

THE INDUSTRIAL ARBITRATION ACT, 1912.

No. 57 of 1912.

ARRANGEMENT.

PART I.—PRELIMINARY.

Section.

1. Short title and commencement.
2. Repeal schedule. Proviso.
3. Validation of the registration of certain bodies.
4. Interpretation.
5. Penalties.

PART II.—INDUSTRIAL UNIONS AND ASSOCIATIONS.

Division I.—Industrial Unions.

6. What societies may be registered.
Branch may be treated as distinct society.
7. Resolution and rules to be passed before application made for registration.
Matters to be provided for in rules.
Optional provisions.
8. Amalgamation of unions.
9. Mode of application.
10. Registration of society.
11. Incorporation of society.
Registered name.
12. Effect of registration.
13. Powers and liabilities of industrial unions.
14. Registration under the Act of trade unions.
15. Special provisions as to registering societies of employers.
16. Provisions relating to society to apply to trade union and company.
17. Company authorised to join society or industrial union or to enter into industrial agreement.
18. Unions not to be registered under similar names.
19. Power to refuse registration in certain cases.
20. Appeal from Registrar to President.
21. Amendment of rules.
Printed copies to be supplied.
22. Registered office and branch office of industrial union.
23. Industrial unions to send yearly list of members and officers to Registrar.
Penalty.
24. Registration of trustees and treasurers of unions.
25. Return for Parliament.
26. Industrial unions to send yearly balance-sheet to Registrar.
27. Procedure for cancellation of registration.
28. Effect of cancellation.
29. No cancellation during pendency of proceedings.
30. Conditional order for cancellation.

Division II.—Industrial Associations.

31. Industrial associations may be registered.
32. Provisions affecting unions applicable.
33. Matters to be dealt with in rules of associations

PART III.—INDUSTRIAL AGREEMENTS.

Section.

34. Ground for cancellation of registration.
35. Industrial agreements may be made.
Term and form of agreement.
Date of agreement.
Agreement to continue in force for parties not retired.
Mode of retirement.
36. Duplicate to be filed.
37. Parties to agreement may be added.
38. On whom agreement binding.
Enforcement of agreements.
39. Agreements may be varied, renewed, or cancelled.
40. Industrial agreement may be declared a common rule.

PART IV.—THE COURT OF ARBITRATION.

Division I.—Constitution of Court.

41. Court of Arbitration.
42. Members of Court.
43. Provision in case of illness or absence of member.
44. Appointment of members on recommendation.
45. Procedure in default of recommendation.
46. Notification of appointments.
47. Tenure of office of ordinary members.
48. Salaries.
49. Appropriation.
50. Existing Court and members continued.
51. Resignation of member.
52. Disqualifications for membership.
53. Power of removal by Governor.
54. Removal on address of Parliament.
55. Mode of filling casual vacancies.
56. Oath of office and secrecy.
57. Clerks and officers of Court may be appointed.

Division II.—Jurisdiction and Procedure of Court.

58. Jurisdiction.
59. Industrial disputes in related industries.
60. Jurisdiction not affected by fact that no member of union is concerned in dispute.
61. Decision that matter is an industrial dispute conclusive.
62. Reference of dispute to Court.
63. Representation of parties before Court.
64. Court to decide according to equity and good conscience.
65. Sittings of Court.
66. Powers of Court.

Industrial Arbitration.

Section.

67. Exercise of certain powers.
68. President may exercise certain powers in Chambers.
69. Power of President to award costs.
70. Evidence.
Provision for obtaining evidence at a distance.
Disclosure of trade secrets.
Contents of books not to be disclosed.
71. Quorum.
72. Decision to be of majority of Court.
73. President to deliver decision.
74. When award to be made.
75. Award to be signed, sealed, and deposited in office.
76. Terms of award.
77. Court may limit operation of award to particular area.
78. Award to be a common rule.
79. Special powers to interpret or amend award.
80. Application may be made to Court by any party.
81. Currency of awards.
82. Amendment and revocation of awards in certain cases.
83. Award to continue in force until retirement of person bound.
84. Minimum wage, regulation of industries, and employment of members of unions.
85. Validity and operation of awards and agreements not to be impaired by subsequent awards or orders.
86. Amount of costs or expenses to be fixed.
87. Award under seal to be evidence.
88. No abatement on death of party.
89. Court to fix what constitutes breach of award and penalty therefor.
90. Provisions for enforcing awards.
91. Provisions for enforcing industrial agreements.
92. Jurisdiction of Court to deal with offences.
93. Property liable to execution.
94. Removal of prosecution for offence from Court of summary jurisdiction to Court of Arbitration.
95. Sheriff and other officers to be officers of Court of Arbitration.
96. Industrial inspectors.
97. References to Court to be approved by resolution of union.
98. Special meeting for such purpose.
Certificate of chairman to be evidence.
Certificate to accompany reference.
99. Proceedings not to be impeached for want of form. Proviso. Appeal.

PART V.—GOVERNMENT EMPLOYEES.

Section.

100. Provision as to Government workers.
101. Government railways.
102. Unions of Government workers.
103. Act not otherwise to apply to Crown.

PART VI.—OFFENCES.

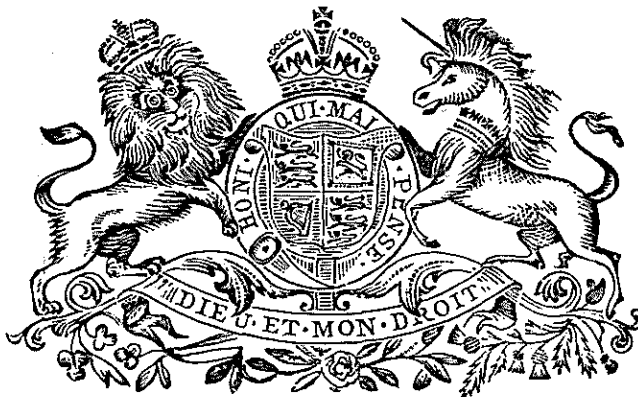
104. Prohibition of strikes or lock-outs.
105. Employers or workers refusing to offer or accept employment upon the terms of an award or agreement.
106. Union ordering its members to refuse to offer or accept employment.
107. Employer not to dismiss worker on account of application.
108. Worker not to cease work on account of application of employer.
109. Power to make orders for observance of awards and agreements or to restrain breaches of Art.
110. Penalty for contempt of Court.
111. Obstruction of Court.
112. Penalties for obstructing officers and similar offences.
113. Counselling or procuring offences.
114. Attempts to commit offences.

PART VII.—MISCELLANEOUS.

115. Registrar.
116. Evidence of matters notified in *Gazette*.
117. Judicial notice to be taken of certain matters.
118. Stamp duty not payable in certain cases.
119. Powers of Court to direct investigations and the institution of proceedings.
120. President may convene compulsory conference.
121. Registered unions and associations not affected by Acts against illegal societies.
122. Powers of unions to recover fines, etc.
123. Disputes between unions and members.
124. Court may order that persons cease to be members of unions, etc.
125. Regulations.
126. Prohibition of contracting out.

Schedule.

WESTERN AUSTRALIA.



ANNO TERTIO

GEORGI QUINTI REGIS,

XXXVIII.

No. 57 of 1912.

AN ACT to amend and consolidate the Law relating to the Settlement of Industrial Disputes by Arbitration, and for other relative purposes.

[Assented to 21st December, 1912.]

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:—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Industrial Arbitration Act*, 1912, and shall come into operation on a day to be fixed by proclamation.*

Short title and commencement.

2. The Acts mentioned in the schedule hereto are hereby repealed: Provided that with reference to those Acts the following provisions shall have effect:—

Repeal schedule.
Proviso.
Cf. N.Z. 1908, No. 82, s. 1.

- (a.) All offices, appointments, regulations, rules, registers, records, certificates, awards, industrial agreements, orders, permits, instruments, and generally all acts of

* Proclaimed to commence 1st January, 1913; see *Government Gazette* of 24th December, 1912.

of authority which originated under any enactment repealed by this Act and hereby re-enacted with or without modification and which are subsisting or in force on or immediately prior to the commencement of this Act shall, subject to this Act, enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated.

- (b.) Every union or association registered under any such repealed Act and subsisting at or immediately prior to the commencement of this Act shall be deemed to be registered under this Act: Provided that the constitution and rules of any such union or association shall be amended so far (if at all) as may be necessary to bring them into compliance with this Act, and in case of default the registration may be cancelled by the President.
- (c.) All matters and proceedings commenced under any such repealed Act and pending or in progress at or immediately prior to the commencement of this Act may be continued, completed, and enforced under this Act.

Validation of the registration of certain bodies.
Cf. Com. 1911, No. 6, s. 4.

3. The registration as an industrial union or an industrial association of any society or council or other body before the commencement of this Act shall be deemed to be and to have been as valid to all intents and purposes as it would have been if the definition of "Industry" and of "Worker" contained in this Act had been in the Act under which the registration was or purported to be made at the date of the registration.

Interpretation.
Cf. W.A. 1902, No. 21, s. 2.

4. In this Act, if not inconsistent with the context,—
- "Court" means the Court of Arbitration constituted under this Act;
 - "Employer" includes persons, firms, companies, and corporations employing one or more workers;
 - "Gazette" means the *Government Gazette* of Western Australia;
 - "Group of Industries" means any number of related industries within the meaning of section fifty-nine;
 - "Industrial Association" means an industrial association registered under this Act;
 - "Industrial dispute" means a dispute in relation to industrial matters arising between an employer or industrial union or association of employers on the one part and an industrial union or association of workers on the other part, and includes any dispute arising out of an industrial

agreement and any disagreement, howsoever originating, between an industrial union or association formed or existing for the protection of the interests of workers in any industry and an employer or industrial union or association of employers in relation to any industrial matter connected with any workers engaged in that industry or in any related industry;

“Industrial matters” means all matters affecting or relating to the work, privileges, rights, and duties of employers or workers in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and, without limiting the general nature of the above definition, includes all matters relating to—

- (a.) The wages, allowances, or remuneration of workers employed or usually employed or to be employed in any industry, or the prices paid or to be paid therein in respect of such employment;
- (b.) The hours of employment, sex, age, qualification, or status of workers, and the mode, terms, and conditions of employment;
- (c.) The employment of children or young persons, or of any person or class of persons, in any industry, or the dismissal of or refusal to employ any person or class of persons therein;
- (d.) Any established custom or usage of any industry, either generally or in the particular locality affected;
- (e.) Any claim arising under an industrial agreement;
- (f.) (i.) The persons who may take or become apprentices; W.A. 1909, No. 17,
s. 2.
 - (ii.) The number of apprentices that may be taken by any one employer;
 - (iii.) The mode of binding apprentices;
 - (iv.) The terms and conditions of apprenticeship;
 - (v.) The registration of apprentices;
 - (vi.) The examination of apprentices;
 - (vii.) The rights, duties, and liabilities of the parties to any agreement of apprenticeship;
 - (viii.) The assigning or turning over of apprentices; and
 - (ix.) The dissolution of apprenticeships;
- (g.) The interpretation of any industrial agreement;

N.S.W. 1901, No.
59, s. 2.

“Industrial union” means an industrial union registered under this Act;

“Industry” includes—

Com. 1911, No. 6,
s. 3.

(a.) Any business, trade, manufacture, handicraft, or calling of employers on land or water;

(b.) Any calling, service, employment, handicraft, or industrial occupation or vocation of workers, on land or water; and

Cf. N.S.W. 1908,
No. 3, s. 4.

(c.) A branch of an industry or a group of industries;

“Lock-out” includes any closing of a place of employment or any suspension of work or any refusal by an employer to continue to employ any number of his workers with a view to compel his workers or to aid another employer in compelling his workers to accept any terms or conditions of employment, or with a view to enforce compliance with any demands made by any employer on any workers;

“Minister” means the member of the Executive Council appointed by the Governor to administer this Act;

“Prescribed” means prescribed by regulations under this Act;

“President” means the President of the Court;

“Registrar” means the Registrar of Industrial Unions under this Act.

Cf. N.S.W., 1908,
No. 3, s. 4.

“Strike” includes any cessation of work or refusal to work by any number of workers acting in combination or under a common understanding with a view to compel their employer or to aid any other workers in compelling their employer to agree to or accept any terms or conditions of employment or with a view to enforce compliance with any demands made by any workers on any employer;

“Trade union” means a trade union registered under the Trade Unions Act, 1902;

“Worker” means any person of not less than fourteen years of age of either sex employed or usually employed by any employer to do any skilled or unskilled work for hire or reward, and includes an apprentice; but shall not include any person engaged in domestic service.

Penalties.

5. The mention of any penalty, pecuniary or other, at the foot of any section, subsection, or numbered paragraph of this Act means that any contravention of the section, subsection, or paragraph, as the case may be, whether by act or omission, shall be an offence against this Act, punishable on summary conviction or on conviction before the Court of Arbitration by a penalty not

exceeding the penalty indicated, or that any offence defined in the section, subsection, or paragraph, as the case may be, shall be punishable as aforesaid.

PART II.—INDUSTRIAL UNIONS AND ASSOCIATIONS.

Division I.—Industrial Unions.

6. (1.) Any society consisting—

- (a.) In the case of employers, of two or more persons who have in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty workers, or

What societies may be registered.

Cf. W.A., 1902, No. 21.

- (b.) In the case of workers, of any number of workers not less than fifteen,

associated for the purpose of protecting or furthering the interests of employers or workers in or in connection with any specified industry, or (in the case and subject to the conditions hereinafter set out) in or in connection with divers industries in the State, may, on passing the necessary resolution and rules, and otherwise complying with the requisitions of this Act, be registered as an industrial union under this Act.

(2.) Any branch of a society or industrial union may be treated as a distinct society, and, with the approval of the Registrar, may, subject to this Act, be separately registered as an industrial union.

Branch may be treated as distinct society.

Ibid., s. 6.

(3.) If it is proved to the satisfaction of the President that, under the conditions existing in any locality defined in the application for registration, it is expedient that the limitation of the purposes of the society to a specified industry should not apply, the society may be lawfully registered as an industrial union under this Act, notwithstanding that its members may be associated for the protection and furtherance of the interests of employers or workers (as the case may be) in connection with divers industries, and notwithstanding that such divers industries may not be a group of industries within the meaning of this Act.

(4.) (a.) A society which consists of persons who are not all employers or workers in or in connection with one specified industry may apply for registration as an industrial union, and the Court (or if the Court is not sitting) the President may allow such society to be registered as an industrial union, or validate the registration or supposed registration prior to the commencement of this Act of such society as an "industrial union" if in other respects it is entitled to be so registered; provided it is proved to the satisfaction of such Court or President that the right of membership in such society is limited to persons whose

interests in regard to industrial matters are in the main identical or of a kindred nature or whose vocations (as for example the vocations of clerks or engine-drivers) have characteristics in common, or whose interests are of like composite character.

(b.) After the registration of any such union the members shall as such be deemed for the purposes of this Act to be workers or employers, as the case may be, in the same industry, and the vocations of the members shall, for all the purposes of this Act, be deemed to be one industry, and the provisions of this Act shall apply accordingly.

(5.) The Metropolitan Shop Assistants and Warehouse Employees' Industrial Union of Workers or any other society registered or purporting to be registered under the Industrial Conciliation and Arbitration Act, 1902, may apply to the Court or the President for an order validating its registration or supposed registration, and the Court or President may make such order as they or he may think just, notwithstanding that such society or union consists of persons who are not all employers or workers in or in connection with one specified industry.

Resolution and rules to be passed before application made for registration.

7. (1.) Before any society makes application to be registered a resolution authorising the application must be passed by a majority of the members present in person at a general meeting of the society specially called for the purpose, of which seven days previous notice specifying the time, place, and objects of such meeting shall have been given. Such notice shall be given by publication of an advertisement in a newspaper circulating in the district in which the office of the union is situate, and by posting a copy of the notice in a conspicuous place outside the said office.

(2.) At such general meeting or at another general meeting called for the purpose, the society shall, by a vote of the majority of the members present in person, pass and approve rules for the purposes of this Act.

Matters to be provided for in rules. Cf. *ibid.*, s. 3 (3).

(3.) The rules shall specify the purposes for which the society is formed, and shall provide for—

(a.) The appointment and removal and powers and duties of a committee of management, a chairman, secretary, and any other necessary officers; and, if thought fit, of a trustee or trustees:

(b.) The manner of calling general or special meetings, the powers thereof, and the quorum and manner of voting thereat:

(c.) The mode in which industrial agreements and all deeds and instruments shall be made and executed on behalf of the society, and in what manner the society shall be represented in proceedings before the Court:

(d.) The device, custody, and use of the seal:

- (e.) The control of the property, and the investment of the funds of the society, and an annual or other shorter periodical audit of the accounts:
 - (f.) The inspection of the books and the register of members by every person having an interest in the funds:
 - (g.) A register of members, and for the mode in which and the terms and qualification on which persons shall become or cease to be members, provided that no member shall discontinue his membership without giving at least three months' previous written notice to the secretary, or paying a sum equal to three months' contributions in lieu of notice, nor until such member has paid all fees, fines, levies, or other dues payable by him under the rules to the end of the period covered by such notice, or has obtained a clearance card duly issued in accordance with the rules:
 - (h.) The purging of the register by striking off members in arrears of dues for such period as is prescribed by the rules not exceeding twelve months; but without freeing such persons from arrears due:
 - (i.) The conduct of the business of the society at some convenient and specified address to be called the registered office of the society:
 - (j.) Any prescribed matter:
 - (k.) The amendment, repeal, or alteration of the rules, subject to the foregoing requisites of this section.
- (4.) Such rules shall expressly provide that— Cf. *ibid.*, s. 3 (4)
- (a.) No person shall be a member who is not a worker or employer, as the case may be (except in the capacity of an honorary member); and that
 - (b.) No part of the funds or property of the industrial union shall be paid or applied for or in connection with or to aid or assist any person engaged in any strike or lock-out in this State; and that
 - (c.) All industrial disputes in which the industrial union or any of its members may be concerned shall, unless settled by mutual consent, be referred for settlement pursuant to this Act.

(5.) The said rules or any amendment thereof may contain Optional provisions
such other provisions not inconsistent with this Act or otherwise contrary to law as a majority of the members of the society or union present in person at any general meeting thereof may approve.

8. (1.) Any two or more industrial unions consisting of employers or workers engaged in the same industry or in related industries may apply to the Registrar for registration as one union. Amalgamation of unions.

(2.) The application shall be under the respective seals of the unions concerned, and shall be signed by their respective chairmen and secretaries.

(3.) The applications shall be accompanied by—

- (a.) A list of the members and officers and the trustees (if any) of the proposed new union;
- (b.) Two copies of the rules of such proposed union, such rules being in accordance with section seven of this Act; and
- (c.) A copy of a resolution authorising the application and approving of the rules on behalf of each union concerned, passed by a vote of the majority of the members present in person at a general meeting of such union.

(4.) Every application hereunder shall be deemed to be an application by a society for registration under this Act, and the succeeding provisions of this Act shall (so far as applicable) apply thereto, and in respect thereof accordingly.

(5.) On the proposed new union being registered as an industrial union under this Act—

- (i.) The registration of every union affected shall be deemed to have been cancelled under subsection one of section twenty-seven;
- (ii.) All the property, rights, duties, and obligations whatever vested in or imposed on the unions affected shall become vested in or imposed on the new union.

Mode of application.

Cf. ibid., s. 3 (2).

9. An application for registration shall be made to the Registrar by one or more of the officers of the society in the prescribed form, accompanied by—

- (a.) A list of the members and officers and the trustees (if any) of the society with their addresses;
- (b.) Two copies of the rules of the society; and
- (c.) A copy of the resolution authorising the application.

Registration of society.

Cf. ibid., s. 4.

10. (1.) On being satisfied that the society is qualified to register and that the requisitions of this Act have been complied with, the Registrar shall, subject as hereinafter provided, register the society as an industrial union, and shall issue a certificate of registration, which (except in proceedings for the cancellation of registration) shall, until cancelled, be conclusive evidence of the registration and that such requisitions have been duly complied with.

(2.) The Registrar shall at the same time register the rules and also the address of the registered office.

Provided that the Registrar shall, at least fourteen days before the registration as an industrial union of any society or

body formed in connection with any industry or industries, give the prescribed notice of his intention to effect such registration to every industrial union formed and registered in connection with the same industry, or any one or more of the same industries, and any industrial union receiving any such notice may make such representations to the Registrar as it deems advisable in relation to the proposed registration of such society or body.

11. (1.) Every society registered as an industrial union shall, upon and during registration, become and be, for the purposes of this Act, a body corporate by the registered name, having perpetual succession and a common seal: Provided that subject to this Act a union may at any time, with the consent of the Court, change its name.

Incorporation of society.

Ibid., s. 5.

(2.) There shall be inserted in the registered name of every industrial union the words "union of employers" or "union of workers," according as such union is a union of employers or workers, and also the locality in which the majority of its members reside or exercise their calling, as thus: "The Goldfields Plumbers' Industrial Union of Employers"; "The Perth Tailors' Industrial Union of Workers."

Registered name.

12. Upon and after registration the industrial union, and members thereof for the time being, shall be subject to the jurisdiction of the Court, and to all the provisions of this Act; and all such members shall be bound by the rules of the industrial union during the continuance of their membership: Provided that nothing herein contained shall render a shareholder of an incorporated company liable for any further amount hereunder than that for which he is liable as a shareholder of such company.

Effect of registration.

Ibid., s. 11.

13. (1.) An industrial union may sue and be sued and may purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with any real or personal property.

Powers and liabilities of industrial unions.

Cf. ibid., s. 18.

(2.) An industrial union shall, subject to this Act, be liable to all the penal provisions of this Act to the same extent, so far as may be, as an individual.

(3.) The service of any process, notice, or document of any kind on an industrial union may be effected by delivering the same to the chairman or secretary of such union or by leaving the same at its registered office (not being a branch office), or by posting the same to such registered office in a duly registered letter addressed to the secretary of such union.

14. (1.) A trade union, consisting of not less than fifteen persons, formed in connection with any specified industry or

Registration under the Act of trade unions.

Cf. W.A. 1902, No. 21, s. 7.

industries, may be registered under this Act as if it were a society complying with the conditions of section six.

(2.) Such union when registered shall bear the name which it bears as a trade union with the insertion of the additional words provided in section eleven hereof.

(3.) It shall not be necessary for the union to pass and approve a complete set of rules for the purposes of this Act, but the union may in lieu thereof pass and approve such additional rules and modifications of existing rules as may be necessary to bring the rules of the union into conformity with the requisitions of this Act, and the said rules with and subject to any such additions and modifications shall constitute the rules of the industrial union.

(4.) For the purposes of this section "trade union" includes a branch of a trade union and also a branch of any society in the nature of a trade union duly registered under the law of any part of the King's Dominions outside the State.

Special provisions
as to registering
societies of
employers.

Cf. *ibid.*, s. 8.

15. With respect to the registration of societies of employers the following special provisions shall apply:—

- (1.) Where a co-partnership firm is a member of the society, each individual partner residing in the State shall be deemed to be a member, and the name of each such partner (as well as that of the firm) shall be set out in the list of members accordingly, as thus: "Watson, Brown, and Company, of Perth, boot manufacturers; the firm consisting of four partners, of whom the following reside in Western Australia, that is to say, John Watson, of Perth, and Charles Brown, of Fremantle":
- (2.) Except where its memorandum, articles, or rules expressly forbid the same, any company, incorporated under any Act, or being a foreign company within the meaning of the Companies Act, 1893, may be registered as an industrial union of employers, as if it were a society complying with the conditions of section six and in such case the provisions of sections six, seven, and nine hereof shall be deemed to be sufficiently complied with if the application for registration is made under the seal of the company, and pursuant to a resolution of the board of directors, and is accompanied by—
 - (a.) A copy of such resolution;
 - (b.) Satisfactory evidence of the registration or incorporation of the company;
 - (c.) Two copies of the memorandum and articles of association or rules of the company;

(d.) A list containing the names of the directors, and of the manager or other principal executive officer of the company in Western Australia;

(e.) The address of the registered office of the company in Western Australia.

(3.) In so far as the memorandum, articles, or rules of any company are repugnant to this Act, they shall, on the registration of the company as an industrial union of employers, be construed as applying exclusively to the company and not to the industrial union.

(4.) It shall not be necessary in the case of an incorporated company to insert in the name thereof when registered as an industrial union the additional words set out in section eleven.

16. Subject to any provision to the contrary the provisions of this Act relating to the registration of a society and to the effect of such registration and of a certificate thereof apply in respect of a trade union, company, council, or other body authorised to be registered under this Act.

Provisions relating to society to apply to trade union and company.

17. Notwithstanding anything to the contrary contained in the memorandum or articles of association or rules of any company, such company may, with the consent of its manager or other principal executive officer in Western Australia, become a member of any society proposed to be registered as an industrial union of employers or of an industrial union of employers or a party to any industrial agreement.

Company authorised to join society or industrial union or to enter into industrial agreement. Cf. *ibid.*, s. 8 (4).

18. An industrial union shall not be registered under a name identical with that by which any other industrial union has been registered or so nearly resembling such name as to be likely to deceive or mislead the members or the public.

Unions not to be registered under similar names. *Ibid.*, s. 9.

19. The Registrar may refuse to register any society, trade union, or company as an industrial union if in the same locality there exists an industrial union to which the members or the bulk of the members of such society, trade union, or company can conveniently belong.

Power to refuse registration in certain cases. Cf. *Ibid.*, s. 10.

20. (1.) Any society, trade union, or company which thinks itself aggrieved by any decision of the Registrar in refusing to register it as an industrial union, or in registering any other industrial union, may within three months from the date of the decision appeal against the decision to the President.

Appeal from Registrar to President. Cf. W A., 1902, No. 21, s. 10 (2).

(2.) The President may on such appeal make any order which he thinks just, and such order shall be duly observed and carried into effect by the Registrar.

Provided that if the Registrar has refused registration under the last preceding section it shall lie on the society, trade union, or company to satisfy the President that owing to distance, diversity of interest, or other substantial reason it will be more convenient for the members to belong to an industrial union separately registered than to join any existing industrial union.

Amendment of
rules.

W.A. 1902, No. 21,
s. 12.

21. (1.) Copies of all additions to or amendments or rescissions of the rules of an industrial union shall, after being verified by the secretary or some other officer of the industrial union, be sent to the Registrar, who shall register the same upon being satisfied that the same are not in conflict with this Act. No such addition, amendment, or rescission shall be valid until registered.

Printed copies to
be supplied.

(2.) A printed copy of the rules (certified as in subsection three) for the time being of the industrial union shall be delivered by the secretary to any person applying for the same on payment of a sum not exceeding One shilling.

(3.) In all proceedings affecting the industrial union, *prima facie* evidence of the rules and their validity may be given by the production of what purports to be a copy thereof, certified as a true copy under the seal of the union and the hand of the secretary or any other prescribed officer.

Registered office
and branch office
of industrial union.
Ibid., s. 13.

22. (1.) In addition to its registered office, an industrial union may have a branch office in any locality in which any of its members reside or exercise their calling.

(2.) Upon application by the industrial union, under its seal and the hand of its chairman or secretary, specifying the address of the branch office, the Registrar shall register the same.

(3.) The address of the registered office and of each registered branch office may be changed from time to time in the prescribed manner.

(4.) Every such change shall be forthwith notified to the Registrar by the secretary of the union, and shall thereupon be registered.

Industrial unions
to send yearly
list of members
and officers to
Registrar.
Ibid., s. 16.

23. (1.) In the month of January in every year there shall be forwarded to the Registrar by every industrial union a list of the members and officers (including trustees) of such union, as at the close of the last preceding month: Provided that, in the case of a company, it shall be sufficient if the list contains the names of the directors and of the manager or other principal executive officer thereof in Western Australia.

(2.) An industrial union making default in forwarding such list is guilty of an offence against this Act, and is liable to a penalty not exceeding Two pounds for every week during which such default continues, and every member of the committee of management of any union who permits such default is guilty of an offence against this Act, and is liable to a penalty not exceeding Five shillings for every week during which he permits such default. Penalty.

24. A copy of every resolution appointing or removing a treasurer or trustee of an industrial union, signed in the case of a resolution appointing a treasurer or trustee by the treasurer or trustee so appointed and by the secretary of the union shall, within sixty days from the passing thereof, be sent by the secretary to the Registrar, and shall be recorded by the Registrar. Registration of trustees and treasurers of unions
W.A., 1 & 2 Edw. VII., No. 19, s. 20.

Penalty: Five pounds.

25. It shall be the duty of the Registrar to supply to Parliament, within thirty days after its meeting in each year, a return showing the number of members in each industrial union registered under the Act. Return for Parliament.
Ibid., s. 16 (4).

26. The secretary of every industrial union shall, within one calendar month after the completion of the yearly audit of the accounts of the union, deliver to the Registrar a duly audited balance sheet of the assets and liabilities of the union, made up to the date of closing the accounts, and also a duly audited statement of the receipts and expenditure of the union during the year, the subject of such audit. Industrial unions to send yearly balance-sheet to Registrar.
Cf. *ibid.*, s. 17.

Penalty: Ten pounds.

27. (1.) An industrial union may apply to the Registrar in the prescribed manner for a cancellation of the registration thereof, and thereupon the Registrar, if satisfied that the cancellation is desired by a majority of the members of such union, and after giving six weeks' notice of his intention so to do, may by notice in the *Gazette* cancel such registration. Procedure for cancellation of registration.
Cf. *ibid.*, s. 20.

(2.) If it appears to the President on the application in the prescribed manner of any industrial union or person interested, or of the Registrar— Cf. Com. 1904, No. 13 s. 60;
1906, No. 6, s. 20,

(a.) That an industrial union has been registered erroneously or by mistake; or

(b.) That the rules of an industrial union are not in conformity with the requisitions of this Act or have not *bona fide* been observed; or

- (c.) That the rules of an industrial union or their administration do not or does not provide reasonable facilities for the admission of new members or impose or imposes unreasonable conditions upon the continuance of their membership or are or is in any way oppressive; or
- (d.) That the proper authority of an industrial union wilfully neglects to provide for the levying and collection of subscriptions, fees, or penalties from members of the union; or
- (e.) That the accounts of an industrial union have not been duly audited or that the accounts of the union or of the auditor do not disclose the true financial position of the union; or
- (f.) That an industrial union has wilfully neglected to obey an order of the Court; or
- (g.) That the number of members in the union is below the number which a society would be required to have before it could be registered as such a union under this Act; or
- (h.) That for any other reason the registration of an industrial union ought to be cancelled,

the President may order the registration of the union to be cancelled, and thereupon it shall be cancelled accordingly.

Effect of cancellation.

Cf. W.A. 1902, No. 21, s. 20 (3).

28. A cancellation shall, as from the making thereof, dissolve the incorporation of the industrial union, in so far as this Act is concerned, and any representatives of the union in any industrial association shall cease to be members of such association, but the cancellation shall not affect the prior status of the union or the status of any such association or relieve the union, or any member thereof, from the obligation of any industrial agreement, or any award or order of the Court, nor from any penalty or liability incurred prior to such cancellation.

No cancellation during pendency of proceedings.

Cf. *ibid.*, s. 20 (4).

29. During the pendency of any reference to the Court, no application for the cancellation of the registration of an industrial union shall be made or received, and no resignation or discharge of the membership of any industrial union or of any company, association, trade union, or branch, constituting an industrial union, shall have effect.

Conditional order for cancellation.

30. On making any order for cancellation the President may direct that the order shall be suspended for a period fixed by him and that if a requisition specified in the direction be complied with by the union to the satisfaction of the President within

that period, then the order shall be annulled, but that if the requisition be not so complied with then the order shall have effect as from the making thereof; and every such direction of the President shall have effect according to its tenor.

Division II.—Industrial Associations.

31. Any council or other body, however designated, representing not less than two industrial unions of either employers or workers in any specified industry may be registered under this Act as if such council or body were a society complying with the conditions of section six.

Industrial associations may be registered.
Cf. W.A. 1902, No. 21, s. 23.

Provided that every such council or other body shall in lieu of being registered as an industrial union be registered as and designated an industrial association, and the word "association" shall be substituted for the word "union" wherever necessary accordingly.

32. All the provisions of this Act relating to industrial unions, their officers, trustees, and members, shall, *mutatis mutandis*, extend and apply to a registered industrial association, its officers, trustees, and members respectively, and such provisions shall be read and construed accordingly in so far as the same are applicable, and the special reference to industrial associations in any section shall not render other sections inapplicable: Provided that no industrial association shall be entitled to recommend the appointment of a member of the Court.

Provisions affecting unions applicable.
Cf. *ibid.*, s. 22.

33. (1.) In lieu of making provision with respect to the matters mentioned in paragraphs f, g, and h of section seven, provision shall be made in the rules of any council or other body applying for registration as an industrial association with respect to—

Matters to be dealt with in rules of associations.

- (i.) A register of industrial unions represented on the association and of the members of the association respectively representing such unions, and the mode in which and the terms and qualifications on which such unions shall be entitled to be or shall cease to be so represented, but so that no union shall discontinue its representation unless and until it has given at least three months' previous written notice to the association of its intention so to do;
- (ii.) The expulsion from representation on the council or body of unions in arrears of dues for any specified period not longer than twelve months, but without freeing such union or its representatives from arrears due;

(iii.) The purging of the register;

(iv.) The inspection of the books and the register of members by any person authorised in that behalf by an industrial union represented on the council or body.

(2.) Regulations may be made prescribing other matters in respect of which industrial associations shall have rules and providing that industrial associations need not have rules regarding any specified matter which has been prescribed in the case of industrial unions.

Ground for cancellation of registration.

34. It shall be an additional ground for the cancellation of the registration of an industrial association that the rules thereof or their administration do not provide reasonable facilities for the admission to representation on the association of new unions or impose or imposes unreasonable conditions upon the continuance of their membership or are or is in any way oppressive.

PART III.—INDUSTRIAL AGREEMENTS.

Industrial agreements may be made.

Cf. W.A. 1902, No. 21, s. 23.

35. (1.) Any industrial union or association of workers or employers may make an agreement in writing for the prevention or settlement of an industrial dispute or relating to any industrial matter. Every such agreement shall be made between an industrial union or association of workers, of the one part, and an industrial union or association of employers or some specified employer or employers, of the other part.

Term and form of agreement.

(2.) Every industrial agreement shall be for a term to be specified therein, not exceeding three years from the date of the making thereof, and shall commence as follows: "This agreement, made in pursuance of 'The Industrial Arbitration Act, 1912,' this day of Between ,"
and then the matters agreed upon shall be set out.

(3.) An agreement shall be limited in its effect to the particular locality therein specified.

Date of agreement.

(4.) The date of the making of the agreement shall be the date on which it is first executed by any party thereto; and such date, and the names of all the original parties thereto, shall be truly stated therein.

Agreement to continue in force for parties not retired.

(5.) Notwithstanding the expiry of the term of an industrial agreement, it shall, subject to any award of the Court, continue in force in respect of all parties thereto, except those who retire therefrom.

Mode of retirement.

(6.) At any time after, or not more than thirty days before, the expiry of an industrial agreement any party thereto may file in the office of the Clerk of the Court a notice in the prescribed

form signifying his intention to retire therefrom at the expiration of thirty days from the date of such filing, and such party shall on the expiration of that period cease to be a party to the agreement.

36. (1.) A duplicate original of every industrial agreement shall, within sixty days after the making thereof, be filed in the office of the Clerk of the Court. The Clerk of the Court shall make and certify a true copy of such agreement and transmit such copy to the Registrar.

Duplicate to be filed.

Cf. *id.*, s. 24.

(2.) Every document purporting to be a copy of an industrial agreement shall (notwithstanding that no notice to produce the original has been given) be admissible in evidence in proof of the contents of the original, provided such copy be certified as a correct copy under the seal of the Court and the hand of the Clerk of the Court, and the production of such copy shall be *prima facie* evidence that the original agreement was duly executed in accordance with this Act in manner indicated in the copy, and that a duplicate has been duly filed as provided in this section.

37. Whilst the industrial agreement is in force any industrial union or industrial association or employer may (with the consent of the original parties to the agreement or their respective representatives) become party thereto by filing in the office wherein such agreement is filed a notice in the prescribed form, signifying concurrence with such agreement.

Parties to agreement may be added.

Ibid., s. 25.

38. (1.) Every industrial agreement duly filed shall be binding on the parties who execute the same or concur therein, and also on every member for the time being of any industrial union or industrial association which is party thereto, and also on every industrial union and every member for the time being of any industrial union which is for the time being represented on any such association.

On whom agreement binding.

Cf. *ibid.*, s. 26.

(2.) The agreement shall also extend to and bind every worker who is at any time whilst it is in force employed by any employer on whom the agreement is binding.

(3.) Industrial agreements shall be enforceable in manner provided by section ninety-one of this Act, and not otherwise.

Enforcement of agreements.

39. Every industrial agreement, made under this Act or the Acts hereby repealed, may be varied, renewed, or cancelled by any subsequent industrial agreement made by and between all the parties thereto, but so that no party shall be deprived of the benefit thereof by any subsequent industrial agreement to which he is not a party; provided, however, that no industrial agreement with respect to which any powers conferred by the next

Agreements may be varied, renewed, or cancelled.

Cf. *ibid.*, s. 27.

succeeding section have been exercised shall be varied or cancelled without the leave of the Court.

Industrial agreement may be declared a common rule.

40. The Court may declare that any industrial agreement shall have the effect of an award, and be a common rule of any industry or industries to which it relates, and the agreement shall thereupon, subject as hereinafter provided, become binding on all employers and workers, whether members of an industrial union or association or not, engaged at any time during its currency in any such industry within the locality specified in the agreement.

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

PART IV.—THE COURT OF ARBITRATION.

Division I.—Constitution of Court.

Court of Arbitration.
W.A. 1902, No. 21,
s. 58.

41. There shall be one Court of Arbitration for the whole State with the jurisdiction and authority conferred by this Act.

The Court shall be a Court of Record, and have a Seal, which shall be judicially noticed in all Courts of Justice, and for all purposes.

Members of Court.
Ibid., s. 59 (1.)

42. The Court shall consist of three members appointed by the Governor. One member shall be appointed on the recommendation of the industrial unions of employers and one on the recommendation of the industrial unions of workers, as provided by section forty-four, and the third member shall be a Judge of the Supreme Court, nominated as hereinafter provided by the Governor to act in that behalf. Such Judge shall be President of the Court. The other members shall be called ordinary members.

Provision in case of illness or absence of member.
Ibid., s. 59 (2.)

43. In case of the illness or absence of the President at any time, the Governor shall nominate a Judge of the Supreme Court to act as President during such illness or absence. And in case of the absence of a member of the Court other than the President, by reason of illness or other cause, the Governor may appoint such other person as he may think fit to fill his place during such absence and until the termination of any pending inquiry.

Appointment of members on recommendation.
Ibid., s. 60 (1.)

44. Each industrial union may, within one month after being requested so to do by the Registrar, recommend to the Governor in the prescribed manner, the name of one person, and from such names the Governor shall select two members, one from the persons recommended by the industrial unions of employers, and one from the persons recommended by the industrial unions of workers.

45. If either division of industrial unions fails or neglects to make a recommendation within the aforesaid period, the Governor may thereafter appoint a person to be a member of the Court; and such member shall be deemed to be appointed on the recommendation of the said division of industrial unions.

Procedure in
default of recom-
mendation.
Ibid., s. 60 (2.)

46. Forthwith after a full Court has been appointed, the names of the members shall be notified in the *Gazette*, and such notification shall be final and conclusive for all purposes.

Notification of
appointments.
Ibid., s. 60 (3.)

47. Every member of the Court (other than the President) shall hold office for three years from the date of the gazetting of his appointment, or until the appointment of his successor. Every member of the Court shall be eligible for re-appointment.

Tenure of office of
ordinary members.
Ibid., s. 61.

48. Each ordinary member of the Court shall receive an annual salary of Four hundred pounds, and such salaries shall be payable out of the Consolidated Revenue Fund.

Salaries.

49. This Act shall be deemed a permanent appropriation of the salaries of the ordinary members of the Court.

Appropriation.

50. With respect to the Court constituted under the Industrial Conciliation and Arbitration Act, 1902, the following provisions shall apply:—

Existing Court and
members continued.
Cf. W.A. 1902, No.
21, s. 62.

(a.) It shall be deemed to be the Court under this Act.

(b.) The President and the other members thereof shall be deemed to have been appointed as President and ordinary members respectively under this Act, and the terms of office of such ordinary members shall be calculated from the seventh day of July, nineteen hundred and eleven.

51. Any member of the Court may resign his office by writing under his hand addressed to the Governor, and thereupon the office shall become vacant.

Resignation of
member.

52. Any person who—

- (a.) is an alien; or
- (b.) is an undischarged bankrupt; or
- (c.) is of unsound mind,

Disqualifications
for membership.
Cf. *ibid.*, s. 95.

shall be incapable of being appointed a member of the Court.

53. The Governor may remove any ordinary member of the Court from office who—

Power of removal
by Governor.
Cf. *ibid.*, s. 64.

(a.) Becomes subject to any of the disabilities mentioned in the last preceding section; or

- (b.) Accepts, whether by assignment, composition, or otherwise any such relief as is afforded by law to bankrupt or insolvent debtors; or
 - (c.) Is proved to be guilty of inciting any industrial union or any worker or employer to commit any breach of an industrial agreement or award; or
 - (d.) Is absent without reasonable cause from three consecutive sittings of the Court;
- and every vacancy thereby caused shall be deemed to be a casual vacancy.

Removal on address
of Parliament.

54. The Governor may also remove from office the President or any ordinary member on an address from both Houses of Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity.

Mode of filling
casual vacancies.
Cf. *ibid.*, s. 65.

55. (1.) Every casual vacancy in the office of an ordinary member of the Court shall be supplied in the same way as an original appointment was made, and the foregoing provisions shall, *mutatis mutandis*, be applied accordingly.

(2.) Every person appointed to fill a casual vacancy hereunder shall hold office only for the residue of the term of his predecessor.

Oath of office and
secrecy.
Cf. *ibid.*, s. 66.

56. Before entering upon their offices the members of the Court (other than the President) shall make oath before the President that they will faithfully and impartially perform the duties of their respective offices, and that they will not, except in the discharge of their duties, disclose to any person any evidence or other matter brought before the Court.

Clerk and officers
of Court may be
appointed.
Ibid., s. 67.

57. (1.) The Governor may appoint such Clerk and other officers of the Court as he thinks necessary. Such Clerk and officers shall hold office during pleasure, and receive such salary or other remuneration as the Governor thinks fit.

(2.) The duties of the Clerk of the Court, and of all other officers thereof, shall be as prescribed and also as directed by the Court or President.

Division II.—Jurisdiction and Procedure of Court.

Jurisdiction.
Ibid., s. 68.
Com. 1911, s. 10.

58. The Court shall have jurisdiction for the settlement and determination of any industrial dispute—

- (a.) referred to it by any party or parties under this Act; or

- (b.) as to which the President has held a conference under section one hundred and twenty, and as to which no agreement has been reached, and which the President has thereupon referred to the Court.

59. (1.) An industrial dispute may relate either to any industry in which the party by whom the dispute is referred for settlement to the Court as hereinafter provided is engaged, concerned, or interested, or to any industry or industries related thereto.

Industrial disputes in related industries.

Cf. N.Z. 1908, No. 82, s. 24.

(2.) An industry or industries shall be deemed to be related to another where both or all are branches of the same trade (as, for example, bricklaying, masonry, carpentering, and painting are branches of the building trade), or are so connected that industrial matters relating to the one may affect the other.

60. When an industrial union of workers is party to an industrial dispute, the jurisdiction of the Court to deal with the dispute shall not be affected by reason merely that no member of the union is employed by any party to the dispute or is personally concerned in the dispute.

Jurisdiction not affected by fact that no member of union is concerned in dispute.
N.Z., 1908, No. 82, s. 107.

61. The Court shall have jurisdiction to determine whether any matter referred to it is an industrial dispute, and any finding by the Court that a matter referred to it is or is not an industrial dispute shall be final and conclusive, and shall not be questioned in the Supreme or any other Court.

Decision that matter is an industrial dispute conclusive.

62. (1.) An industrial dispute may, subject to this Act, be referred to the Court in the prescribed manner by the party or parties or a majority of the parties on the one side or the other.

Reference of dispute to Court.
Cf. W.A. 1902, No. 21, s. 69.

(2.) Should any question arise as to whether all, or a majority of such parties on one side or the other have agreed to such reference, the question shall be settled by the President upon summons under section sixty-eight.

63. (1.) An employer, being a party to a reference or any other matter may appear in person, or by his agent duly appointed in writing for that purpose.

Representation of parties before Court.

Cf. *ibid.*, s. 71.

(2.) An industrial union or industrial association, being a party to a reference or any other matter may appear by its chairman or secretary, or by any person appointed in writing by the chairman, or in such other manner as the rules prescribe.

(3.) Except as hereinafter provided, every party appearing by a representative shall be bound by the acts of such representative.

(4.) No legal practitioner, whether of this State or any other State, whether on the Rolls or not, or solicitor's clerk, shall be allowed to appear or be heard before the Court in any capacity whatsoever, or to attend the Court to advise the representative of any party before the Court, unless all the parties to the reference or other matter expressly consent thereto:

Provided that when the Court is sitting for the trial of any offence, counsel or solicitor shall be entitled to appear and be heard before the Court on behalf of the prosecution or of the defence with all the powers of a counsel or solicitor appearing on the trial of an offence in a court of summary jurisdiction.

Court to decide according to equity and good conscience.

Cf. *ibid.*, s. 74.

Com. 1904, No. 13, s. 25.

Com. 1910, No. 7, s. 8.

64. (1.) In the hearing and determination of every industrial dispute the Court or President shall act according to equity, good conscience, and the substantial merits of the case without regard to technicalities or legal forms, and shall not be bound by any rules of evidence, but may inform its or his mind on the matter in such a way as it or he thinks just.

(2.) In granting relief or redress under this Act the Court shall not be restricted to the specific claims made or to the subject matter of the claim.

Sittings of Court.

W.A. 1902, No. 21, s. 72.

65. (1.) The sittings of the Court shall be held at such time and place as may be from time to time fixed by the President, and sittings may be fixed either for a particular case or generally for all cases then before the Court and ripe for hearing, and it shall be the duty of the Clerk of the Court to give to each member of the Court and also to all parties concerned, at least seven clear days' notice of the time and place of each sitting other than an adjourned sitting.

(2.) The Court may be adjourned from time to time and from place to place—

(a.) By the President at any sitting thereof, or if the President is absent from such sitting, then by any other member present; or

(b.) If no member is present at the time fixed for the sitting by the Clerk of the Court; or

(c.) By the President at any time before the time fixed for the sitting.

Powers of Court.

Cf. Com. 1904, No. 13, s. 38.

N.S.W. 1901, No. 59, s. 26.

66. The Court shall have power in any dispute or other matter before it—

(i.) To dismiss the dispute or other matter at any stage of the proceedings where it thinks the dispute or matter trivial;

(ii.) To order any party to the dispute or other matter to pay to any other party such costs and expenses including expenses of witnesses as are specified in the order, but so that no costs shall be allowed for the services of any counsel, solicitor, or agent;

- (iii.) To proceed to hear and determine any dispute or other matter in the absence of any party thereto who has been summoned or served with notice to appear therein;
- (iv.) To sit in any place for the hearing and determination of the dispute or other matter;
- (v.) To conduct its proceedings or any part thereof in private;
- (vi.) To refer to any person any dispute or matter before it or any question arising in any such dispute or matter for investigation and report and to accept or act on the report of or evidence taken by any such person or any part of such report or evidence; and to refer to experts the interpretation of awards in technical trades;
- (vii.) To direct parties to be joined or struck out;
- (viii.) To correct, amend, or waive any error, defect, or irregularity whether in substance or in form;
- (ix.) To extend any time fixed by this Act or by any regulation under this Act or by any order of the Court or of the President or any other member thereof;
- (x.) To direct that two experts (one nominated by the party or the majority of the parties on one side and the other by the party or the majority of the parties on the other) shall sit with the Court as assessors on the hearing of any dispute or other matter to aid the members of the Court with their counsel; cf. W.A. 1902, No. 21, s. 106.
- (xi.) To make such orders as may be just with respect to the issues to be submitted to the Court, the persons to be served with notice of proceedings, delivery of particulars of the claims of all parties, admissions, discovery, inspection, or production of documents, inspection or production of property, examination of witnesses, and the place and mode of hearing;
- (xii.) To enter upon any manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises of any kind whatsoever, wherein or in respect of which any industry is or is reputed to be carried on or any work is being or has been done or commenced, or any matter or thing is taking or has taken place, which is made the subject of a reference to the Court; *Ibid.*
- (xiii.) To inspect and view any work, material, machinery, appliances, article, matter, or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises as aforesaid;
- (xiv.) To interrogate any person who may be in or upon any such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place or premises as aforesaid in respect of or in relation to any matter or thing hereinbefore mentioned.

Exercise of certain powers.

67. The power mentioned in paragraph x. of the last preceding section shall be exercised by the Court if so required by any party to the dispute or other matter, and any power mentioned under paragraph xii., xiii., or xiv. of the last preceding section may, if the Court so directs in any case, be exercised by any member or officer of the Court or by any expert appointed to act as assessor.

President may exercise certain powers in Chambers.

Cf. Com. 1904, No. 13, s. 32.

68. The President, on the application of any party to an industrial dispute or other matter of which the Court has cognizance, may, on summons returnable before the President sitting in Chambers, make in relation to the dispute or other matter any order which he thinks just as to any interlocutory proceeding to be taken before the hearing, the costs of such proceeding, the issues to be submitted to the Court, the persons and unions or associations to be served with notice of proceedings, particulars of the claims of the parties, admissions, discovery, interrogatories, inspection or production of documents or of any property, examination of witnesses, and the place, time, and mode of hearing: provided that no order of the President shall prejudice the exercise of any power by the Court.

Power of President to award costs.

69. As regards all proceedings before him the President may make such order as to costs as he shall deem just.

Evidence.

W.A. 1902, No. 21, s. 75.

70. With respect to evidence in proceedings before the Court the following provisions shall apply:—

- (1.) On the application of any party, the Clerk of the Court shall issue a summons in the prescribed form to any person to appear and give evidence before the Court; such summons may require such person to produce before the Court any books, papers, or other documents in his possession, or under his control, in any way relating to the proceedings.
- (2.) All books, papers, and other documents produced before the Court may be inspected by the Court, and also by such of the parties as the Court allows; but the information obtained therefrom shall not be made public, and such parts of the documents as, in the opinion of the Court, do not relate to the matter at issue may be sealed up.
- (3.) Every person who is summoned and duly attends as a witness shall be entitled to receive from the party at whose instance he was summoned an allowance for expenses according to the prescribed scale.
- (4.) Any person duly served with such summons, and to whom at the same time payment or tender has been made of his reasonable expenses according to the aforesaid scale, who fails to attend or to duly produce any book, paper, or document as required shall be guilty of an

offence and be liable to a penalty not exceeding Twenty pounds, or to imprisonment for any term not exceeding one month.

- (5.) The Court or President may, whenever it shall appear just or convenient so to do, make any order for the examination upon oath or otherwise before the Court or President or any officer of the Court, or any other person, and at any place of any witness or person, and may empower any party to give the deposition of such witness or person in evidence on such terms, if any, as the Court or President may direct.

Provision for obtaining evidence at a distance.

- (6.) The Court may take evidence on oath or affirmation, and for that purpose any member or the Clerk of the Court may administer an oath or affirmation.

- (7.) No evidence relating to any trade secret, or to the profits or financial position of any witness or party, shall be disclosed except to the Court, or published without the consent of the person entitled to the trade secret or non-disclosure.

Disclosure of trade secrets.
Com. 1904, No. 13, s. 85.

Penalty: One hundred pounds or three months' imprisonment with or without hard labour.

- (8.) All such evidence as is mentioned in the last preceding paragraph shall, if the witness or party so requests, be taken in private.

- (9.) All books, papers, and other documents produced in evidence before the Court may be inspected by the Court and also by such of the parties as the Court allows, but the information obtained therefrom shall not be made public without the permission of the Court. Provided that such books, papers, and documents relating to any trade secret, or to the profits or financial position of any witness or party shall not, without his consent, be inspected by any party.

Contents of books not to be disclosed.
Ibid., s. 86.

Penalty: One hundred pounds or three months' imprisonment with or without hard labour.

71. The presence of the President and at least one other member shall be necessary to constitute a sitting of the Court.

Quorum.
W.A. 1902, No. 21, s. 76.

72. The decision of a majority of the members present at the sitting, or if the members present are equally divided in opinion then the decision of the President shall be the decision of the Court. The decision of the Court on the settlement of an industrial dispute shall be drawn up in the form of minutes, which minutes shall be open to the inspection of the representatives of the parties concerned. An appointment shall be made by the Court for the purpose of allowing the representatives of the parties

Decision to be of majority of Court.
Ibid., s. 77.

to speak to matters contained in such minutes. As the outcome of such appointment and discussion during same, it shall be open to the Court in its absolute discretion to vary, or amend, the terms of such minutes before the same are actually issued as an award of the Court.

President to
deliver decision.
Ibid., s. 78.

73. The decision of the Court shall in every case be signed by the President, and may be delivered by him or by any other member of the Court or by the Clerk.

When award to be
made.
Ibid., s. 82.

74. An industrial award of the Court shall be made within one month after the Court began to sit for the hearing of the reference, or within such extended time as in special circumstances the Court thinks fit. Every award, as far as practicable, shall be pronounced and delivered at the place where the hearing of the dispute or the principal part of the hearing of the dispute took place.

Award to be
signed, sealed, and
deposited in office.
Ibid., s. 83.

75. The award shall have the seal of the Court attached thereto, and shall be deposited in the office of the Clerk of the Court, and be open to inspection without charge during office hours by all persons interested therein.

Terms of award.
Cf. *ibid.*, s. 84,

76. (1.) The award shall be framed in such manner as shall best express the decision of the Court, avoiding all technicality where possible, and shall specify—

- (a.) Each party on whom the award is binding, being in every case each industrial union, industrial association, or employer who is party to the proceedings at the time when the award is made, and every industrial union then represented on any such association;
- (b.) The locality (if any) to which the award or any part thereof is limited;
- (c.) The term of the award.

(2.) The award shall also state in clear terms what is or is not to be done by each party on whom the award is binding, or by the employers or workers affected by the award, and may provide for an alternative course to be taken by any party.

Court may limit
operation of award
to particular area.

Cf. *ibid.*, s. 84 (5)
and (6).

77. (1.) The Court may, in any award made by it, limit the operation of such award or any portion thereof to any particular locality, but except in so far as the award or any part thereof is so limited it shall be deemed to extend to the whole State.

(2.) The Court shall, if the operation of the award has been limited as aforesaid, have power, on the application of any employer, industrial union, or industrial association, to extend the operation of such award or any portion thereof.

Provided that before acting under this subsection the Court shall give all parties, likely in its opinion to be affected, notice, whether by advertisement or otherwise, of its intention to extend

the operation of such award, and shall hear any parties desiring to be heard in opposition thereto.

78. An award shall, whilst in force, be a common rule of any industry to which it applies, and shall, subject as hereinafter provided, become binding on all employers and workers, whether members of an industrial union or association or not, engaged at any time during its currency in that industry within the State.

Award to be a common rule.
(*Cf. Com. 1904, No. 13, s. 38 (f) and (g).*
Cf. W.A. 1902, No. 21, s. 84 (3).

Provided that if the operation of the award or any part thereof is limited to any particular locality, then the common rule shall not as regards matters to which the limitation applies operate beyond such locality.

79. With respect to every award, whether made before or after the commencement of this Act, the Court by order at any time during the term of the award may declare the true interpretation of the award, and shall have power to amend the provisions of the award for the purpose of remedying any defect therein or of giving fuller effect thereto.

Special powers to interpret or amend award.
Cf. ibid., s. 85.

The Court may, for the purposes of this section, exercise the powers conferred by paragraphs (vi.) and (x.) of section sixty-six.

80. The powers by the last preceding section conferred upon the Court may be exercised on the application of any employer or industrial union or association bound by the award.

Application may be made to Court by any party.
Cf. ibid., s. 86.

81. The term of an award may be—

- (a.) Any specified period not exceeding three years from the date of the award; or
- (b.) For one year, and thenceforward from year to year.

Currency of awards.

82. (1.) Where, by any award already or which hereafter may be made, the currency of the award is for a period not exceeding three years, and it is by the award declared that the Court may at any time after the expiration of twelve months from its date, on the application by any party or person affected by its provisions, alter or amend such award, it shall be lawful for the Court, at any time after the expiration of twelve months from the date of such award, to alter, amend, or revise such award, in such manner as the Court may deem expedient.

Amendment and revocation of awards in certain cases.

(2.) Where, by any award already or which hereafter may be made, it is provided that the award shall remain in operation for the period of one year from any date, and thenceforward from year to year, subject to the right of any party interested to apply to amend, alter, or revise the same, then the award shall

remain and shall be deemed to have remained in operation accordingly, and it shall be lawful for the Court, at any time not later than three months after the expiration of one year from such date and thereafter not later than three months after the expiration of every subsequent year, to revoke, or to alter, amend, or revise such award in such manner as the Court may deem expedient.

(3.) No person or party shall apply to have an award revoked, altered, amended, or revised under the powers hereby conferred on the Court, until such person or party has obtained the leave of the Court to such application being made, and if leave be granted, which shall be in the Court's discretion, the Court may direct the procedure to be adopted and the notice to be served on other parties or persons, and the mode of service of such notices, with power to direct service by advertisement in a newspaper.

Award to continue in force until retirement of person bound.
(*Cf.* N.Z. 1908, No. 82, s. 90 (1) (d), s. 91.

83. (1.) Notwithstanding the expiry of the term of an industrial award heretofore or hereafter made it shall, subject to any award of the Court, continue in force in respect of all persons and bodies bound thereby except those who retire therefrom.

(2.) At any time after the expiry of the term of an industrial award any person or body bound thereby may retire therefrom by filing in the office of the Clerk of the Court a notice in the prescribed form signifying his or its intention to retire at the expiration of thirty days from the date of such filing, and such person or body shall thereafter cease to be bound thereby. Provided that no union which is bound by reason of being represented on any industrial association shall retire without the consent of such association.

Minimum wage, regulation of industries, and employment of members of unions.
(*Cf.* W.A. 1902, No. 21, s. 89.

84. (1.) The Court may by any award —

- (a.) Prescribe a minimum rate of wage or other remuneration with special provision for a lower rate being fixed (by such tribunal or person in such manner and subject to such provisions as the Court may think fit to prescribe in the award) in the case of any worker who is unable to earn the prescribed minimum by reason of old age or infirmity;
- (b.) Prescribe such rules for the regulation of any industry to which the award applies as may appear to the Court to be necessary to secure the peaceful carrying on of such industry;
- (c.) Limit the working hours of piece-workers in any industry except workers engaged in the agricultural and pastoral industries.

(2.) No minimum rate of wages or other remuneration shall be prescribed which is not sufficient to enable the average worker to whom it applies to live in reasonable comfort, having regard

Cf. Com. 1910, No. 7, s. 9.

to any domestic obligations to which such average worker would be ordinarily subject.

85. Notwithstanding anything hereinbefore contained, no award or order shall impair the validity or prevent the operation of any previously existing award or industrial agreement during the term of such award or agreement, and except in pursuance of a power in that behalf reserved in the award no amendment shall, during the term of an award, be made therein which is inconsistent with the true intent and meaning of such award as originally made by the Court.

Validity and operation of awards and agreements not to be impaired by subsequent awards or orders.

86. In every case where the Court, in its award or order, directs the payment of costs or expenses it shall fix the amount thereof, and specify the parties or persons by and to whom the same shall be paid.

Amount of costs or expenses to be fixed.
W.A. 1902, No. 21, s. 90.

87. In all legal and other proceedings, it shall be sufficient to produce the award with the seal of the Court thereto, or a copy thereof certified as true by the Clerk of the Court, and it shall not be necessary to prove any conditions precedent entitling the Court to make the award.

Award under seal to be evidence.
Ibid., 91.

88. No proceedings in the Court shall abate by reason of the death of any party, but such proceedings may by order of the Court be continued on such terms as the Court thinks fit by or against the legal representative of such party or by or against any person appointed by the Court to be the representative of such party.

No abatement on death of party.
Cf. N.S.W. 1901, No. 59, s. 33.

89. The Court in its award, or by order made on the application of any of the parties at any time whilst the award is in force, may fix and determine what shall constitute a breach of the award, and what sum, not exceeding Five hundred pounds, shall be the maximum penalty payable by any party in respect of any breach.

Court to fix what constitutes breach of award and penalty therefor.
W.A. 1902, No. 21, s. 88.

90. For the purpose of enforcing any award or order of the Court (not being an order under section ninety-two hereof or section ninety-four of the Industrial Conciliation and Arbitration Act, 1902), whether made before or after the commencement of this Act, the following provisions shall apply:

Provisions for enforcing awards.
Cf. *ibid.*, s. 92.

- (1.) In so far as the award itself imposes a penalty or costs, it shall be deemed to be an order of the Court, and payment shall be enforceable accordingly under the subsequent provisions of this Act relating to orders of the Court.
- (2.) If any party or person on whom the award is binding commits any breach thereof by act or default, then,

subject to the provisions of the last preceding paragraph hereof, the Registrar or any Industrial Inspector or any employer or industrial union or association bound by the award may, by application in the prescribed form, apply to the Court for the enforcement of the award.

- (3.) On the hearing of such application the Court may by order either dismiss the application or impose such penalty for the breach of the award as it deems just, and in either case with or without costs: Provided that in no case shall costs be given against the Registrar or an Industrial Inspector.
- (4.) If the order imposes a penalty or costs, it shall specify the parties liable to pay the same, and the parties or persons to whom the same shall be payable.

Provisions for enforcing industrial agreements.

Ibid., s. 93.

91. For the purpose of enforcing industrial agreements, whether made before or after the commencement of this Act, the provisions of paragraphs two, three, and four of the last preceding section hereof shall, *mutatis mutandis*, apply in like manner in all respects as if an industrial agreement were an award of the Court, and the Court shall accordingly have full jurisdiction to deal therewith.

Jurisdiction of Court to deal with offences.

92. (1.) The Court shall have jurisdiction to try and determine all charges of offences against this Act or the regulations made thereunder, and to inflict punishment on any person convicted before it of any offence.

(2.) Such jurisdiction shall be concurrent with that of Courts of summary jurisdiction.

Property liable to execution.

Cf. *ibid.*, s. 92 (6) and (7).

93. (1.) All property belonging to any person or body bound by any judgment, order, conviction, or direction of the Court (including therein, in the case of an industrial union or industrial association, all property held by trustees for such union or association), shall be available in or towards satisfaction of the judgment, order, conviction, or direction, and if any such body is an industrial union or an industrial association, and its property is insufficient to fully satisfy the amount due under the judgment, order, conviction, or direction, its members and the members of any union represented on any such association shall be jointly and severally liable for the deficiency:

Provided that no member shall be liable for more than Ten pounds under this subsection.

Provided also that all goods protected from seizure on an execution under a judgment of a Local Court are protected against seizure under this Act and the regulations to the value of thirty pounds:

(2.) For the purpose of giving full effect to the last preceding subsection hereof, the Court or the President thereof may, on the application of the person or body entitled to claim the enforcement of such judgment, order, conviction, or direction, make such order or give such directions as are deemed necessary, and the trustees aforesaid and all other persons concerned shall obey the same.

(3.) The property of any industrial union or association shall be deemed to include the property of any company, trades or industrial union, society, or other body forming part of or constituting the industrial union or association.

94. (1.) When any charge of an offence against this Act is pending in a Court of summary jurisdiction then, before the decision, the Court of Arbitration may, on the application of any party to the proceedings, issue a writ of *certiorari* commanding the removal of the proceedings into the Court of Arbitration, and the proceedings shall be removed accordingly, and the Court of Arbitration shall then have exclusive jurisdiction to try and determine the charge and to inflict punishment therefor.

Removal of prosecution for offence from Court of summary jurisdiction to Court of Arbitration.

(2.) The powers conferred by this section may be exercised by the President at any time when the Court is not sitting.

95. (1.) The Sheriff of Western Australia, the Bailiffs of Local Courts, and all officers of police shall be deemed to be officers of the Court, and shall exercise the powers and perform the duties prescribed by any rules of Court made under this Act; and for the purpose of carrying out the provisions of this Act and in relation to any proceedings before the Court or the President and in relation to the making, carrying out and enforcing of any award, order, conviction, or direction of the Court or the President shall, except where provided in any rules made as aforesaid, exercise the same powers and perform the same duties as they may exercise and perform in relation to any judgment, order, conviction, or direction of the Supreme Court or any Local Court or Court of summary jurisdiction.

Sheriff and other officers to be officers of Court of Arbitration.

Cf. N.S.W. 1901, No. 59, s. 39.

(2.) All prison officials shall obey and carry out the writs, warrants, and orders of the Court so far as the same are addressed to them.

96. (1.) Every inspector appointed under the Factories Act, 1904, shall be an Industrial Inspector under this Act for the whole State, and shall be charged with the duty of seeing that the provisions of any industrial agreement or award or order of the Court are duly observed, and with such other duties as are by this Act imposed on him.

Industrial inspectors.

Cf. N.Z. 1908, No. 82, s. 100.

(2.) Every inspector of mines appointed under the Mines Regulation Act, 1906, or the Coal Mines Regulation Act, 1902,

shall be an Industrial Inspector, and shall be charged with the duty of seeing that the provisions of any such agreement, award, or order are duly observed in or about any mine or coal mine subject to his inspection.

(3.) In the discharge of his duties under this Act an Industrial Inspector may require any employer or worker to produce for his examination any wages books, overtime books, and other books which he shall deem it necessary to examine, and may put any questions to any employer or worker and may exercise all such powers of entry and examination as are conferred on him by any of the aforesaid Acts.

(4.) Except for the purposes of this Act and in the exercise of his functions thereunder, an Industrial Inspector shall not disclose to any person any information acquired by him in the performance of his duties.

Penalty: Fifty pounds.

References to
Court to be
approved by
resolution of union.
Cf. W.A. 1902, No.
21, s. 96.

97. An industrial dispute shall not be referred to the Court by an industrial union or association, nor shall any application be made to the Court by any such union or association for the enforcement of any industrial agreement or award of the Court, unless and until the proposed reference or application has been approved by the members in manner following, that is to say:—

- (1.) In the case of an industrial union, by resolution passed at a special meeting of such union: Provided that if the resolution is for a reference of an industrial dispute it shall be confirmed by the votes of an absolute majority of the members on a subsequent ballot of the members, held in the prescribed time and manner, the result of which ballot shall be recorded on the minutes;
- (2.) In the case of an industrial association, by resolution passed at a special meeting of the members of such association, and confirmed by resolutions passed at special meetings of a majority of the industrial unions represented on such association;
- (3.) In the case of an industrial union of workers represented on an industrial association, no such reference or application shall be made without the consent of such association expressed by resolution passed at a special meeting of the members thereof.
- (4.) It shall be no objection to the sufficiency of a resolution in relation to a proposed reference that any of the details of the reference are omitted or any of the parties concerned in the dispute are not mentioned, provided

the dispute is identified with reasonable certainty and the general nature of the question involved therein is clearly stated.

98. (1.) Each such special meeting shall be convened and held in manner provided by the rules, and notice of the proposed resolution shall be served on or posted to all the members three days at least before the holding of the meeting, or published in a newspaper circulating in the locality affected. The resolution shall be deemed to be passed if it is approved by the votes of a majority of the members present and qualified to vote at the meeting of the union or association.

Special meeting for such purpose.
Cf. *ibid.*, s. 97.

(2.) A certificate under the hand of the chairman of any such special meeting shall, until the contrary is shown, be sufficient evidence as to the due constitution and holding of the meeting, the nature of the proposal submitted, and the result of the voting.

Certificate of chairman to be evidence.

(3.) Certificates or a certificate, as the case may require, in the prescribed form, and in accordance with the last preceding subsection, shall be forwarded to the Clerk with every such application or reference as aforesaid.

Certificate to accompany reference.

(4.) No member of an industrial union shall be required to be served with notice of a special meeting or be permitted or be deemed qualified to vote at any such special meeting of the union whilst any fee, fine, levy, or other due which has been due and owing by him under the rules of the union for three months or longer, remains unpaid, or if he is an honorary member.

99. Proceedings in the Court shall not be impeached or held bad for want of form, nor shall the same be removable to any Court by *certiorari* or otherwise; and no award, order, or proceeding of the Court shall be liable to be challenged, appealed against, reviewed, quashed, or called in question by any Court of judicature on any account whatsoever:

Proceedings not to be impeached for want of form.
W.A. 1902, No. 21, s. 87.

Provided that when any person has been convicted by the Court of any offence, or of the breach of any industrial award or agreement, and

Proviso. Appeal.

(a.) a term of imprisonment is imposed on him without the option of a fine; or

(b.) a fine or penalty is imposed on him exceeding twenty pounds;

he may, in the prescribed manner appeal to the Court of Criminal Appeal constituted under the Criminal Code against the conviction and sentence, or against either of them, and such Court may, on or in respect of the appeal, give any such judgment, make such orders, and exercise such powers as it could give, make, or exercise on or in respect of an appeal under Section 668 (six hundred and sixty-eight) of the said Code, and the provisions of such Code

shall so far as capable of application apply *mutatis mutandis* to such appeal, but the validity of an industrial award or agreement made or purporting to be made under this Act, or any Act repealed hereby, shall not be called in question on any such appeal.

PART V.—GOVERNMENT WORKERS.

Provision as to
Government
workers.

Cf. W.A. 1902, No.
21, s. 107.

100. (1.) If any persons employed by the Government (not being public servants subject to the Public Service Act, 1904) are members of any industrial union composed of workers engaged in the same industry as such persons, the Minister of the department in which such persons are employed, or the Commissioner of Railways, in the case of the Department of Government Railways, shall, in relation to all such persons who are for the time being members of such union, and for the purposes of this part of this Act, be deemed an employer, and such persons shall be deemed workers.

(2.) Any society consisting of workers employed by the Government (not being public servants subject to the Public Service Act, 1904, or members of the police force) shall be qualified for registration as an industrial union under and subject to this Act; provided it would be so qualified if its members were not employed by the Government.

Government rail-
ways.
Cf. *ibid.*, 108.

101. With respect to the Government railways open for traffic—

- (a.) The society of railway workers called “The West Australian Locomotive Engine-drivers, Firemen, and Cleaners’ Union of Workers,” and now registered as an industrial union under the Industrial Conciliation and Arbitration Act, 1902, shall be deemed to be registered under this Act: Provided that the constitution and rules of such society shall be amended so far (if at all) as may be necessary to bring them into compliance with this Act, and in case of default, the registration may be cancelled by the President;
- (b.) Any association or society of Government railway workers may register under this Act as an industrial union of workers: Provided there is no other industrial union of workers to which the members could conveniently belong;
- (c.) The Commissioner of Railways shall be deemed the employer of the workers who are members of any such union.

102. In reference to any such industrial union as is mentioned in section one hundred or one hundred and one, the following provisions shall apply:—

Unions of Govern-
ment workers.
Cf. *ibid.*, 109.

- (1.) The Minister of any department or the Commissioner of Railways, as the case may be, may enter into industrial agreements with any such union.
- (2.) If an industrial dispute arises between any Minister or Commissioner and any such union it may be referred to the Court for settlement as hereinafter provided.
- (3.) Any such union may, by petition filed with the Clerk of the Court, and setting forth the particulars of the matters in dispute, pray the Court to hear and determine the same.
- (4.) Such petition shall be under the seal of such union and the hands of two members of the committee of management thereof.
- (5.) No such petition shall be filed except pursuant to a resolution of a special meeting of the union called for the purpose, in accordance with its rules, and with respect to such resolution, and the procedure thereon, sections ninety-seven and ninety-eight shall apply.
- (6.) The Minister or Commissioner may, by petition filed with the Clerk of the Court and setting forth the particulars of the matters in dispute, pray the Court to hear and determine the same.
- (7.) A petition when filed by the Minister shall be under his hand, and when filed by the Commissioner shall be under his hand and common seal.
- (8.) Such petition, when duly filed, shall be referred to the Court by the Clerk of the Court, and the Court, if it considers the dispute sufficiently grave to call for investigation and settlement, shall send notice thereof to the Minister or Commissioner or the union, as the case requires, and appoint a time and place at which the dispute will be investigated and determined, in like manner as in the case of a reference, and the Court shall have jurisdiction to hear and determine the same accordingly, and to make award thereon.
- (9.) In any proceedings before the Court under this section, the Minister or Commissioner may be represented by any officer of the department whom he appoints in that behalf.
- (10.) All expenses incurred and moneys payable by any Minister or Commissioner under this Act shall be payable out of moneys appropriated by Parliament for the purpose.

- (11.) Subject as hereinafter provided any award made hereunder shall be binding on the like persons and be enforceable in the same manner as other industrial awards, and a breach thereof shall entail the like penalties, and the provisions of this Act applicable to other industrial awards shall be applicable to awards made hereunder.
- (12.) Notwithstanding anything herein no Minister or Commissioner shall be personally liable under any such agreement or award, or be subject to any personal penalty in respect thereof or in connection therewith.
- (13.) No execution or attachment or process in the nature thereof shall be issued against the property or revenues of the Crown or of any department or agency of His Majesty's Government to enforce any award or order made under this Act; but when any award or order affecting the Crown or any such department or agency has been made, the President shall send to the Attorney General a certified copy of the award in the prescribed form, and the Attorney General shall, within fourteen days after its receipt if Parliament is then sitting, or if not then within fourteen days after the next meeting of Parliament, cause a copy of the award to be laid before both Houses.

Act not otherwise
to apply to Crown.
W.A. 1902, No. 21,
s. 119.

103. Except as provided in this part and in section one hundred and twenty-six nothing in this Act shall apply to the Crown.

PART VI.—OFFENCES.

Prohibition of
strikes or lock-outs.
Cf. W.A. 1902, No.
21, s. 98.

104. (1.) No person shall—

- (a.) Take part in, or do or be concerned in doing any matter or thing in the nature of a lock-out or strike; or
- (b.) Before a reasonable time has elapsed for a reference to the Court of the matter in dispute, or during the pendency of any proceedings before the Court in relation to an industrial dispute, suspend or discontinue employment or work in any industry; or
- (c.) Instigate to or aid in any of the above-mentioned acts.

Penalty: In the case of an employer or industrial union or association, One hundred pounds; and in other cases, Ten pounds.

(2.) Nothing in this section shall prohibit the suspension or discontinuance (not being in the nature of a strike or lock-out) of any industry or of the working of any persons therein for good cause independent of an industrial dispute; but on a prosecution

for any contravention of this section the onus of proof that any such suspension or discontinuance is not in the nature of a strike or lock-out, and that such independent good cause exists, shall lie on the defendant.

(3.) Every person who makes any gift of money or other valuable thing to or for the benefit of any person who is a party to any strike or lock-out, or to or for the benefit of any industrial union, industrial association, trade union, or other society or association of which any such person is a member, shall be deemed to have aided in the strike or lock-out within the meaning of this section.

N.Z. 1908, No. 239,
s. 6 (2).

(4.) When a strike or lock-out takes place, and a majority of the members of any industrial union or industrial association are at any time parties to the strike or lock-out, the said union or association shall be deemed to have instigated the strike or lock-out.

Ibid., (3).

105. Where persons, with a view to being associated as employers and workers respectively in any industry or representatives of such persons have entered into an industrial agreement with respect to employment in that industry, any of such persons who, without reasonable cause or excuse (the proof whereof shall lie on him), refuses or neglects to offer or accept employment upon the terms of the agreement shall be deemed to have taken part in or done something in the nature of a lock-out or strike, as the case may be.

Employers or
workers refusing
to offer or
accept employment
upon the terms of
an award or agree-
ment.
Cf. Com. 1904, No.
13, s. 7.

106. Any industrial union or association of employers or workers which, for the purpose of enforcing compliance with the demands of any employers or workers, orders its members to refuse to offer or accept employment, shall be deemed to have taken part in or done something in the nature of a lock-out or strike, as the case may be.

Union ordering its
members to refuse
to offer or accept
employment.
Cf. *ibid.*, s. 8.

107. (1.) No employer shall dismiss any worker from his employment or injure him in his employment or alter his position to his prejudice by reason merely of the fact that the worker is an officer or member of an industrial union or association or of a society or other body that has applied to be registered as a union or association or is entitled to the benefit of an industrial agreement or award.

Employer not to
dismiss worker on
account of applica-
tion.
Com. 1909, No. 28,
s. 2; 1911, No. 6,
s. 6.

Penalty: Fifty pounds.

(2.) In any proceeding for any contravention of this section it shall lie upon the employer to show that any worker proved to have been dismissed or injured in his employment or prejudiced whilst an officer of an industrial union or association or such a society or body, or whilst entitled as aforesaid, was dismissed or injured in his employment or prejudiced for some reason other than that mentioned in this section.

Worker not to
cease work on ac-
count of applica-
tion of employer.
Ibid.

108. (1.) No worker shall cease work in the service of an employer by reason merely of the fact that the employer is an officer or member of an industrial union or association or of any society or other body that has applied for registration as an industrial union or association or is entitled to the benefit of an industrial agreement or award.

Penalty: Twenty-five pounds.

(2.) In any proceeding for any contravention of this section it shall lie upon the worker proved to have ceased work in the service of an employer whilst the employer was an officer or member of an industrial union or association or of such a society or body, or was entitled as aforesaid, to show that he ceased so to work for some reason other than that mentioned in this section.

Power to make
orders for observ-
ance of awards
and agreements or
to restrain breaches
of Act.

Cf. Com. 1904, No.
13, s. 48.

109. (1.) The Court may, on the application of any party to an industrial award or agreement or of the Registrar or an Industrial Inspector, make any such order as it shall deem just and necessary in the nature of a mandamus or injunction to compel compliance with an industrial award or agreement or to restrain its breach or the continuance of any breach: Provided that any application by an industrial union or association for an order under this section shall be under the seal of the union or association and signed by the secretary and chairman.

(2.) The Court may, on the application of the Registrar or an Industrial Inspector, make any order of the nature aforesaid which it may deem just and necessary to restrain any breach of this Act, or the continuance of any breach.

(3.) Any of the powers of the Court under this section may be exercised by the President in Chambers, but any order made by the President hereunder may be discharged by the Court on the application of any party or person affected.

(4.) No person to whom any such order as aforesaid applies shall, after he has received written notice of the same, contravene such order in any way by act or omission.

Penalty: One hundred pounds.

Penalty for con-
tempt of Court.
Cf. W.A. 1902, No.
21, s. 101.

110. If any person insults any member of the Court or the Clerk of the Court, or wilfully interrupts the proceedings, or without good cause refuses to give evidence, or is guilty in any other manner of any wilful contempt in the face of the Court, it shall be lawful for any officer of Court, or any member of the police force, to take the person offending into custody and remove him from the precincts of the Court, to be detained in custody until the rising of the Court, and the person so offending (whether so dealt with or not) shall be guilty of an offence against this Act.

Penalty: Ten pounds.

111. No person shall, write, print, or publish anything calculated to obstruct or in any way interfere with or prejudicially affect any matter before the Court.

Obstruction of Court.
Cf. *ibid.*, s. 102.

Penalty: Fifty pounds.

112. No person—

- (a.) shall resist or obstruct the Court or any officer thereof in the performance of any duties or the exercise of any powers under this Act, or wilfully disobey any order of the Court;
- (b.) being lawfully required shall fail to produce or exhibit any document or allow any document to be examined;
- (c.) shall wilfully mislead any officer in any particular likely to affect the discharge of his duty;
- (d.) being lawfully asked any question by any officer pursuant to this Act shall fail to answer the same truthfully to the best of his knowledge, information, and belief.

Penalties for obstructing officers and similar offences.
Cf. *ibid.*, s. 102.

Penalty: Fifty pounds.

113. Every person who, or union, association, or other body which, is directly or indirectly concerned in the commission of any offence against this Act, or counsels, takes part in, or encourages the commission of any such offence shall be deemed to have committed that offence, and shall be punishable accordingly.

Counselling or procuring offences.
Com. 1904, No. 13, s. 87

114. Any attempt to commit an offence against this Act shall be an offence against this Act punishable as if the offence had been committed.

Attempts to commit offences.
Com. 1904, No. 13, s. 88.

PART VII.—MISCELLANEOUS.

115. The Registrar of Industrial Unions shall be the person who for the time being holds the office of Registrar of Friendly Societies, or such other person as the Governor may from time to time appoint to be Registrar of Industrial Unions.

Registrar.

116. The production of a *Gazette* purporting to contain any notification made under the authority of this Act shall, before all Courts and persons acting judicially, be evidence of the due publication of such notification and of the truth of the matters alleged therein.

Evidence of matters notified in *Gazette*.
Cf. *ibid.*, s. 102.

117. All Courts and all persons acting judicially shall take judicial notice of—

Judicial notice to be taken of certain matters.

- (a.) The official signature of any person who holds or has held the office of President, Clerk of the Court, Registrar, or Industrial Inspector; and
- (b.) The appointment and official character of any such person.

Stamp duty not payable in certain cases.

Ibid., s. 115.

118. No stamp duty shall be payable upon or in respect of any registration, certificate, agreement, award, or instrument effected, issued, or made under this Act.

Powers of Court to direct investigations and the institution of proceedings.

119. (1.) The Court may, of its own motion,—

- (a.) Direct any record to be kept by any person for the purpose of affording evidence of the compliance or non-compliance with any award or order of the Court or with any industrial agreement;
- (b.) Direct the Registrar or any industrial inspector to investigate and report to the Court concerning any industrial dispute, breach of any industrial award or agreement, or of any provision of this Act which the Court may believe to exist or to have occurred;
- (c.) Direct any proceedings to be instituted and carried on by the Registrar or an industrial inspector in respect of any such breach;
- (d.) Confer on the Registrar or industrial inspector such powers as the Court may deem necessary to enable him to carry its directions into effect;
- (e.) Empower any person to exercise any power or perform any duty which is or may be vested in an industrial inspector by or under this Act, including this section.

(2.) The Registrar or industrial inspector shall carry out all directions so given to him.

(3.) No order for costs shall be made against the Registrar or an industrial inspector or any other person in proceedings instituted or carried on by him pursuant to the direction of the Court.

President may convene compulsory conference.

Com. 1910, s. 3,
1911, s. 8.

120. (1.) The President may, whenever in his opinion it is desirable for the purpose of preventing or settling an industrial dispute, summon any person to attend, at a time and place specified in the summons, at a conference presided over by himself.

(2.) “Any person” in the last preceding subsection includes any person, whether connected with an industrial dispute or not, whose presence at the conference the President thinks is likely to conduce to the prevention or settlement of an industrial dispute.

(3.) Any person so summoned shall attend the conference and continue his attendance thereat as directed by the President.

Penalty: One hundred pounds.

(4.) The conference may be held partly or wholly in public or in private, at the discretion of the President.

Registered unions and associations not affected by Acts against illegal societies.

Ibid., s. 118.

121. No industrial union or association duly registered under this Act shall, from the date of such registration, and while so registered, be affected by the provisions of any Act of the Imperial

Parliament against corresponding societies or unlawful combinations in respect of any matters done in compliance with the registered rules of such union or association.

122. All fines, fees, levies, and dues payable under its rules to an industrial union or association by any member thereof or to any industrial association by any union represented thereon may, in so far as they are owing to the union or association for any period subsequent to the registration thereof, be sued for and recovered in a Court of summary jurisdiction.

Powers of unions to recover fines, etc.
Cf. *ibid.*, s. 14.

123. Every dispute between an industrial union or association and any of its members or between an industrial association and any union represented thereon shall be decided in the manner directed by the rules of the union, or, where the dispute is with an association, by the rules of the association.

Disputes between unions and members.

Cf. Com. 1904, No. 13, s. 69.

(2.) On the application of a union or association, the Court may order the payment by any member or (in the case of an association) by any union represented thereon of any fine, penalty, or subscription payable in pursuance of the rules aforesaid, or any contribution to a penalty incurred or money payable under an award or order of the Court; but no such contribution on the part of a member shall exceed Ten pounds.

124. The Court may, on the application of any industrial union or association, order that any member thereof shall cease to be a member as from a date and for a period to be named in the order, or that any union represented on an association shall cease to be so represented from such a date and for such a period.

Court may order that persons cease to be members of unions, etc.
Cf. *ibid.*, 5.

125. (1.) The Court may, with the approval of the Governor, make regulations for any of the following purposes:—

Regulations.
Cf. *ibid.*, s. 112.
N.S.W. 1901, No. 59, s. 26 (c).

- (i.) Prescribing the forms of certificates, notices, returns, or other instruments or documents to be used for the purposes of this Act;
- (ii.) Prescribing the duties of the Clerk of the Court and of all other officers and persons acting in the execution of this Act;
- (iii.) Providing for the mode in which recommendations by industrial unions as to the appointment of members of the Court shall be made and authenticated;
- (iv.) Regulating the practice and procedure of the Court and providing for the effective exercise of its jurisdiction more especially but not so as to limit the generality of its powers in the premises with reference to—
 - (a.) The times and places for the sitting of the Court;
 - (b.) The summoning of parties and of witnesses;

- (c.) The allowances to witnesses;
- (d.) The enforcement of the awards, orders, judgments, convictions, and sentences of the Court;
- (v.) Prescribing what fees shall be paid in respect of any proceeding before the Court, and the party by whom such fees shall be paid;
- (vi.) Prescribing any Act or thing necessary to supplement or render more effectual the provisions of this Act as to the conduct of proceedings before the Court; and
- (vii.) Providing for any matters which by this Act are required or permitted to be prescribed or which it may be necessary or convenient to regulate (either generally or in any particular case) for giving effect to this Act.

(2.) Any regulations made or purporting to be made under this Act—

- (i.) Shall be published in the *Gazette*;
- (ii.) Shall take effect from the date of publication or from a later date to be therein specified;
- (iii.) May impose a penalty not exceeding twenty pounds for any breach thereof;
- (iv.) May provide for the imprisonment of any person in default of payment of any fine or penalty payable under any award, order, judgment, conviction, or sentence of the Court, but so that the term of imprisonment shall not exceed the term that a person might be required to serve under the Justices Act, 1902, or any amendment thereof, in respect of the non-payment of a fine of similar amount;
- (v.) Shall, subject as hereinafter provided, and except in so far as they may be in conflict with the express provisions of this or any other Act, be conclusively deemed to be valid.

(3.) All such regulations shall be laid before both Houses of Parliament if Parliament is in session, and if not, then within seven days after the commencement of the next session.

(4.) If either House passes a resolution at any time within thirty days after such regulations have been laid before such House disallowing any regulation, such regulation shall cease to have effect.

(5.) The regulations made under the Industrial Conciliation and Arbitration Act, 1902, shall, subject to this Act and the regulations thereunder, remain in force, but may at any time be repealed by regulations made under this Act.

Prohibition of
contracting out.

126. (1.) Subject to section thirty-nine no person shall be freed or discharged from any liability or penalty or from the obligation of any industrial award or agreement by reason of any contract

made or entered into by him or on his behalf, and every contract, in so far as it purports to annul or vary such award or agreement, shall, to that extent, be null and void without prejudice to the other provisions of the contract which shall be deemed to be severable from any provisions hereby annulled.

(2.) Every worker shall be entitled to be paid by his employer in accordance with any industrial agreement or award binding on his employer and applicable to him and to the work performed, notwithstanding any contract or pretended contract to the contrary, and such worker may recover as wages the amount to which he is hereby declared entitled in any court of competent jurisdiction, but every action for the recovery of any such amount must be commenced within three months from the time when the cause of action arose.

Cf. N.Z. 1908, No. 239, s. 61.

THE SCHEDULE.

Sec. 2.

The Industrial Conciliation and Arbitration Act, 1902, 1° and 2°
Edwardi VII., No. 21.

The Industrial Conciliation and Arbitration Act Amendment Act, 1909,
No. 47 of 1909.
