act was to refer to the Commonwealth sufficient power to enable the creation of a national industrial relations system for the private sector. Essentially, this Act transferred the residue of the private sector to the national industrial relations system and made clear that the Industrial Relations Commission retained jurisdiction in relation to State public sector employees and Local Government employees. Additionally, s 146 of the *Industrial Relations Act 1996* was amended to make clear Members of the **Industrial Relations Commission of New South Wales** could continue to be nominated as dispute resolution providers in federal enterprise agreements. This was designed to ensure that the many companies who continue to use the expertise of the Industrial Relations Commission would be able to continue those arrangements.

On 17 June 2011, the *Industrial Relations Amendment (Public Sector Conditions of Employment) Act 2011* commenced. This Act requires the Industrial Relations Commission to give effect to aspects of government policy declared by the regulations relating to public sector conditions of employment (section 146C).

On 1 January 2012, the *Work Health and Safety Act 2011* commenced. This Act removed the jurisdiction of the Industrial Court to deal with work, health and safety prosecutions involving death or serious injury occurring in workplaces across the State. This jurisdiction was transferred to the District Court. The Industrial Court retained jurisdiction to deal with matters filed prior to 31 December 2011 under the *Occupational Health and Safety legislation* prior to its repeal. The Court also retained jurisdiction in relation to minor breaches of the work, health and safety legislation.

On 20 December 2013 the *Industrial Relations Amendment (Industrial Court) Act 2013* commenced and substantially amended the *Industrial Relations Act 1996*. The major changes were that the Industrial Court may only be constituted by a single judicial member (judge) and not by a Full Bench of judicial members (judges); a judge of the Supreme Court may act as a judge of the Industrial Court; the jurisdiction of a Full Bench of the Industrial Court to deal with cancellation of industrial organisations was transferred to the Industrial Relations Commission and provided that a Full Bench of the Commission for that purpose is to be constituted by a judge of the Industrial Court and two members who are Australian Lawyers; the jurisdiction of a Full Bench of the Industrial Court to deal with contempt was transferred to a single judge of the Court; the jurisdiction of a Full Bench of the Industrial Court to hear appeals from the Local Court or appeals on a question of law in relation to a public sector promotional or disciplinary appeal was transferred to a single judge of the Court; the jurisdiction of a Full Bench of the Industrial Court to hear appeals from a judge of the Industrial Court was transferred to the Supreme Court. The amendments also allow former members of the Commission and Court to complete matters that were unfinished by them when they ceased to be members. Amendments to other Acts provided for appeals from the Industrial Court to the Court of Criminal Appeal; for certain matters under the *Police Act 1990* to be dealt with by Commission members who are Australian Lawyers; and for a judicial member of the Commission to act as a Judge of the Supreme Court.

APPENDIX 10

THE PRESIDENTS OF THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Name	Held Office		Remarks
	From	To	
Cohen, Henry Emanuel	01 Apr 1902	03 Jul 1905	Died 5 Jan 1912.
Heydon, Charles Gilbert	04 July 1905	Dec 1918	Died 6 Mar 1932.
Edmunds, Walter	Aug 1920	06 Jan 1926	From February 1919 to August 1920 held appointment as Acting President and President of Board of Trade. Died 15 Aug 1932.
Beeby, George Stephenson	Aug 1920	July 1926	President, Board of Trade. Died 18 Jul 1942.
Piddington, Albert Bathurst	July 1926	19 May 1932	Died 5 Jun 1945.
Browne, Joseph Alexander	20 Jun 1932	30 Jun 1942	Died 12 Nov 1946.
Taylor, Stanley Cassin	28 Dec 1942	31 Aug 1966	Died 9 Aug 1982.
Beattie, Alexander Craig	1 Sep 1966	31 Oct 1981	Died 30 Sep 1999.
Fisher, William Kenneth	18 Nov 1981	11 Apr 1998	Died 10 Mar 2010.
Wright, Frederick Lance	22 Apr 1998	22 Feb 2008	
Boland, Roger Patrick	9 Apr 2008	Still in office	

APPENDIX 11

THE VICE-PRESIDENTS OF THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

The position of **Vice-President** of the Industrial Relations Commission was created with the assent of the *Industrial Arbitration (Industrial Tribunals) Amendment Act 1986* on 23 December 1986.

The position was created

"To achieve a more cohesive single structure. In future, responsibility for assignment of conciliation commissioners to chair conciliation committees and the allocation of disputes to them will reside in a judicial member of the Industrial Commission who will be appointed as Vice-President of the Industrial Commission. This will assist in the achievement of a closer relationship between the separate structures of the Industrial Commission and conciliation commissioners and will allow a more uniform approach to industrial relations issues"¹¹

The role of the Vice-President continues to be one which contributes significantly in regard to the formulation of policy and the co-ordination of resources across the Commission.

Name	Held Office		Remarks
	From	To	
Cahill, John Joseph	19 Feb 1987	10 Dec 1998	Died 21 Aug 2006.
Walton, Michael John	18 Dec 1998	Still in Office	

¹¹ Hansard, Second Reading Speech, *Legislative Council*, 21 Nov 1986 per The Hon. J R Hallam at p7104

APPENDIX 12

INDUSTRIAL REGISTRARS OF THE INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Name	Held Office		Remarks
	From	To	
Addison, George Campbell	1 Apr 1902	1912	Returned to the Bar. Appt Chief Industrial Magistrate 1917.
Holme, John Barton	1912	9 Feb 1914	Appt first Undersecretary, Department of Labour and Industry 10 Feb 1914.
Payne, Edward John	1914	1918	Retired from the public service in 1939 as Chairman, Public Service Board.
Kitching, Frederick William	12 Jul 1918	30 Jun 1924	Appt Undersecretary, Office of the Minister for Labour and Industry 1 Jul 1924.
Webb, Alan Mayo	1 Sep 1924	19 Jun 1932	Appt Judge of Industrial Commission 20 Jun 1932.
Wurth, Wallace Charles	1932	1936	Appt to Public Service Board; Appt Chairman, PSB in 1939.
Ebsworth, Samuel Wilfred	1936	1947	Retired.
Kelleher, John Albert	1947	13 May 1955	Appt Undersecretary and Industrial Registrar, Dept of Labour and Industry and Social Welfare 1949. Appt Judge of Industrial Commission 16 May 1955.
Kearney, Timothy Joseph	1955	1962	Appt Undersecretary, Department of Labour and Industry.
Whitfield, John Edward	1962	1968	Appt as Commissioner, Water Conservation and Irrigation Commission.
Fetherston, Kevin Roy	3 June 1968	1977	Appt Executive Assistant (Legal) Department of Labour and Industry; later appt as Deputy Undersecretary, Department of Labour and Industry.
Coleman, Maurice Charles Edwin	29 April 1977	1984	Retired.

Buckley, Anthony Kevin	23 Jan 1984	30 Mar 1992	Appt as Commissioner, Industrial Relations Commission 31 Mar 1992.
Walsh, Barry ¹²	19 Feb 1992	15 Jul 1994	Appt as Registrar, Australian Industrial Relations Court
Szczygielski, Cathy ¹³	18 Jul 1994	4 Nov 1994	Returned to position of Deputy Registrar, Industrial Court.
Williams, Louise ¹⁴	7 Nov 1994	16 Aug 1996	Appt as Registrar, Land & Environment Court.
Robertson, Gregory Keith ¹⁵	31 Mar 1992	26 Oct 1999	To private practice.
McGrath, Timothy Edward	27 Oct 1999	9 Aug 2002	Appt Assistant Director-General, Court and Tribunal Services, Attorney General's Department 12 Aug 2002.
Grimson, George Michael	22 Aug 2002	Still in Office	

¹² Appointed as Acting Registrar and CEO, Industrial Court (under *1991 Act*) 19 Feb 1992, substantively appointed to that position 6 May 1993.

¹³ Acting appointment as Registrar and CEO, Industrial Court (under *1991 Act*) pending recruitment

¹⁴ Appointed as Registrar and CEO, Industrial Court (under *1991 Act*)

¹⁵ Held the position of Registrar, Industrial Relations Commission under *1991 Act* - under *1996 Act* became Registrar and Principal Courts Administrator, Industrial Relations Commission and Commission in Court Session (2 September 1996).