

INDUSTRIAL ARBITRATION (No. 2).

26° GEO. V., No. XXXI.

No. 31 of 1935.

AN ACT to make special provision in the Industrial Arbitration Act, 1912-1935, for the hearing and determination by the Court of Arbitration of certain matters relating to the employment of certain Government officers, and for other purposes.

[Assented to 6th January, 1936.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title
and com-
mencement
of. No. 6 of
1935.

1. (1.) This Act may be cited as the *Industrial Arbitration Act Amendment Act (No. 2)* of 1935, and shall be read as one with the Industrial Arbitration Act, 1912-1935 (as reprinted in the Appendix to the Sessional Volume of the Statutes for the year 1925 and amended by the Acts No. 41 of 1930 and No. 6 of 1935), hereinafter referred to as the principal Act.

(2.) This Act shall come into operation on a day to be fixed by proclamation.*

Amendment of
heading and
insertion of
new sections.

2. The heading "Part I.—Preliminary" where it appears above section one of the principal Act is deleted

* Proclaimed to commence 1st February, 1936. (See *Gazette*, 31st January, 1936.)

and new sections are inserted in the principal Act after section one as follows:—

1A. This Act is divided into Parts, as follows:— Act divided into Parts.

PART I., ss. 2 to 5—PRELIMINARY.

PART II., ss. 6 to 34—INDUSTRIAL UNIONS AND ASSOCIATIONS.

Division I., ss. 6 to 30—*Industrial Unions.*

Division II., ss. 31 to 34—*Industrial Associations.*

PART III., ss. 35 to 41—INDUSTRIAL AGREEMENTS.

PART IV., ss. 42 to 106—THE COURT OF ARBITRATION.

Division I., ss. 42 to 58—*Constitution of Court.*

Division II., ss. 59 to 106—*Jurisdiction and Procedure of Court.*

PART V., ss. 107 to 117—INDUSTRIAL BOARDS.

PART VI., ss. 118 to 120—CONCILIATION COMMITTEES.

PART VII., ss. 121 to 124—BASIC WAGE.

PART VIII., ss. 125 to 128—APPRENTICES.

PART IX., ss. 129 to 139—OFFENCES.

PART IXA., ss. 140 to 165—GOVERNMENT OFFICERS.

PART X., ss. 163 to 176—MISCELLANEOUS.

THE SCHEDULE—ACTS REPEALED.

1B. Part IXA. of this Act shall be read and administered and have effect as being separate and distinct from all the other Parts of this Act, and, insofar as relates to matters to which Part IXA. applies and relates, none of the provisions contained in the other Parts of this Act shall apply or have any effect, save and except to the extent by which and the manner in which it is expressly provided in Part IXA. that the provisions contained in any of the other Parts of this Act shall be incorporated in Part IXA. and be applied and have effect in relation to matters to which Part IXA. applies and relates.

Part IXA. to be read and administered as being separate and distinct from other Parts.

New heading. 3. A heading is inserted in the principal Act after section one B and above section two, as follows:—

PART I.—PRELIMINARY.

Amendment of s. 4. 4. Section four of the principal Act is amended by deleting all the words in the last five lines of the definition of “worker” and inserting in lieu thereof a paragraph, as follows:—

The term does not include—

- (a) any person who is a “Government officer” within the meaning of that term as defined in and for the purposes of Part IXA. of this Act; or
- (b) any officer within the meaning of that word in the Railways Classification Board Act, 1920; or
- (c) any officer or person employed on the teaching staff of the Education Department under the Education Act, 1928, or the regulations made under that Act.

New Part inserted in principal Act. 5. A new Part is inserted in the principal Act after Part IX., to stand as Part IXA., as follows:—

PART IXA.—GOVERNMENT OFFICERS.

Interpretation. 140. In this Part, and for the purposes of this Part, and subject to the context—

“Association” or “the Civil Service Association” means the Civil Service Association of Western Australia Incorporated.

“Commissioner” means the Public Service Commissioner.

“Court” means the Court of Arbitration constituted under section forty-two of this Act.

“Employer” means in relation to any particular group of Government officers, the Minister of the Crown, body corporate, or other body or person by or under whom any Government department, State Trading Concern, State Instru-

mentality or State Agency, in which such group of Government officers is employed, is administered. In the case of Government officers who are public service officers under and within the meaning of the Public Service Act, 1904, the Commissioner shall be deemed to be the "employer" within the meaning of that term as herein defined.

"Government officer," subject as hereinafter provided, includes—

- (1) Generally, every person employed in the service of the State, whether in a Government department, State Trading Concern, State Instrumentality, or State Agency, and whether permanently, temporarily, or provisionally, whose salary or remuneration in such employment is paid out of the public moneys of the State, or out of the revenue or funds of a Government department, State Trading Concern, State Instrumentality or State Agency, under the authority or by virtue of any general or special appropriation in or under any Act of Parliament, and who is, or is eligible and qualified to become a member of the Civil Service Association under and in accordance with the Constitution and rules of that association from time to time in force; and
- (2) In particular, without in any way limiting the generality of paragraph (1) hereof, every person who is employed—
 - (a) in any capacity as an officer under and within the meaning of the Public Service Act, 1904, and its amendments; or
 - (b) on the staff of the Agricultural Bank of Western Australia under the Commissioners of the Agricultural Bank of Western Australia; or
 - (c) on the administration staff under the Commissioner of Main Roads; or
 - (d) on the administration staff of the Forests Department under the Forests Act, 1918; or

- (e) on the administration staff of the Western Australian Transport Board under the State Transport Co-ordination Act, 1933; or
- (f) on the administration staff of the Metropolitan Market Trust under the Metropolitan Market Trust Act, 1926; or
- (g) on the administration staff of any public hospital which is managed and controlled by a Minister of the Crown under and for the purposes of the Hospitals Act, 1927; or
- (h) on the administration staff of any other board, trust, commission, or other body corporate established by any Act of Parliament to carry on, conduct, manage, or control any undertaking or activity on behalf of the State; or
- (i) on the administration staff of any harbour trust or harbour board,

and who is, or is eligible and qualified to become a member of the Civil Service Association as aforesaid:

Provided that the term shall not include—

- (i) any officer of either House of Parliament under the separate control of the President or Speaker or under their joint control; or
- (ii) any officer employed on the teaching staff of the Education Department under the Education Act, 1928, or the regulations made thereunder; or
- (iii) any officer within the meaning of that word in the Railways Classification Board Act, 1920; or
- (iv) any person who is a member or eligible and qualified to become a member of an industrial union registered under the provisions of Part II. of this Act, or is a person to whom any award or industrial agreement which has been declared a common rule, made and in force under and by virtue of the provisions contained in this Act elsewhere than in this Part of this Act, applies, notwithstanding that

such person may also be, or be eligible and qualified to become, a member of the Civil Service Association; or

(v) any person who is at the commencement of this Act, or at any time hereafter, becomes a member of any society distinct from the Civil Service Association, which is eligible or qualified to apply for registration as an industrial union under Part II. of this Act.

(3) This definition shall not apply to any person who in all other respects is a Government officer as herein defined if and when he occupies a position the maximum rate of salary of which is fixed at an amount exceeding six hundred and ninety-nine pounds a year.

“Minister” means the Minister of the Crown charged with the administration of this Act.

“President” means the President of the Court.

“Registrar” means the Registrar of Industrial Unions appointed and holding office under this Act.

141. This Part of this Act shall be read in conjunction with the Public Service Act, 1904, and its amendments.

This Part to be read with Public Service Act, 1904.

142. This Part of this Act shall apply only to Government officers within the meaning of that term in section one hundred and forty of this Act.

This Part to apply only to Government officers.

143. Notwithstanding anything to the contrary contained in any other Act, or in any other Part of this Act, but subject to the provisions of this Part, the Court shall have and may exercise original jurisdiction, as hereinafter provided for and defined, in respect of matters relating and incidental to the employment of Government officers.

The Court to have original jurisdiction under this Part.

144. Subject to this Part of this Act, the Association shall have and enjoy all the rights and privileges of an industrial union registered under Part II. of this Act, and the Commissioner and other employers as defined in this Part shall have and enjoy all the rights and privileges of an employer to whom the pro-

Civil Service Association to have rights and privileges of an industrial union, and Public Service Commissioner and other employ-

ers to have
rights and
privileges of
an employer.

visions of this Act contained elsewhere than in this Part apply, in relation to the following matters:—

- (a) the bringing before the Court of matters within its jurisdiction under this Part; and
- (b) attending and appearing, and the conduct of proceedings before the Court on the hearing and determination of any matter by the Court; and
- (c) any proceeding necessary to compel the observance of or compliance with any award or order made by the Court in the exercise of its jurisdiction under this Part.

Provided that the provisions of this section, insofar as they relate to the Association shall not operate or have effect unless and until the Association shall have complied with the provisions of subsection (1) of section one hundred and forty-five of this Act.

Association's
constitution
and rules.

145. (1.) Forthwith after the commencement of this Part, the Association shall deposit a true copy of its constitution and rules as then in force, certified in writing under the hands of the president and the secretary of the Association with the Registrar.

(2.) After a copy of the constitution and rules of the Association has been deposited with the Registrar as aforesaid, the provisions contained in such constitution and rules which prescribe the conditions under which a person is eligible and qualified to be or become a member of the Association shall not be altered or amended in any manner by the members of the Association, except with the approval of the Court, on an application by the Association, and then only in such manner as the Court may by its order direct.

(3.) Whenever the Court shall have directed that any of the said provisions of the said constitution and rules shall be altered or amended, an office copy of the order shall be deposited with the Registrar.

(4.) The copy of the constitution and rules of the Association deposited with the Registrar as aforesaid, and the office copy of every order of the Court authorising the alteration or amendment of the same as aforesaid, or any copy thereof or extract therefrom certified under the hand of the Registrar shall be ad-

missible as evidence, without any further proof, in any matter before the Court.

146. (1.) Whenever, after the commencement of this Part of this Act, the members of the Association propose to make application to the Court for its approval of an alteration or amendment of the constitution and rules of the Association as then in force, notice of such application in writing signed by the president of the Association shall be given to the Commissioner, and every other employer within the meaning of this Part, at least one month prior to filing the application in the Court; and such notice shall contain particulars of the alteration or amendment sought to be made and to be submitted for the approval of the Court.

Notice to
Commissioner
of intention
to amend
Rules of the
Association.

(2.) Upon receipt of an application, the Clerk of the Court shall refer the same to the President; and if the President considers that any industrial unions registered under Part II. of this Act are likely to be affected by the application, he may, by notice in the prescribed form, cause the Association to be supplied with a list of the names and registered offices of such industrial unions, and direct the Association to serve each of such unions with a copy of such application and notice of the date fixed for the hearing of the same.

(3.) If the Commissioner or any other employer aforesaid, or any industrial union which has received notice under subsection (2), wish to oppose the proposed application, he or it shall give notice thereof in writing under his or its hand to the secretary of the Association within twenty-one days after receiving from the Association notice of its proposed application, and shall state in his or its notice the grounds upon which he or it opposes the application, and shall file a copy of such notice with the Registrar.

(4.) If the Commissioner or other employer or industrial union aforesaid fails to give notice as provided for in subsection (3) hereof, the Association may proceed with its application *ex parte*, and the Commissioner or other employer or industrial union shall not be entitled to appear before the Court or be heard in opposition to the application, except by special leave of the Court.

(5.) Where the Commissioner or other employer or industrial union has given notice as provided for in subsection (3) hereof, he or it shall be entitled to appear before the Court on the hearing of the application, and to oppose the granting of the same.

(6.) Every application by the Association under this section shall be made in the manner prescribed by regulations.

(7.) The Court may grant or refuse either wholly or in part any application made by the Association under this section, or make, in regard to the subject-matter of the application, such order as it may think just.

Original jurisdiction of the Court.

147. Subject to this Part, and as hereinafter provided, the Court shall have original jurisdiction in relation to the employment of Government officers—

- (a) to define classes and determine and fix grades within such classes, and to provide the minimum and maximum salaries of each class;
- (b) to determine the method by which Government officers shall be advanced from the minimum to the maximum of the salary assigned to their class through the grades within their class;
- (c) to determine and fix the rates of all allowances to be paid to classes of Government officers, in addition to their salary, occupying positions within classes as defined by the Court, when such classes of officers are entitled to such allowances; and to define the circumstances in which any such allowance shall be payable to such classes of Government officers; and
- (d) to determine and fix the rates of payment for overtime to be paid to classes of Government officers, in addition to their ordinary salary, occupying positions within classes as defined by the Court when such classes of officers are entitled to payment for overtime; and to define the circumstances in which payment for overtime shall be made to such classes of Government officers.

Provided that—

- (i) the jurisdiction of the Court under paragraph (a) of this section shall be limited to defining classes and grades and determining and fixing rates of salary for and in respect of such classes up to, but not exceeding a maximum rate of salary of six hundred and ninety-nine pounds a year;
- (ii) subject to section one hundred and forty-eight of this Act, nothing in this section shall affect or interfere with the exercise by the Commissioner in relation to public service officers under the Public Service Act, 1904, or by any other employer in relation to any group of Government officers under his administration of any powers of classification or of any other power in relation to any of the matters aforesaid within the jurisdiction of the Court under this section; but any act, matter, or thing done by the Commissioner or other employer in relation to any matter in respect whereof the Court has jurisdiction as aforesaid shall be liable to be reviewed, nullified, modified, or varied by the Court in the course of exercising its jurisdiction in respect of such matter under this Part.

148. As and whenever the Court in the exercise of its jurisdiction under section one hundred and forty-seven of this Act, or the Association and the Commissioner or other employer by an agreement in this Part hereinafter provided for, shall define classes and rates of salary or determine and fix rates of allowances or of payment for overtime, the Commissioner in relation to public service officers under the Public Service Act, 1904, occupying positions which are outside the jurisdiction of the Court, and every other employer affected by the award of the Court or by the agreement aforesaid in relation to Government officers under his administration occupying positions which are outside the jurisdiction of the Court, shall vary or make such adjustments in the conditions of employment of such public service officers or of such Government officers aforesaid as shall be necessary to maintain a reason-

Commissioner or other employer to define grades and salaries of higher officers consistently with grades and salaries defined by the Court.

able consistency between the conditions of employment of such public service officers and such Government officers aforesaid, and the conditions of employment of the other public service officers or the other Government officers under the administration of such employer aforesaid occupying positions which are within the jurisdiction of the Court as defined and determined by the Court in the course of exercising its said jurisdiction or as defined and determined in such agreement aforesaid, as the case may be.

Court may
make awards
and orders.

149. The Court may make such awards and orders as may, in its opinion, be necessary for the proper exercise of its jurisdiction under this Part; such awards and orders shall be in the prescribed form; and effect shall be given thereto according to the tenor thereof.

Assessors may
sit with
Court.

150. On the hearing of any matter by the Court two persons (one nominated by the Association and one nominated by the Commissioner, or other employer concerned) may, with the consent of the Court, and shall, if so required by the Court, sit with the Court as assessors solely to aid the Court with their counsel.

Provisions re-
lating to
existing con-
ditions of em-
ployment.

151. (1.) Subject to this Part, any classification or reclassification, and any other conditions of employment of the Public Service officers under the provisions of the Public Service Act, 1904, occupying positions which are within the jurisdiction of the Court, and the conditions of employment governing the service of any other Government officers under the administration of any other employer, occupying positions which are within the jurisdiction of the Court in force or operation at the time of the commencement of this Part, shall continue in force and operation unless and until the same is or are revised, altered, or amended as in this section hereinafter provided for.

(2.) After the commencement of this Part the Association may, in the form and manner prescribed apply to the Commissioner or to the other employer concerned in the operation of any classification, reclassification, or conditions of employment mentioned in subsection (1) hereof for a revision, alteration, or amendment thereof, or of any portions thereof in relation to

any matter contained therein in respect whereof the Court has jurisdiction under section one hundred and forty-seven of this Act, and thereafter may negotiate with the Commissioner or the other employer aforesaid with a view to obtaining the revision, alteration, or amendment desired.

(3.) If following upon any negotiations referred to in subsection (2) hereof a mutual agreement is reached concerning the revision, alteration, or amendment of the classification, reclassification, or conditions of employment aforesaid, or of any portion thereof, the terms of such mutual agreement shall be reduced to writing, and shall be signed or duly executed by the Association and the employer as the parties thereto, and forthwith thereafter shall be deposited with the Registrar, and a copy thereof shall be published by the Registrar in the *Government Gazette*.

(4.) The agreement when deposited with the Registrar in accordance with subsection (3) hereof shall have the effect of an award of the Court, and as from the date when it is deposited as aforesaid shall continue to operate for the same period of time as awards of the Court ordinarily continue to operate under this Part, or for such shorter period as may be expressly fixed by the agreement.

(5.) If, following upon any negotiations referred to in subsection (2) hereof, no mutual agreement is reached concerning the revision, alteration, or amendment of the classification, reclassification or conditions of employment aforesaid, or of any portion thereof in relation to a matter contained therein in respect whereof the Court has jurisdiction as aforesaid, a dispute shall be deemed to have arisen between the Association and the employer concerned in the said negotiations in relation to such matter, and shall be determinable by the Court under and in accordance with the provisions of this Part.

152. (1.) The Commissioner, in respect of the Public Service officers under the Public Service Act, 1904, and other employers in respect of other Government officers employed under their administration may, subject to any award or order of the Court, or

Commissioner and others may exercise powers subject to conditions.

any agreement deposited with the Registrar as provided for in this Part, and subject to the provisions in this section hereafter contained, exercise any power conferred upon him by the Public Service Act, 1904, or any other Act, and may do any act, matter, or thing necessary or incidental to the exercise of such power, notwithstanding that the exercise of such power or the doing of such act, matter, or thing may relate to a matter which is within the jurisdiction of the Court and may concern or affect Government officers occupying positions which are within the jurisdiction of the Court.

(2.) As and whenever the Commissioner or other employer referred to in subsection (1) hereof proposes to exercise any power, or do any act, matter, or thing as provided for in subsection (1) hereof in relation to any matter within the jurisdiction of the Court, and which concerns or affects Government officers occupying positions within the jurisdiction of the Court, he shall, before exercising such power or doing such act, matter, or thing, give to the Association in the form and manner prescribed notice of his intention to exercise such power, or do such act, matter, or thing, together with such information and particulars as may be necessary or requisite to enable the members of the Association fully to understand the nature of the power, or of the act, matter, or thing and the purpose, object, and effect of the exercise of such power, or the doing of such act, matter, or thing of which notice has been given as aforesaid.

(3.) Upon receipt of a notice given under subsection (2) hereof, the members of the Association shall, in accordance with the constitution and rules of the Association, and within three months after the date of the receipt of the notice, or within such further time as the President on the application of the Association may allow, consider, and decide whether the Association shall agree or object to the exercise of the power, or the doing of the act, matter, or thing proposed, and also within such period or further time aforesaid, the Association shall, in the prescribed manner, give notice of such decision to the party from whom it has received the said notice under subsection (2) hereof.

(4.) If the Association agrees and gives notice thereof as required by subsection (3) hereof, the Commissioner or other employer proposing to exercise the power, or to do the act, matter, or thing agreed to shall cause an agreement in writing to be prepared which shall properly and sufficiently place on record the nature of the power to be exercised, or of the act, matter, or thing to be done, and the purpose, object, and effect of the exercise of the power, or of the doing of the act, matter, or thing, and such agreement shall be duly executed by the Association, and the party proposing to exercise the power, or to do the act, matter, or thing referred to in the agreement.

(5.) When the agreement referred to in subsection (4) hereof has been executed as aforesaid, it shall be deposited with the Registrar and a copy thereof shall be published by the Registrar in the *Government Gazette*, and as from the date it is so deposited shall operate as and have the effect of an award of the Court for the same period of time as awards of the Court ordinarily operate, or for such shorter period as may be expressly fixed by the agreement.

(6.) If the Association fails to give any notice of its decision as required by subsection (3) hereof, the Commissioner or other employer proposing to exercise the power, or do the act, matter, or thing as aforesaid, may at any time after the expiration of the time fixed by subsection (3) hereof, for the service of notice of the decision of the Association, make application in the prescribed manner to the Court for an award or order authorising and confirming the exercise of the proposed power, or the doing of the proposed act, matter, or thing, and upon the hearing of such application, neither the Association nor any Government officer shall be entitled to appear or be heard in opposition to the application, except by special leave of the Court.

(7.) If, after receipt of a notice under subsection (2) hereof, the Association objects and gives notice of such objection as required by subsection (3) hereof, a dispute shall be deemed to have arisen between the Association and the Commissioner or other employer concerned, as the case may be, and shall be determinable by the Court under and in accordance with the provisions of this Part.

Powers of
Association.

153. (1.) Subject to any award or order of the Court or any agreement deposited with the Registrar as provided for in this Part, and subject to any resolution or other authority of the members of the Association passed or given in accordance with the constitution and rules of the Association, the Association, acting on behalf of any group of Government officers occupying positions which are within the jurisdiction of the Court, may at any time by notice in the prescribed manner request the concurrence of the Commissioner, or of any other employer concerned, in any proposal of the Association as defined and described in the notice, which relates to any matter within the jurisdiction of the Court.

(2.) Upon receipt of a notice under subsection (1) hereof, the Commissioner or other employer to whom such notice is given shall consider the proposal, and within three months after the date of the receipt of the notice, or within such further time as the President on the application of the Commissioner or other employer shall allow, shall decide whether he agrees or objects to such proposal and shall, within the time or further time aforesaid, give notice in the prescribed manner to the Association of his decision.

(3.) If the Commissioner or employer referred to in subsection (2) hereof agrees and gives notice thereof to the Association as required by subsection (2) hereof, the Association shall cause an agreement in writing to be prepared which shall properly and sufficiently place on record the nature of the proposal agreed to and the purpose, object, and effect of such proposal, and such agreement shall be duly executed by the Association and the Commissioner or the other employer concerned therewith, as the case may be.

(4.) When the agreement referred to in subsection (3) hereof has been executed as aforesaid, it shall be deposited with the Registrar, and a copy thereof shall be published by the Registrar in the *Government Gazette*, and as from the date it is so deposited shall operate as and have the effect of an award of the Court for the same period as awards of the Court ordinarily operate, or for such shorter period as may be expressly fixed by the agreement.

(5.) If the Commissioner or other employer referred to in subsection (2) hereof fails to give any notice of his decision as required by subsection (2) hereof, the Association may, at any time after the expiration of the time fixed by subsection (2) hereof for the service of the notice of the decision of such party, make application in the prescribed manner to the Court for an award or order authorising and confirming the said proposal, and upon the hearing of such application the party who has failed to give notice of his decision as aforesaid shall not be entitled to appear or be heard in opposition to the application, except by special leave of the Court.

(6.) If after receipt of a notice from the Association under subsection (1) hereof, the Commissioner or other employer to whom such notice is given objects to the proposal and gives notice of such objection as required by subsection (2) hereof, a dispute shall be deemed to have arisen between the Association and the Commissioner or other employer concerned, as the case may be, and shall be determinable by the Court under and in accordance with the provisions of this Part.

154. (1.) When any dispute has arisen within the meaning of this Part, the Association or the Commissioner or other employer concerned in the dispute may, in accordance with regulations, make application to the Court for a settlement of such dispute, and the Court may hear such application and settle the dispute.

The Court may hear and settle disputes.

(2.) Any other application for any purpose under this Part which is cognisable by the Court or the President shall be made in accordance with regulations.

155. The Court may refer to any person or persons as a board of reference under this Part any dispute or matter before it, or any question arising in any such dispute or matter, for investigation and report, and may accept or act on the report of or evidence taken by any such person or persons, or any part of such report or evidence, and may refer to experts for their opinion any questions of a professional or technical nature.

The Court may appoint a board of reference.

Court may declare agreement to be a common rule.

156. Subject as hereinafter provided, the Court may declare that any agreement deposited with the Registrar as provided for in this Part, which relates only to certain Government officers, or to a certain group of Government officers, shall relate to and operate also in respect of other Government officers or other groups of Government officers occupying positions which are within the jurisdiction of the Court, notwithstanding that they may be employed in a different branch or section of the service of the State from that in which the Government officers or group of Government officers to whom the agreement expressly relates are employed:

Provided that, before acting under this section the Court shall give all parties likely in its opinion to be affected, notice in the prescribed form of its intention to extend the operation of such agreement, and shall hear any parties desiring to be heard in opposition thereto.

Variation of agreement to conform with award.

157. The Court may order that any agreement deposited with the Registrar as provided for in this Part may be varied, so far as it is inconsistent with any award of the Court made in its jurisdiction under this Part, or with any other agreement deposited with the Registrar as aforesaid, and such agreement shall be deemed to be amended or varied, as the case may be, and take effect accordingly.

Currency and review of awards.

158. Subject as hereinafter provided, the term of an award made by the Court in its jurisdiction under this Part shall be five years from the date of the award. Provided that—

- (i) the Court may, at the request or with the consent of the Association and the employer concerned in the award, fix the term of an award for a period less than five years;
- (ii) it may be prescribed by an award that any provisions thereof may be referred to the Court for review, at such intervals of time as the Court may think fit, with power to the Court to vary or rescind such provisions;

(iii) at any time after the expiration of the first twelve months from the date of an award, and after the expiration of any subsequent period of twelve months, application may be made to the Court by leave of the Court for a review of any provisions of the award, and the Court shall have power to vary or rescind such provisions.

159. (1.) Notwithstanding the expiry of the term of an award under this Part, it shall, subject to any variation ordered by the Court, continue in force until a new award has been made, or an agreement in substitution of such award has been entered into and deposited with the Registrar.

Continuance of award.

(2.) Notwithstanding the continuance of an award under this Part after the term thereof has expired, the Association or the Commissioner or other employer bound by the award may, during such continuance, refer any matter within the jurisdiction of the Court to the Court, although the matter may be governed by the provisions of the award; and, subject to any order of the Court, such award shall continue in force pending a reference, and until a new award is made or an agreement in substitution thereof has been entered into and deposited with the Registrar.

160. Subject to any variation or amendment thereof by the Court, every agreement deposited with the Registrar as provided for in this Part shall continue in force for the period of five years, or for such shorter period as may be fixed in such agreement, and shall continue in force after the expiration of such five years, or such shorter period aforesaid, as the case may be, until the expiration of three months' notice in writing given by either party concerned in the agreement to the other of an intention to determine the agreement.

Currency and continuance of agreements.

161. Subject as hereinafter provided, provision may be made by the Court by any award of the Court, or by the parties to any agreement in such agreement that, apart from any annual increment of salary to which Government officers may be entitled under such award or agreement, the rate of the salary of Government officers to whom the award or agreement, as the

Basic wage adjustments may be made in certain cases.

case may be, applies shall from year to year be increased or reduced, as the case may require, by an annual amount which is equivalent to the aggregate amounts in each year of the variations between the amount of the basic wage declared by the Court under Part VII. of this Act and in operation at the commencement of the award, or agreement aforesaid, and the amounts of any basic wages subsequently declared by the Court under Part VII. aforesaid and in operation during the continuance of such award or agreement.

Provided that—

- (i) this section shall apply only to Government officers occupying positions in respect whereof the maximum rate of salary is less than seven hundred pounds; and
- (ii) the rate of salary of Government officers shall not be varied as provided for in this section unless and until the aggregate amount of the variations in the basic wage as aforesaid amounts to five pounds or a multiple of five pounds.

Incorporation
in this Part
of provisions
contained else-
where in this
Act.

162. (1.) Save and except to the extent by which other provisions are made expressly in this Part, and also to the extent by which the provisions of this Part negativê, modify, or vary the same, the provisions contained elsewhere in this Act more particularly mentioned and enumerated hereunder shall be deemed to be incorporated in and form part of this Part, and shall, so far as may, in the opinion of the Court, be necessary and convenient for enabling the Court effectually to carry out the provisions of this Part and to give effect to the objects and intention of the provisions of this Part, apply, and where, in the opinion of the Court, possible, shall be made applicable *mutatis mutandis* to and for the exercise by the Court of its jurisdiction under this Part.

(2.) The provisions contained elsewhere in this Act and under subsection (1) of this section deemed to be incorporated in and to form part of this Part are the following, that is to say:—

- (a) The whole of Part IV. (sections forty-two to one hundred and six, both inclusive);

(b) The whole of Part X. (sections one hundred and sixty-three to one hundred and seventy-six, both inclusive).

(3.) Notwithstanding anything to the contrary contained in this section, no forfeiture or penalty of any kind shall be imposed or inflicted upon the Commissioner or any other employer for any alleged breach of any award or order of the Court, or of any agreement deposited with the Registrar as provided for in this Part; but if the Court shall find that any breach as alleged has been committed, or that there has been any failure on the part of the Commissioner, or any other employer in any respect to observe or give effect to any award or order or agreement aforesaid, the Court shall submit a report of its findings to the Governor and forthwith on receipt of such report, the Governor shall cause any breach or dereliction as aforesaid mentioned in such report to be corrected.

(4.) For the purposes of this section, any reference in the provisions contained elsewhere in this Act, which by subsection (1) hereof are deemed to be incorporated in this Part, to an industrial union or the officers of an industrial union, shall be deemed to be a reference to the Association and the officers of the Association; any reference to a member of an industrial union shall be deemed to be a reference to a member of the Association; any reference to a worker shall be deemed to be a reference to a Government officer; and any reference to an employer shall be deemed to be a reference to the Commissioner, or to an employer as defined in this Part, as the case may require.

6. Consequentially upon the operation of section five of this Act, the section numbers of all the sections contained in Part X. of the principal Act, that is to say, sections one hundred and forty to one hundred and fifty-three, both inclusive, are hereby amended by substituting the figures "163" for the figures "140" at the commencement of section one hundred and forty, and making the corresponding arithmetical amendments in the section numbers of all the following sections so that the sections then contained in Part X. of the principal Act shall be numbered, in arithmetical sequence, one hundred and sixty-three to one hundred and seventy-six.

Amendment
of section
numbers in
Part X.