

# *The Industrial Conciliation and Arbitration Act, 1902.*

(1st and 2nd Edwardi VII., No. 21.)

## ARRANGEMENT OF SECTIONS.

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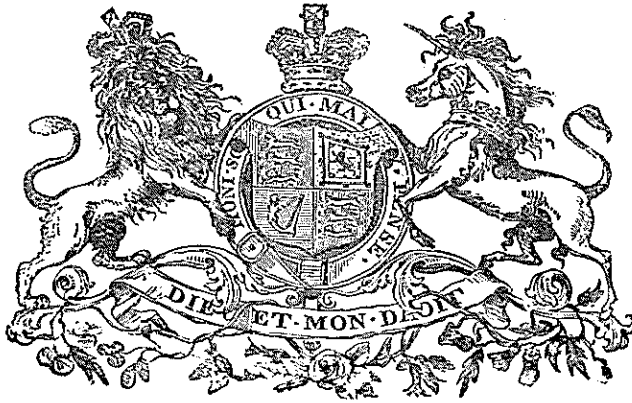
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## Western Australia.

ANNO PRIMO ET SECUNDO

EDWARDI VII. REGIS.

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No. XXI.

AN ACT to amend the Law relating to the  
Settlement of Industrial Disputes by Concili-  
ation and Arbitration.

[Assented to, 19th February, 1902.]

**B**E 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 Parlia-  
ment assembled, and by the authority of the same, as follows:—

The marginal refer-  
ences to other Acts  
denote corresponding,  
not necessarily iden-  
tical, provisions.

1. THE short title of this Act is the Industrial Conciliation  
and Arbitration Act, 1902.

Short title.  
1900 Act, s. 1.  
N.Z. Act, s. 1.

1. PRELIMINARY.

*Interpretation.*

2. IN this Act, if not inconsistent with the context,—

“Board” means a Board of Conciliation for an industrial  
district constituted under this Act:

“Court” means the Court of Arbitration constituted under  
this Act:

Interpretation.  
1900 Act, s. 2.  
N.Z. Act, s. 2.

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“Employer” includes persons, firms, companies, and corporations employing one or more workers:

“Industrial association” means an industrial association registered under this Act:

“Industrial dispute” means any dispute arising between one or more employers or industrial unions or associations of employers and one or more industrial unions or associations of workers in relation to industrial matters:

“Industrial matters” means all matters affecting or relating to work done or to be done by workers, or the 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 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 class of persons, in any industry, or the dismissal of or refusal to employ any class of persons therein;

(d.) The claim of members of an industrial union of employers to preference of service from unemployed members of an industrial union of workers;

(e.) Any established custom or usage of any industry, either generally or in the particular locality affected;

(f.) Any claim arising under an industrial agreement:

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

“Industry” means any business, trade, manufacture, undertaking, calling, or employment in which workers are employed:

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

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“Officer” means president, vice-president, chairman, treasurer, or secretary:

“Prescribed” means prescribed by regulations under this Act:

“Registrar” means the Registrar of Friendly Societies:

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

“Worker” means any person of the age of sixteen years and upwards of either sex employed or usually employed by any employer to do any skilled or unskilled manual or clerical work for hire or reward in any industry.

2. REGISTRATION.

*Industrial Unions.*

3. (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

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

What societies may be registered.

1900 Act, s. 3.

N.Z. Act, s. 5.

associated for the purpose of protecting or furthering the interests of employers or workers in or in connection with any specified industry or industries in the State, may be registered as an industrial union under this Act on compliance with the following provisions:—

(2.) An application for registration shall be made to the Registrar in the prescribed form, accompanied by (a) a list of the members and officers, and the trustees (if any) of the society; (b) two copies of the rules of the society, and (c) a copy of a resolution passed by a majority of the members present in person or by proxy at a general meeting of the society, specially called for such purpose, and desiring registration. Such list, copies of rules, and copy of resolution shall be verified by the statutory declaration of one of the persons making the application.

Mode of application.

1900 Act, s. 4 (1, 2).

N.Z. Act, s. 5 (1, 2).

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

Terms of rules.

1900 Act, s. 4 (3).

N.Z. Act, s. 5 (3).

(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:

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Cp. s. 18 of this Act.

- (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 a Board or 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, nor until such member has paid all fees, fines, levies, or other dues payable by him under the rules, 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 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 or any matter approved by the Registrar and not contrary to law;
- (k.) The amendment, repeal, or alteration of the rules, subject to the foregoing requisites of this section.

1900 Act, s. 5 (1).  
N.Z. Act, s. 5 (3k).

Further provisions  
required in rules.

(4.) Such rules shall expressly provide that (a) no person shall be a member who is not a worker or employer as the case may be, 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 or persons 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.

Registration of  
society.  
1900 Act, s. 6.  
N.Z. Act, s. 6.

4. (1.) ON being satisfied that the society is qualified to register, and that the provisions of the last preceding section have been

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complied with, the Registrar shall register the society as an industrial union, and shall issue a certificate of registration, which shall, until cancelled, be conclusive evidence of the fact and validity of such registration.

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

(3.) An industrial union shall be deemed to be within the industrial district wherein its registered office is situate.

5. (1.) EVERY society registered as an industrial union shall, upon and during registration, become, for the purposes of this Act, a body corporate by the registered name, having perpetual succession and a common seal.

Incorporation of society.  
1900 Act, s. 7.  
N.Z. Act, s. 7 (1).

(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 (except in the case of an incorporated company) the name of the industry in connection with which it is formed, and 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.  
1900 Act, s. 7.  
N.Z. Act, s. 7 (2).

6. ANY branch of a society or industrial union may be treated as a distinct society, and, with the approval of the Registrar, may be separately registered as an industrial union.

Branch may be treated as distinct society.  
1900 Act, s. 9.  
N.Z. Act, s. 8 (2).

7. (1.) ANY trade union may be registered under this Act by the same name, with the insertion of the additional words provided for by section five hereof.

Registration under this Act of trade unions.

(2.) Every branch of a registered trade union, also every branch of any trade union whose head office is outside the State, shall be considered, for the purposes of this Act, as a distinct union, and may be separately registered.

(3.) For the purposes of the Act, the rules for the time being of the trade union, with such addition or modification as may be necessary to give effect to this Act shall, when registered, be deemed to be the rules of the industrial union.

8. WITH respect to the registration of societies of employers—

(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

Special provisions as to registering societies of employers.  
1900 Act, s. 3.  
N.Z. Act, s. 9.

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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 coming within the definition of foreign company within the meaning of the Companies Act, 1893, and which has, 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, may be registered as an industrial union of employers, and in such case the provisions of section three 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.) 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 or industrial union of employers or a party to any industrial agreement.

Societies not to be  
registered under  
similar names  
1900 Act, s. 10.  
N.Z. Act, s. 10.

9. 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, in the opinion of the Registrar, to deceive the members or the public.



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10. IN order to prevent the needless multiplication of industrial unions connected with the same industry in the same locality, the following provisions shall apply:—

Provision to prevent  
multiplicity of  
unions.

N.Z. Act, s. 11.

- (1.) The Registrar shall refuse to register a society where, in the same locality and connected with the same industry, there exists an industrial union to which the members of such society may conveniently belong: Provided that the Registrar shall in the case of every such application notify such industrial union thereof.
- (2.) If the society applying for registration is dissatisfied with the Registrar's refusal to register, or if any Industrial Union is dissatisfied with the Registrar's registration of a society on the ground that such registration should have been refused in accordance with subsection one, such society or union may, in the prescribed manner and time, appeal against such decision to the President of the Court, whereupon the President of the Court shall direct whether such society shall be registered or not, and the Registrar shall be guided accordingly: Provided that it shall lie on the society to satisfy the President of the Court 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 as aforesaid.

11. UPON registration the industrial union, and members thereof for the time being, shall be subject to the jurisdiction of a Board and 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.

Effect of  
registration.

1900 Act, s. 11.

N.Z. Act, s. 12.

12. (1.) COPIES of all additions to or amendments or rescissions of the rules of an industrial union shall, after being verified by the statutory declaration of the secretary or some other prescribed 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.

Amendment of  
rules.

1900 Act, s. 5 (2).

N.Z. Act, s. 13 (1).

(2.) A printed copy of the rules 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.

Printed copies to be  
supplied.

1900 Act, s. 5 (3).

N.Z. Act, s. 13 (2).

(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

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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.  
1900 Act, s. 33 (3).  
N.Z. Act, s. 14.

**13.** (1.) IN addition to its registered office, an industrial union may have a branch office in any other industrial district 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.

Members may be  
sued for dues.  
1900 Act, ss. 19 & 4,  
(3 h).  
N.Z. Act, s. 15.

**14.** ALL moneys payable to an industrial union by any member under its rules may, in so far as they are owing for any period of membership subsequent to registration, be sued for and recovered in the name of the industrial union in any Court of competent jurisdiction by the secretary or the treasurer of the industrial union, or by any other person who is authorised in that behalf by the rules.

Power to purchase  
or lease land.  
1900 Act, s. 8.  
N.Z. Act, s. 16.

**15.** AN industrial union may purchase or take on lease, in the name of the union or of trustees for the union, any land or building, and may sell, mortgage, exchange, or let the same or any part thereof; and no person shall be bound to inquire whether the union or the trustees have authority for such purchase, sale, mortgage, exchange, or letting. The receipt of the said union or the trustees shall be a discharge for all moneys payable in respect of any such transaction.

Industrial unions to  
send half-yearly list  
of members and  
officers to Registrar.  
1900 Act, s. 15.  
N.Z. Act, s. 17.

**16.** (1.) IN the months of January and July 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. No industrial union of workers shall return as a member any worker whose subscription is twelve months in arrear. Each such list shall be verified by the statutory declaration of the chairman or secretary of the industrial union, or in the case of a company by the statutory declaration of any director or of the manager or other principal executive officer thereof in Western Australia.

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(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.  
1900 Act, s. 16.  
N.Z. Act, s. 17.  
(4 and 5).

(3.) Proceedings for the recovery of any penalty under this section shall be taken on the information or complaint of the Registrar.

Recovery of penalty.  
Cp., 1900 Act s.  
89 (1).  
N.Z. Act, s. 17 (6).

(4.) 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.  
N.Z. Act, s. 17 (7).

17. 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.  
1900 Act, s. 4 (6, 7).

If any secretary shall neglect to furnish such balance-sheet and statement within the time aforesaid, he shall be guilty of an offence against this Act and shall, for every such offence, forfeit and pay a sum not less than One pound and not exceeding Ten pounds, recoverable on the information or complaint of the Registrar.

18. EVERY industrial union may sue or be sued for the purposes of this Act by the name by which it is registered; and service of any process, notice, or document of any kind 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.

Industrial union  
may sue in  
registered name.  
Service of notices.  
1900 Act, s. 17.  
N.Z. Act, s. 18.

19. DEEDS and instruments to be executed by an industrial union for the purposes of this Act may be made and executed under the seal of such union and the hands of the chairman and secretary thereof, or in such other manner as the rules of such union prescribe.

Mode of executing  
deeds and  
instruments.  
1900 Act, s. 18.  
N.Z. Act, s. 19.  
Cp. s. 3 (3, c.) of  
this Act.

20. (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

Procedure for  
cancellation of  
registration.  
1900 Act, s. 12.  
N.Z. Act, s. 20.

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weeks' notice of his intention so to do, may by notice in the *Gazette*, cancel such registration:

N.S.W. Act, s. 8.

(2.) If upon the application to the Registrar of any industrial union it is shown, or if it appears to the Registrar—

- (a.) That for any reasons which appear to him to be good, the registration of an industrial union ought to be cancelled; or
- (b.) That an industrial union has been registered erroneously or by mistake; or
- (c.) That the provisions of the rules, articles, or regulations of the union are inadequate, or have not *bonâ fide* been observed; or
- (d.) That the proper authority of the 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 the 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;
- (f.) That any industrial union has wilfully neglected to obey any order of the Court,

he may, after giving six weeks' notice to the secretary of the union of his intention so to do, and, unless cause is shown to the contrary, by notice in the *Gazette*, cancel such registration.

If notice of objection is given on behalf of the union objected to or if the industrial union making the application is dissatisfied with the decision of the Registrar, the Registrar shall refer the application to the President of the Court, giving notice thereof to the secretaries of the unions.

The President shall hear the said application, and if of opinion that the registration of the union should be cancelled, may so order, and thereupon the registration and incorporation of the union under this Act shall be void.

Cp. s. 84 (2) of this Act.

1900 Act, s. 12.

N.Z. Act, s. 20 (2).

(3.) Such cancellation shall dissolve the incorporation of the industrial union, in so far as this Act is concerned, but shall not 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.

N.S.W. Act, s. 9.

(4.) During the pendency of any reference to the board or 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.

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*Industrial Associations.*

21. (1.) ANY council or other body, however designated, representing not less than two industrial unions of either employers or workers may be registered as an industrial association of employers or workers under this Act.

Industrial associations may be registered.  
1900 Act, s. 13.  
N.Z. Act, s. 21.

(2.) The Registrar may, for each industrial district, register a Trades and Labour Council representing industrial unions of workers within such district which are not for the time being represented upon an industrial association.

22. 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 and Trades and Labour Council respectively, its officers, trustees, and members, and such provisions shall be read and construed accordingly in so far as the same are applicable: Provided that no industrial association or Trades and Labour Council shall be entitled to nominate or vote for the election of members of a Board, or to recommend the appointment of a member of the Court.

Provisions affecting unions applicable.  
1900 Act, s. 13.  
N.Z. Act, s. 22.

3. INDUSTRIAL AGREEMENTS.

23. (1.) THE parties to industrial agreements may be (a) industrial unions (b) industrial associations or (c) employers. Any such agreement may provide for any matter or thing affecting any industrial matter, or in relation thereto, or for the prevention or settlement of an industrial dispute.

Parties to industrial agreements defined.  
1900 Act, s. 20.  
N.Z. Act, s. 24 (1).

(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 Conciliation and Arbitration Act, 1902,' this            day of            Between            , " and then the matters agreed upon shall be set out.

Term and form of agreement.  
1900 Act, s. 22.  
N.Z. Act, s. 24 (2).

(3.) 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.

Date of agreement.  
1900 Act, s. 22.  
N.Z. Act, s. 24 (3).

(4.) 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.

Agreement to continue in force for parties not retired.

(5.) At any time after the expiry of the term of an industrial agreement, any party thereto may retire therefrom by filing, in the office wherein such agreement is filed, a notice in the prescribed form

Mode of retirement.

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signifying his intention to retire at the expiration of thirty days from the date of such filing and shall thereafter cease to be a party thereto.

Duplicate to be filed.  
1900 Act, s. 23.  
N.Z. Act, s. 25.

**24.** A DUPLICATE original of every industrial agreement shall, within thirty days after the making thereof, be filed in the office of the Clerk of the industrial district where the agreement is made. The Clerk shall make and certify a true copy of such agreement and transmit such copy to the Registrar.

Parties to agree-  
ment may be added.  
1900 Act, s. 24.  
N.Z. Act, s. 26.

**25.** WHILST the industrial agreement is in force any industrial union or industrial association or employer may become party thereto by filing in the office wherein such agreement is filed a notice in the prescribed form, signifying concurrence with such agreement.

On whom agreement  
binding.  
1900 Act, s. 24.  
N.Z. Act, s. 27.

**26.** (1.) EVERY industrial agreement duly filed shall be binding on the parties who execute the same or concur therein, and also on every member of any industrial union or industrial association which is party thereto.

Enforcement of  
agreements.  
1900 Act, s. 25 (1).  
N.Z. Act, s. 28 (2).

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

Agreements may be  
varied, renewed, or  
cancelled.  
1900 Act, s. 21.  
N.Z. Act, s. 28 (1).

**27.** EVERY industrial agreement, made under this Act or the Act 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.

## 4. CONCILIATION AND ARBITRATION.

### *Districts and Clerks.*

Constitution of  
industrial districts.  
1900 Act, s. 26.  
N.Z. Act, s. 29.

**28.** (1.) THE Governor may by notice in the *Gazette*, constitute and divide Western Australia or any portion thereof into such industrial districts, with such names and boundaries as he thinks fit.

(2.) All industrial districts constituted under the Act hereby repealed, and existing at the time of such repeal, shall be deemed to be constituted under this Act.

(3.) The constitution or boundaries of any industrial district may be cancelled or altered by the Governor by notice as aforesaid.

Alteration of  
boundaries.  
N.Z. Act, s. 30.

**29.** IF an industrial district is constituted by reference to the limits or boundaries of any portion of the State defined or created for any other purpose, then, in case of the alteration of such limits or boundaries, the same shall take effect in respect of the

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district constituted under this Act without any further proceeding, unless the Governor otherwise determines.

**30.** (1.) IN and for every industrial district the Governor shall appoint a Clerk of Awards (elsewhere in this Act referred to as "the Clerk"), who shall be paid such salary or other remuneration as the Governor thinks fit, and shall, subject to the regulations, be under the control and direction of the Board.

Clerk of Awards for each district.  
1900 Act, s. 27.  
N.Z. Act, s. 31.

(2.) Every Clerk appointed under the Act hereby repealed, and in office at the time of such repeal, shall be deemed to be appointed under this Act.

**31.** THE office of Clerk may be held either separately or in conjunction with any other office in the public service, and in the latter case the Clerk may, if the Governor thinks fit, be appointed not by name but by reference to such office; whereupon the person who for the time being holds such office, or performs its duties, shall by virtue thereof be the Clerk.

May hold office in conjunction with other office.  
1900 Act, s. 27.  
N.Z. Act, s. 32.

**32.** IT shall be the duty of the Clerk—

- (1.) To receive, register, and deal with all applications lodged within his district for reference of any industrial dispute to the Board or to the Court;
- (2.) To convene the Board for the purpose of dealing with any such dispute, and to attend all meetings of the Board and sittings of the Court within his district;
- (3.) To keep a register in which shall be entered the particulars of all references and settlements of industrial disputes made to and by the Board;
- (4.) To issue all summonses to witnesses to give evidence before the Board; and
- (5.) Generally to do all such things, perform all such acts, and take all such proceedings as are prescribed, or as the Court, the Board, or the Registrar directs.

Duties of Clerk.  
1900 Act, s. 28.  
N.Z. Act, s. 33.

### *Boards of Conciliation.*

**33.** IN and for every industrial district there shall be established a Board of Conciliation, which shall have jurisdiction for the settlement of any industrial dispute which arises in such district and is referred to the Board under the provisions herein contained.

District Boards to be constituted.  
1900 Act, s. 31.  
N.Z. Act, s. 34.

**34.** (1.) THE Board of each industrial district shall consist of either three, five, or seven persons as the Governor determines, of whom—

Number of members of Board, and election.

- (a.) One (being the Chairman) shall be elected by the other members in manner hereinafter provided; and

1900 Act, ss. 32.  
and 33 (1, 2).  
N.Z. Act, s. 35 (1).

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1900 Act, s. 33 (1).  
N.Z. Act, s. 35 (2).

(b.) The other members shall be elected, in manner hereinafter provided, by the respective industrial unions of employers and of workers in the industrial district, such unions voting separately as separate divisions of employers and workers respectively and electing an equal number of such members:

N.Z. Act s. 35.  
(proviso).

(2.) An industrial union shall not be entitled to vote in an industrial district unless its registered office has been registered in such district for at least one month next preceding the date fixed for the election.

Term of office.  
1900 Act, ss. 36.  
and 37.  
N.Z. Act, s. 36.

**35.** THE term of office of the members of a Board shall be three years from the date of election, or until their successors are elected. Members shall be eligible for re-election.

Existing Boards not  
to continue in office.  
N.Z. Act, s. 37.

**36.** EVERY Board established under the Act hereby repealed, and existing at the time of such repeal shall, by notice in the *Gazette* referring to such Board, cease to exist within seven days after the date of such notice: Provided that the Governor may extend such period in the event of the non-completion of any proceedings on which the Board is engaged.

The members of the Board shall continue in office only until the appointment of their successors, but shall be eligible for re-appointment.

Provisions for  
ordinary elections.  
Schedule.  
1900 Act, s. 33 (4).  
N.Z. Act, s. 38.

**37.** (1.) WITH respect to the election of the members of a Board (other than the Chairman) the provisions in the Schedule hereto shall apply.

1900 Act, s. 33 (4, o).  
N.Z. Act, s. 38 (26,  
27).

(2.) If the Returning Officer or any person employed by him shall at any time (except in discharge of his duty or in obedience to the process of a Court of law) disclose for whom any vote has been tendered, or retain possession of or exhibit any voting paper used at the election, he shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding Twenty pounds, to be recovered on the information and complaint of the Registrar or of any industrial union.

Declaration of office  
and secrecy.  
N.Z. Act, s. 53 (11).

(3.) Before entering upon the exercise of his office, every member of the Board, including the Chairman, shall make and file with the Registrar a statutory declaration that he will faithfully and impartially perform the duties of his office, and will not, except in the discharge of such duties, disclose any evidence or other matter brought before the Board.

Meeting for election  
of Chairman.

**38.** (1.) AS soon as practicable after the election of members of the Board, other than the Chairman, the Clerk shall appoint a



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time and place for the elected members to meet for the purpose of electing a Chairman, and shall give to each such member at least three days' written notice of the time and place so appointed.

1900 Act, s. 33 (5).  
N.Z. Act, s. 39 (1).

(2.) At such meeting the members shall, by a majority of the votes of the members present, elect some impartial person, not being one of their number, to be Chairman.

1900 Act, s. 33 (5).  
N.Z. Act, s. 39 (2).

**39.** (1.) AS soon as practicable after the election of the Chairman the Clerk shall transmit to the Registrar a list of the names of the respective persons elected as members and as Chairman of the Board, and the Registrar shall cause notice thereof to be gazetted.

Notice of election of board to be gazetted.  
1900 Act, s. 35.  
N.Z. Act, s. 40.

(2.) Such notice shall be final and conclusive for all purposes, and the date of gazetting of such notice shall be deemed to be the date of the election of the Board.

**40.** A MEMBER of a Board may resign, by letter to the Clerk, who shall thereupon report the fact to the Chairman and the Registrar.

Resignation of member.  
1900 Act, s. 38.  
N.Z. Act, s. 41.

**41.** IF any member of the Board—

(1.) Dies ; or

(2.) Resigns ; or

(3.) Becomes disqualified from acting under section ninety-five hereof ; or

(4.) 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

(5.) Is absent from three consecutive sittings of the Board,

his office shall thereby become vacant, and the vacancy shall be deemed to be a casual vacancy.

Casual vacancies.  
1900 Act, s. 38.  
N.Z. Act, s. 42.

**42.** (1.) EVERY casual vacancy shall be filled by the same electing authority, and, as far as practicable, in the same manner and subject to the same provisions as in the case of the vacating member.

How casual vacancy to be filled.  
1900 Act, ss. 38 and 39.  
N.Z. Act, s. 43.

(2.) Upon the happening of any casual vacancy the clerk shall take such proceedings as may be necessary to fill the vacancy by a fresh election :

(3.) The person elected to fill a casual vacancy shall hold office only for the residue of the term of the vacating member.

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No member of a Board to be nominated for another Board.  
1900 Act, s. 33 (4, d and e).  
N.Z. Act, s. 44.

Governor may appoint on failure to elect Chairman or member.  
1900 Act, ss. 33 (5), 34, 41, and 44.  
N.Z. Act, s. 45

**43.** IF a member of a Board is nominated for election as a member of another Board, such nomination shall be void.

**44.** WHERE the Registrar is satisfied that the proper electing authority has failed to elect a Chairman or member of the Board, the Governor may by notice in the *Gazette* appoint a fit person to be such Chairman or other member, and every Chairman or member so appointed shall be deemed to be elected, and shall hold office for the unexpired residue of the ordinary term of office. The notice of such appointment in the *Gazette* shall be conclusive evidence of the happening of the events entitling the Governor to make the appointment.

Quorum of Board.  
1900 Act, s. 40 (1).  
N.Z. Act, s. 46.

**45.** (1.) THE presence of the Chairman and of not less than one-half in number of the other members, including one of each side, shall constitute a quorum at every meeting of the Board subsequent to the election of the Chairman:

Provided that, upon it being shown to the satisfaction of the Chairman that any member wilfully absents himself from the sitting or sittings of the Board, the quorum of the Board shall then consist of the Chairman and one half in number of the remaining members of the Board.

Absence of Chairman.  
1900 Act, s. 40 (2).  
N.Z. Act, s. 46 (proviso).

(2.) In the case of the illness or absence of the Chairman, the other members may elect some impartial and qualified person to be Chairman during such illness or absence, or the Governor may, by notice in the *Gazette*, appoint some impartial and qualified person to act as Chairman during such illness or absence.

Mode of voting.  
1900 Act, s. 40 (3).  
N.Z. Act, s. 47.

**46.** IN all matters the decision of the Board shall be determined by a majority of the votes of the members present, exclusive of the Chairman, except in the case of an equality of votes, in which case the Chairman shall have a casting vote.

Acts of Board not to be questioned for informality.  
1900 Act, s. 42 (1).  
N.Z. Act, s. 48.  
Cp. s. 104 of this Act.

**47.** THE Board may act notwithstanding any vacancy in its body, and in no case shall any act of the Board be questioned on the ground of any informality in the election of a member, or on the ground that the seat of any member is vacant, or that any supposed member is incapable of being a member.

Term of office of Board may be extended if engaged in hearing dispute.  
1900 Act, s. 42 (2).  
N.Z. Act, s. 49.

**48.** (1.) IF the term of office of a Board expires, or is likely to expire, whilst the Board is dealing with any industrial dispute, the Governor may, by notice in the *Gazette*, extend such term for a time not exceeding three months, to enable the Board to dispose of such dispute. Any member of a Board whose term is extended shall be eligible for nomination and election to the new Board.

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(2.) Notwithstanding such extension, the new Board shall be elected in and at the proper way and time, and shall have full power and authority except in reference to the disposal of the industrial dispute aforesaid.

*Special Boards of Conciliators.*

49. IN any part of the State, whether included in an industrial district or not, a special Board of Conciliators may be constituted, and the members thereof, together with all necessary officers, appointed by the Governor, by notice in the *Gazette*, to meet any case of emergency or any special case of industrial dispute.

Special Boards may be created in certain cases.

1900 Act, s. 43 (1).  
N.Z. Act, s. 50.

50. ALL the provisions of this Act relating to a Board of Conciliation, its constitution, jurisdiction, and powers, shall, *mutatis mutandis*, apply to a special Board of Conciliators, subject nevertheless to such modifications as are prescribed, and also to the modifications following, that is to say:—

All other provisions applied subject to certain modifications.

1900 Act, s. 43 (2).  
N.Z. Act, s. 51.

- (1.) Members of the special Board may be members of an existing Board.
- (2.) The members of the special Board shall vacate their office on the settlement of the dispute or the filing of their report.

*Functions and Procedure of Conciliation Boards.*

51. ANY industrial dispute may be referred for settlement to a Board by application in that behalf made by any party thereto, and with respect to such application and reference the following provisions shall apply:—

Procedure for reference of industrial disputes to Board.

1900 Act, s. 45.  
N.Z. Act, s. 52.

- (1.) The application shall be in the prescribed form, accompanied by the certificate mentioned in section ninety-seven, and shall be filed in the office of the Clerk for the industrial district wherein the dispute arose.
- (2.) The parties to such dispute shall be (a) industrial unions or associations of workers, or (b) industrial unions or associations of employers, or (c) employers:

1900 Act, s. 45 (2).  
N.Z. Act, s. 52 (3).  
Cp. s. 71 of this Act.

But the mention of the various kinds of parties shall not be deemed to interfere with any arrangement thereof that may be necessary to insure the industrial dispute being brought in a complete shape before the Board; and a party may be withdrawn, or removed, or joined at any time before the final report or recommendation of the Board is made, and the Board may make any recommendation or give any direction for any such purpose accordingly.

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- 1900 Act, s. 45 (6)  
and 46 (2).  
N.Z. Act, s. 52 (4).
- (3.) As soon as practicable after the filing of the application, the Clerk shall lay the same before the Board at a meeting thereof to be convened in the prescribed manner.
- 1900 Act, s. 45 (3).  
N.Z. Act, s. 52 (5).
- (4.) An employer, being a party to the reference, may appear in person, or by his agent duly appointed in writing for that purpose.
- 1900 Act, s. 45 (4).  
N.Z. Act, s. 52 (6).
- (5.) An industrial union or industrial association, being a party to the reference, 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.
- 1900 Act, s. 45 (5).  
N.Z. Act, s. 52 (7).
- (6.) Except as hereinafter provided, every party appearing by a representative shall be bound by the acts of such representative.
- 1900 Act, s. 45 (7).  
N.Z. Act, s. 52 (8).
- (7.) No counsel or solicitor shall be allowed to appear or be heard before a Board, or any committee thereof, unless all the parties to the reference expressly consent thereto.

**52.** WHERE an industrial dispute is referred to a Board for settlement the following provisions shall apply:—

- Powers and duties  
of Board for hearing  
dispute.  
1900 Act, s. 47.  
N.Z. Act, s. 53.
- (1.) The Board shall carefully and expeditiously inquire into the dispute, and all matters affecting the merits thereof and the right settlement thereof.
- Cp. s. 78 of this Act.  
1900 Act, s. 47.  
N.Z. Act, s. 53 (2).
- (2.) The Board shall have all the powers of summoning witnesses, administering oaths, hearing and receiving evidence, and preserving order at any sitting, which are conferred on the Court, save and except the production of books.
- 1900 Act, s. 49.  
N.Z. Act, s. 53 (3).
- (3.) In the course of such inquiry the Board may make all such suggestions and do all such things as it deems proper for inducing the parties to come to an amicable settlement, and may adjourn the proceedings for any period, to allow the parties to agree upon some terms of settlement.
- 1900 Act, s. 50 (1).  
N.Z. Act, s. 53 (4).
- (4.) The Board may, upon such terms as it thinks fit, refer the dispute to a committee of its members, consisting of an equal number of the representatives of employers and workers, who shall endeavour to reconcile the parties.
- 1900 Act, s. 49.  
N.Z. Act, s. 53 (5).
- (5.) If a settlement of the dispute is arrived at by the parties, it shall be set forth in an industrial agreement, which shall be duly executed by all the parties or their attorneys, and a duplicate original thereof shall be filed in the office of the Clerk within such time as is named by the Board in that behalf.

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- (6.) If an industrial agreement is executed and filed as aforesaid, the Board shall report to the Clerk that the dispute has been settled by industrial agreement. 1900 Act, s. 49.  
N.Z. Act, s. 53 (6).
- (7.) If no such industrial agreement is executed and filed as aforesaid, the Board shall make such recommendation for the settlement of the dispute, according to the merits and substantial justice of the case, as the Board thinks fit. 1900 Act, s. 49.  
N.Z. Act, s. 53 (7).
- (8.) The Board's recommendation shall deal with each item of the dispute, and shall state in plain terms, avoiding as far as possible all technicalities, what, in the Board's opinion, should or should not be done by the respective parties concerned. N.Z. Act, s. 53 (8).
- (9.) The Board's recommendation shall also state the period during which the proposed settlement should continue in force, being in no case less than six months nor more than three years, and also the date from which it should commence, being not sooner than one month nor later than three months after the date of the recommendation. N.Z. Act, s. 53 (9).
- (10.) The Board's report or recommendation shall be in writing under the hand of the Chairman, and shall be delivered by him to the Clerk within two months after the day on which the application for the reference was filed, or within such extended period, not exceeding one additional month, as the Board thinks fit. 1900 Act, s. 49.  
N.Z. Act, s. 53 (10).
- (11.) If, in the opinion of the Board, the industrial dispute is frivolous, and ought not to have been referred, the Board shall order that the party or parties making such reference shall pay the costs and expenses thereof. Such order shall—
- (a.) Fix the amount of such costs and expenses, and specify by and to whom the same are payable; and shall
  - (b.) Be forwarded to and recorded by the Clerk of the Court, and be deemed for every purpose an order of the Court, and be enforceable accordingly, as provided by section ninety-two.
- 53.** UPON receipt of the Board's report or recommendation, the Clerk shall file the same, and send a copy thereof to each party, and shall supply certified copies for a prescribed fee. Report or recommendation of Board to be filed.  
1900 Act, s. 49.  
N.Z. Act, s. 54.
- 54.** BEFORE the dispute is referred to the Court, and within one month after the filing of the Board's recommendation, all or any Procedure if parties accept Board's recommendation.

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N.Z. Act, s. 55.  
Cp. s. 56 of this Act.

of the parties to the reference may accept the Board's recommendation as a whole or with modifications. In such case the parties or those who agree thereto shall execute and file in the office of the clerk a memorandum of settlement.

Memorandum of  
settlement.  
N.Z. Act, s. 56.

**55.** (1.) A MEMORANDUM of settlement shall be in the prescribed form, and shall be executed by all or any of the parties or their attorneys, and shall state whether the Board's recommendation is accepted as a whole or with modifications, and in the latter case the modifications shall be clearly and specifically set forth therein.

(2.) Upon the memorandum of settlement being duly executed and filed, the Board's recommendation shall, with the modifications (if any) set forth in such memorandum, operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties.

Reference to Court  
if dispute not  
settled by Board.  
1900 Act, s. 51.  
N.Z. Act, s. 58.

**56.** (1.) SUBJECT to the provisions of section fifty-four, all the parties to the reference, or a majority of the parties whose interests are with the employers, or a majority of the parties whose interests are with the workers, may, within one month from the date on which the Board's recommendation is filed, in the prescribed manner, refer such dispute to the Court.

(2.) If no such reference has been made, the Board's recommendation shall, on and from the filing thereof, operate and be enforceable in the same manner in all respects as an industrial agreement duly executed and filed by the parties.

(3.) 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 one hundred.

Reference to Court  
by Board.  
1900 Act, s. 50 (2).  
Cp. s. 69 of this Act.

**57.** THE Board may at any time before its recommendation is filed, refer the dispute to the Court for settlement.

### *The Court of Arbitration.*

Court of Arbitration.  
1900 Act, s. 53.  
N.Z. Act, s. 59.  
Seal.  
1900 Act s. 53.  
N.Z. Act, s. 60.

**58.** THERE shall be one Court of Arbitration for the whole State for the settlement of industrial disputes pursuant to 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.

Constitution and  
appointment of  
Court.  
1900 Act, s. 54 (1).  
N.Z. Act, ss. 61, 62.

**59.** (1.) 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

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recommendation of the industrial unions of workers, as provided by the next following section, 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.

Judge to be President.

1900 Act, s. 54 (1.)

N.Z. Act, s. 62.

1900 Act, s. 54 (1.)

N.Z. Act, s. 62 (3).

(2.) 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.

**60.** (1.) 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.

Procedure for appointment of members.

1900 Act, s. 54 (2).

N.Z. Act, s. 63.

(2.) 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.

1900 Act, s. 54 (2).

N.Z. Act, s. 63 (3).

(3.) 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.

1900 Act, s. 54 (2, c).

N.Z. Act, s. 63 (4).

**61.** 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.

Term of office.

1900 Act, s. 55 (1).

N.Z. Act, s. 64.

**62.** THE Court constituted under the Act hereby repealed, and existing at the time of such repeal shall, by notice in the *Gazette*, cease to exist within seven days after the date of such notice: Provided that the Governor may extend such period in the event of the non-completion of any proceedings on which the Court is engaged.

Existing Court not to continue in office

N.Z. Act, s. 65.

The members of the said Court shall continue in office only until the appointment of their successors, but shall be eligible for re-appointment.

**63.** IF any member of the Court resigns by letter to the Governor, or, in the case of a Judge of the Supreme Court being

Resignations.

1900 Act, s. 55 (1).

N.Z. Act, s. 66.

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President, if he ceases to be a Judge of the Supreme Court, his office shall become vacant, and the vacancy shall be deemed to be a casual vacancy.

Power of removal  
by Governor.

**64.** THE Governor shall remove any member of the Court from office who—

N.Z. Act, s. 67.

(a.) Becomes disqualified from acting under section ninety-five hereof; or

(b.) 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

1900 Act, s. 55 (2).

(c.) Is absent from three consecutive sittings of the Court;

And every vacancy thereby caused shall be deemed to be a casual vacancy.

Mode of filling  
casual vacancy.  
1900 Act, s. 55 (1).  
N.Z. Act, s. 68.

**65.** EVERY casual vacancy in the Court shall be filled in the same manner as in the case of the original appointment; but every person other than the President appointed to fill a casual vacancy shall hold office only for the residue of the term of his predecessor.

Oath of office and  
secrecy.  
1900 Act, s. 56.  
N.Z. Act, s. 69

**66.** BEFORE entering upon their office, 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 office, 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.  
1900 Act, s. 57.  
N.Z. Act, s. 70.

**67.** (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.

### *Jurisdiction and Procedure of the Court.*

Jurisdiction.  
1900 Act, s. 58.  
N.Z. Act, s. 71.

**68.** THE Court shall have jurisdiction for the settlement and determination of any industrial dispute referred to it under this Act.

Dispute may be  
referred direct to  
Court.

**69.** (1.) BEFORE a dispute is referred to a Board, the parties to the dispute, or a majority of the parties whose interests are with



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the employers, or a majority of the parties whose interests are with the workers, may, in the prescribed manner, refer the dispute to the Court direct. 1900 Act, s. 52, cp. s. 57 of this Act.

(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 one hundred.

**70.** FORTHWITH after a dispute has been referred to the Court, the Clerk of the Court shall notify the fact to the President. President to be notified when dispute referred.

**71.** SUBJECT to provisions hereinafter contained, the parties to the proceedings before the Court shall be the same as in the proceedings (if any) before the Board, and the provisions herein contained as to the appearance of parties before a Board shall apply to proceedings before the Court. N.Z. Act, s. 72.  
Parties to proceedings before Court.  
1900 Act, s. 62.  
N.Z. Act, s. 73.  
Cp. s. 51 of this Act.

**72.** (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' previous notice of the time and place of each sitting other than an adjourned sitting. Sittings of Court.  
N.Z. Act, s. 74 (1, 2).  
1900 Act, s. 61 (1).  
1900 Act, ss. 61 (2) and 62 (third par.).

(2.) The Court may be adjourned from time to time and from place to place — 1900 Act, s. 61 (3)  
N.Z. Act, s. 74 (3).

(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.) At any time before the time fixed for the sitting by the President.

**73.** ANY party to the proceedings before the Court may appear personally or by agent, or, with the consent of all the parties, by counsel or solicitor, and may produce before the Court such witnesses, books, and documents as the Court allows. Appearance of parties.  
1900 Act, s. 60.  
N.Z. Act, s. 75.

**74.** THE Court shall, in all matters before it, have full and exclusive jurisdiction to determine the same in such manner in all respects as in equity and good conscience it thinks fit. Powers of Court.  
1900 Act, s. 60.  
N.Z. Act, s. 76.

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Evidence.  
1900 Act, s. 60.  
N.Z. Act, s. 77.

**75.** WITH respect to evidence in proceedings before the Court the following provisions shall apply:—

1900 Act, s. 63.  
N.Z. Act, s. 77 (213).

- (1.) Formal matters which have been proved or admitted before the Board shall be deemed to be proved before the Court.
- (2.) 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.

1900 Act, ss. 63 and 64.  
N.Z. Act, s. 77 (4).

- (3.) 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.

1900 Act, s. 65.  
N.Z. Act, s. 77 (5).

- (4.) 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 scale for the time being in force in Local Courts.

1900 Act, s. 63.  
N.Z. Act, s. 77 (6).

- (5.) 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.

Provision for obtaining evidence at a distance.

1900 Act, s. 69.  
N.Z. Act, s. 77 (7).

- (6.) Whenever the Court deems it necessary to examine a witness who is out of or is going out of the State, or who resides at a distance or is from any cause likely to be unable to attend the Court, the Court or the President, whilst the Court is not sitting, shall have the powers of the Supreme Court in that behalf, and may adopt, *mutatis mutandis*, the procedure followed and the forms used by the Supreme Court for the like purpose respectively, or may adopt such other forms and procedure as may be prescribed.

1900 Act, s. 66.  
N.Z. Act, s. 77 (8).

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

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- (8.) The Court may accept such evidence, whether strictly legal or not, as in equity and good conscience it thinks fit. 1900 Act, s. 60.  
N.Z. Act, s. 77 (10).
- (9.) Any party to the proceedings shall be competent and may be compelled to give evidence as a witness. N.Z. Act, s. 77 (11).
- (10.) The Court, may order that all or any part of its proceedings be taken down in shorthand. N.Z. Act, s. 77 (12).
76. THE presence of the President and at least one other member shall be necessary to constitute a sitting of the Court. Quorum.  
1900 Act, s. 70.  
N.Z. Act, s. 78.
77. 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. Decision to be of majority of Court.  
1900 Act, s. 70.  
N.Z. Act, s. 79.
78. 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 Registrar. President to deliver decision.  
1900 Act, s. 76.  
N.Z. Act, s. 80.
79. THE Court may refer any matters before it, or any question arising in any such matter, to a Board, or to some person, for investigation and report; and in such case the award of the Court may be based on the report of the Board or of such person. Matters may be referred to a Board for investigation.  
1900 Act, s. 74.  
N.Z. Act, s. 81.
80. THE Court shall dismiss any matter referred to it which it thinks frivolous or trivial, and in such case the award may order the the party bringing the matter before the Court to pay the costs of bringing the same. Court may dismiss frivolous cases.  
1900 Act, s. 75.  
N.Z. Act, s. 82.
81. THE Court, may order any party to pay to any other party such costs and expenses (including expenses of witnesses) as it deems reasonable, and may apportion such costs between the parties or any of them, and may at any time vary or alter any such order, provided that in no case shall costs be allowed on account of agents, solicitors, or counsel. Court may award costs and apportion same.  
1900 Act, s. 77.  
N.Z. Act, s. 83.
82. THE 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. When award to be made.  
1900 Act, s. 76.  
N.Z. Act, s. 84.
83. (1.) THE award shall have the seal of the Court attached thereto, and shall be deposited in the office of the Clerk of the industrial district wherein the reference arose, and be open to inspection without charge during office hours by all persons interested therein. Award to be signed, sealed, and deposited in office.  
1900 Act, s. 76.  
N.Z. Act, s. 85.

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(2.) The Clerk shall, upon application, supply certified copies of the award for a prescribed fee.

Terms of award.  
1900 Act, ss. 78 and  
87.  
N.Z. Act, s. 86 (1).

84. (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;

(b.) The industry to which the award applies;

(c.) The industrial district to which the award relates, being in every case the industrial district in regard to which the proceedings were commenced;

(d.) The currency of the award, being any specified period not exceeding three years from the date of the award:

1900 Act, s. 78.  
N.Z. Act, s. 86 (2).

(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 workers affected by the award, and may provide for an alternative course to be taken by any party: In no case shall the Court have power to fix any age for the commencement or termination of apprenticeship.

1900 Act, s. 84.  
N.Z. Act, s. 86 (2).

1900 Act, s. 87  
(proviso).  
N.Z. Act, s. 86 (3).

(3.) The award shall, by force of this Act, extend to and bind as subsequent party thereto every industrial union, industrial association, or employer who, not being original party thereto, is at any time, whilst the award is in force, connected with or engaged in the industry to which the award applies within the industrial district to which the award relates.

N.Z. Act, s. 87 (3).

(4.) The award shall, by force of this Act, also extend to and bind every worker who, not being a member of any industrial union on which the award is binding, is at any time, whilst it is in force, employed by any employer on whom the award is binding; and if any such worker commits any breach of the award he shall be liable to a penalty not exceeding Ten pounds, to be recovered in like manner as if he were a party to the award.

(5.) The Court may, in any award made by it, limit the operation of such award to any municipality or area being within or part of any industrial district.

(6.) The Court shall in such case have power, on the application of any employer, industrial union, or industrial association in any industrial district within which the award shall have effect, to extend the provisions of such award (if such award shall have been limited in its operation as aforesaid) to any person, employer,

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industrial union, or industrial association within such industrial district.

**85.** WITH respect to every award, whether made before or after the commencement of this Act, the Court by order at any time during the currency of the award 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 extend, or join parties to an award. 1900 Act, s. 79. N.Z. Act, s. 87.

**86.** THE powers by the last preceding section conferred upon the Court may be exercised on the application of any party bound by the award.

Application may be made to Court by any party. N.Z. Act, s. 88.

**87.** 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, and no regulation of the Governor under section one hundred and twelve, 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. 1900 Act, s. 82. N.Z. Act, s. 90.

**88.** 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. 1900 Act, s. 83. N.Z. Act, s. 91.

**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 prescribe a minimum rate of wages or other remuneration, with special provision for a lower rate being fixed in the case of any worker who is unable to earn the prescribed minimum:

Court may prescribe minimum rate of wages. 1900 Act, s. 85. N.Z. Act, s. 92.

Provided that such lower rate shall in every case be fixed by such tribunal, in such manner, and subject to such provisions as are specified in that behalf in the award or order.

**90.** 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. 1900 Act, s. 77 (second par.) N.Z. Act, s. 93.

**91.** 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 or the Clerk, and it shall not be necessary to prove any conditions precedent entitling the Court to make the award.

Award under seal to be evidence. 1900 Act, s. 81. N.Z. Act, s. 89.

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Provisions for  
enforcing awards.

1900 Act, s. 88.

N.Z. Act, s. 94.

1900 Act, s. 88 (1).

N.Z. Act, s. 94 (1).

1900 Act, s. 88 (2).

N.Z. Act, s. 94 (2).

1900 Act, s. 88 (3).

N.Z. Act, s. 94 (3).

1900 Act, s. 88 (4).

N.Z. Act, s. 94 (4).

1900 Act, s. 88 (5).

N.Z. Act, s. 94 (5).

1900 Act, s. 88 (6).

N.Z. Act, s. 94 (6).

**92.** FOR the purpose of enforcing any award or order of the Court (not being an order under section ninety-four hereof), whether made before or after the commencement of this Act, the following provisions shall apply:—

- (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 section relating to orders of the Court.
- (2.) If any party on whom the award is binding commits any breach thereof by act or default, then, subject to the provisions of the last preceding subsection hereof, the Registrar or any party to 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.
- (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:
- (5.) For the purpose of enforcing payment of the penalty and costs payable under any order of the Court, a certificate in the prescribed form, under the hand of the Clerk of the Court and the seal of the Court, specifying the amount payable and the respective parties or persons by and to whom the same is payable, may be filed in any Court having civil jurisdiction, to the extent of such amount, and shall thereupon, according to its tenor, be enforceable in all respects as a final judgment of such Court in its civil jurisdiction:

Provided that, for the purpose of enforcing satisfaction of such judgment where there are two or more judgment creditors thereunder, process may be issued separately by each judgment creditor against the property of his judgment debtor in like manner as in the case of a separate and distinct judgment.

- (6.) All property belonging to the judgment debtor (including therein, in the case of an industrial union or industrial association, all property held by trustees for the judgment debtor) shall be available in or towards satisfaction of the judgment debt, and if the judgment debtor is an industrial union or an industrial association, and its

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property is insufficient to fully satisfy the judgment debt, its members shall be liable for the deficiency:

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

- (7.) 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 judgment creditor, make such order or give such directions as are deemed necessary, and the trustees, the judgment debtor, and all other persons concerned shall obey the same.
- 1900 Act, s. 88 (7).  
N.Z. Act, s. 94 (7).

**93.** FOR the purpose of enforcing industrial agreements, whether made before or after the commencement of this Act, the provisions of subsections two to seven 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.

Provisions for enforcing industrial agreements.  
1900 Act, s. 25.  
N.Z. Act, s. 95.  
Cp., s. 26 (2) of this Act.

**94.** THE Court shall have full and exclusive jurisdiction to deal with all offences under either subsection five of section seventy-five, section one hundred and one, section one hundred and two, or section one hundred and six hereof, and for that purpose the following provisions shall apply:—

Jurisdiction of Court to deal with offences.  
1900 Act, s. 89.  
N.Z. Act, s. 96.

- (1.) Proceedings to recover the penalty by this Act imposed in respect of any such offence shall be taken in the Court in a summary way under the provisions of the Act 14 Victoriae No. 5, and those provisions shall, *mutatis mutandis*, apply in like manner as if the Court were a Court of summary jurisdiction under that Act:

1900 Act, s. 89 (1).  
N.Z. Act, s. 96 (1).

Provided that in the case of an offence of contempt of Court, the Court may deal with such offence forthwith without the necessity of an information being taken or a summons issued.

- (2.) For the purpose of enforcing any order of the Court made under this section (except so far as enforced by the Court itself, in cases of contempt of Court) a duplicate of such order shall be filed by the Clerk of the Court in the office of the nearest Police or Resident Magistrate, and shall thereupon, according to its tenor, operate and be enforced in all respects as a final decision, conviction, or order duly made by such Magistrate under the said Act, the 14 Victoriae, No. 5.
- 1900 Act, s. 89 (2).  
N.Z. Act, s. 96 (2).
- (3.) The provisions of sections eighty-seven and ninety-one hereof shall, *mutatis mutandis*, apply to all proceedings and orders of the Court under this section.
- N.Z. Act, s. 96 (3).

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#### *General Provisions as to Board and Court.*

Disqualification of  
members of Board  
or Court.

1900 Act, s. 29.

N.Z. Act, s. 97.

**95.** THE following persons shall be disqualified from being appointed or elected, or from holding office as chairman or as member of any Board, or a member of the Court; and if so elected or appointed shall be incapable of continuing to be such member or chairman:—

- (1.) An undischarged bankrupt, or a debtor who has assigned his estate or against whose estate there is a subsisting receiving order in bankruptcy; or
- (2.) Any person who has been in any part of His Majesty's dominions convicted of any crime for which the punishment is imprisonment with hard labour for a term of two years or upwards; or
- (3.) Any person of unsound mind; or
- (4.) An alien.

References to Board  
or Court to be  
approved by resolu-  
tion of union.

1900 Act, s. 45 (1.),  
par. 3.

N.Z. Act, s. 98.

**96.** AN industrial dispute shall not be referred to a Board or 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 and confirmed by a majority of the votes recorded at a subsequent ballot of the members, held in the prescribed time and manner. The result of such 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 the governing body of such association, and confirmed 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 written consent of the governing body of such association.
- (4.) In the case of an industrial union of workers not so represented, and consisting of less than one hundred and fifty members, no such reference shall be made without the written consent of the registered Trades and Labour Council within the district in which the dispute arises or the industrial agreement was made, as the case may be.



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**97.** (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. The resolution shall not be deemed to be passed unless a majority of all the members (other than honorary members) of the industrial union or of the governing body of the industrial association vote in favour of it.

Special meeting for such purpose.

1900 Act, s. 45.

N.Z. Act, s. 96 (1).

(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.

N.Z. Act, s. 99 (2).

(3.) A certificate in the prescribed form, and in accordance with the last preceding subsection, together with the consent mentioned in section ninety-six shall be forwarded to the clerk with every application for a reference to the Board or Court for the settlement of an industrial dispute.

Certificate to accompany reference.

**98.** ANY person who—

(1.) Takes part in, or does or is concerned in doing any matter or thing in the nature of a lock-out or strike; or

Prohibition of strikes or lock-outs.

(2.) Before a reasonable time has elapsed for a reference to the Board or Court of the matter in dispute, or

during the pendency of any proceedings before the board or Court in relation to an industrial dispute,

suspends or discontinues employment or work in any industry; or

(3.) Instigates to or aids in any of the above-mentioned acts,

shall be guilty of an offence, and, upon summary conviction, on the information or complaint of the Registrar, or of any industrial union, be liable to a penalty not exceeding Fifty pounds: Provided that nothing in this section shall prohibit the suspension or discontinuance of any industry, or the working of any persons therein, for any other good cause.

**99.** (1.) WHEN an industrial dispute which involves technical questions is referred to the Board or Court, it may, at any stage of the proceedings, direct that two experts nominated by the parties shall sit as assessors.

Appointment of experts as Assessors to Board or Court.

1900 Act, ss. 92 (1 and 2) and 68.

N.Z. Act, s. 101.

One of the experts shall be nominated by the party, or, as the case may be, by all the parties, whose interests are with the employers; and one by the party, or, as the case may be, by all the parties, whose interests are with the workers.

The experts shall be nominated in the prescribed manner, but shall not be deemed to be members of the Board or Court.

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(2.) The powers by this section conferred upon the Board and the Court respectively shall, whilst the Board or the Court is not sitting, be exercisable by the Chairman of the Board and the President of the Court respectively.

Powers of Board or Court as to joinder, waiver, and extension of time.  
1900 Act, ss. 90, 60, and 62.  
N.Z. Act, s. 102.

**100.** (1.) IN order to enable the Board or Court more effectually to dispose of any matter according to the substantial merits and equities of the case, it may, at any stage of the proceedings, and upon such terms as it thinks fit, by order—

- (a.) Direct parties to be joined or struck out;
- (b.) Amend or waive any error or defect in the proceedings;
- (c.) Extend the time within which anything is to be done by any party; and
- (d.) Generally give such directions as are deemed necessary or expedient in the premises.

Exercise of powers when Board or Court not sitting.

(2.) The powers by this section conferred upon the Board may, when the Board is not sitting, be exercised by the Chairman, subject to an appeal to the Board.

(3.) Where a dispute is pending before the Court, the Court may, on summary application, in addition to the matters aforesaid, make such order as may be just with respect to the issues to be submitted to the Court, the persons to be served with notice of proceedings, the parties to the proceedings, particulars of the claims of all parties, admissions, discovery, inspection of documents, inspection of property, examination of witnesses, and the place and mode of hearing.

1900 Act, s. 91.

N.Z. Act, s. 100 (3).

(4.) The powers by this section conferred upon the Court may, when the Court is not sitting, be exercised by the President.

Penalty for contempt of Board or Court.  
1900 Act, s. 72.  
N.Z. Act, s. 103.

**101.** IF any person insults any member of the Board or Court, the Clerk, 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 Board or Court, it shall be lawful for any officer of the Board or Court, or any member of the Police Force, to take the person offending into custody and remove him from the precincts of the Board or Court, to be detained in custody until the rising of the Board or Court, and the person so offending shall be liable to a penalty not exceeding Ten pounds.

Obstruction of Board or Court.  
N.Z. Act, s. 104.

**102.** IF any person writes, prints, or publishes anything calculated to obstruct or in any way interfere with or prejudicially affect any matter before the Board or Court, he shall for every such offence be liable to a penalty not exceeding Fifty pounds.

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**103.** IF any party to proceedings before the Board or Court fails, after receiving notice, to attend or be duly represented, the Board or Court may proceed and act as fully in the matter before it as if such party had duly attended or been duly represented.

Power to proceed if any party fail to attend.

1900 Act, s. 73.

N.Z. Act, s. 105.

**104.** (1) PROCEEDINGS before the Board or Court shall not abate by reason of the seat of any member of the Board or Court being vacant for any cause whatever, or of the death of any party to the proceedings; and, in the latter case, the legal personal representative of the deceased party shall be substituted in his stead.

Proceedings not to abate by reason of death.

1900 Act, s. 86.

N.Z. Act, s. 106.

(2.) A recommendation or order of the Board, or an award or order of the Court, shall not be void or in any way vitiated by reason merely of an informality or error of form.

Recommendation or award not void for informality.

1900 Act, s. 78

N.Z. Act, s. 105 (2).

Cp. s. 47 of this Act.

**105.** THE proceedings of the Board or Court may be conducted during the day or at night, and shall be conducted in public: Provided that, at any stage of the proceedings, the Board or Court may direct that the proceedings be conducted in private: and in such case all persons (other than the parties, their representatives, the officers of the Board or Court, and the witness under examination) shall withdraw.

Proceedings of Board or Court to be public.

1900 Act, ss. 46, 70, 93.

N.Z. Act, s. 107.

**106.** (1.) ANY Board and the Court, and upon being authorised in writing by the Board or Court, any member or officer of such Board or Court respectively, or any expert appointed under section ninety-nine, may, without any other warrant than this Act, at any time—

Powers of entry to Board or Court for examination of manufactories, etc.

1900 Act, ss. 48, 67.

N.Z. Act, s. 108.

1900 Act, s. 48 (a).

N.Z. Act, s. 108 (1).

(a.) 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 such Board or Court;

(b.) 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;

Inspection of work.

1900 Act, s. 48 (a).

N.Z. Act, s. 108 (2).

(c.) Interrogate any person or persons 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:

Interrogation of persons.

1900 Act, s. 48 (b).

N.Z. Act, s. 108 (3).

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1900 Act, s. 48.  
N.Z. Act, s. 108.

(2.) Any person who shall hinder or obstruct the Board or Court, or any such member officer, or expert in the exercise of any power conferred by this section, or who shall refuse to the Board or Court, or such member, officer, or other person entrance during any such time as aforesaid to any such manufactory, building, workshop, factory, mine, mine-workings, ship or vessel, shed, place, or premises, or shall refuse to answer any question put to him as aforesaid, shall for every such offence be liable to a penalty not exceeding Fifty pounds.

5. GOVERNMENT EMPLOYEES.

Provision as to  
Government em-  
ployees.

107. IF any person employed by the Government on daily wages, payable weekly or fortnightly, is a member of any industrial union composed of workers of the same trade as such person, the Minister of the department in which such person is employed shall, in relation to all such persons who are for the time being members of such union, and for the purposes of this division of this Act, be deemed an employer, and such persons shall be deemed workers.

Government rail-  
ways.

108. WITH respect to the Government railways open for traffic—

(a.) The society of railway servants 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, 1900, shall be deemed to be registered under this Act: Provided that the constitution and rules of such society shall, within ninety days after being so required by the Registrar, be amended so far as may be necessary to bring them into compliance with this Act, and in case of default, the registration may be cancelled by the Registrar.

(b.) Any association or society of Government railway servants may register under this Act as an industrial union of workers.

Unions of Govern-  
ment employees.

109. IN reference to any industrial union mentioned in sections one hundred and seven or one hundred and eight, the following provisions shall apply:—

(1.) The Minister of the Department or the Minister for Railways, as the case may be (hereinafter in this section called the Minister) may enter into industrial agreements with any such union.

(2.) If an industrial dispute arises between the Minister and any such union, it may be referred to the Court for settlement as hereinafter provided.

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- (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-six and ninety-seven shall apply.
- (6.) 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 notify the Minister thereof, 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.
- (7.) In making any award under this section the Court shall have regard to the provisions of any Act in force relating to the classification of the Department of Government Railways.
- (8.) In any proceedings before the Court under this section, the Minister may be represented by any officer of the department whom he appoints in that behalf.
- (9.) All expenses incurred and moneys payable by any Minister under this Act shall be payable out of moneys appropriated by Parliament for the purpose.
- (10.) In no case shall the Board have any jurisdiction over the Minister, or the workers employed in his department.
- (11.) Except for the purposes of this section the Court shall have no jurisdiction over any Minister, or the workers employed in his department.
- (12.) Except where inconsistent with the express provisions of this and the two preceding sections, every such union of workers shall be subject to and entitled to all the benefits of this Act in the same way as if the Minister were an employer and the department of which he is Minister were an industry, and as if the persons employed in such department, and being members of such unions, were workers.

6. MISCELLANEOUS.

Notifications in  
*Gazette* to be  
evidence.

1900 Act, s. 100.

N.Z. Act, s. 110.

**110.** ANY notification made or purporting to be made in the *Gazette* by or under the authority of this Act may be given in evidence in all Courts of Justice, in all legal proceedings, and for any of the purposes of this Act, by the production of a copy of the *Gazette*, printed by the Government Printer for the time being.

Documents under  
seal of Court and  
certain signatures  
to be judicially  
noticed.

1900 Act, s. 101.

N.Z. Act, s. 111.

**111.** (1.) EVERY document bearing the seal of the Court shall be received in evidence without further proof, and the signature of the President of the Court, or the Chairman of the Board, or of the Registrar, or of the Clerk, or of the Clerk of the Court, shall be judicially noticed in or before any Court or person or officer acting judicially or under any power or authority contained in this Act: Provided such signature is attached to some award, order, certificate, or other official document made or purporting to be made under this Act.

1900 Act, s. 101.

N.Z. Act, 111 (2).

(2.) No proof shall be required of the handwriting or official position of any person acting in pursuance of this section.

Regulations.

1900 Act, s. 102.

N.Z. Act, s. 112.

**112.** THE Governor from time to time may make regulations for any of the following purposes:—

- (1.) Prescribing the forms of certificates, notices, returns, or other instruments to be issued by or sent to the Registrar, and of any certificate or other proceeding of any Board, or any officer thereof;
- (2.) Prescribing the duties of Clerks, the Clerk of the Court, and of all other officers and persons acting in the execution of this Act;
- (3.) Providing for anything necessary to carry out the first or any subsequent election of members of Boards, or on any vacancy therein, or in the office of Chairman of any Board, including the forms of any notice, proceeding, or instrument of any kind to be used in or in respect of any such election;
- (4.) Providing for the mode in which recommendations by industrial unions as to the appointment of members of the Court shall be made and authenticated;
- (5.) Prescribing any act or thing necessary to supplement or render more effectual the provisions of this Act as to the conduct of proceedings before a Board or the Court, or the transfer of such proceedings from one of such bodies to the other;
- (6.) Providing generally for any other matter or thing necessary to give effect to this Act, or to meet any particular case;

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- (7.) Prescribing what fees shall be paid in respect of any proceeding before a Board or the Court, and the party by whom such fees shall be paid;
- (8.) Prescribing what fees and expenses shall be paid to the members of the Court and to the members of the Board; and
- (9.) For any other purpose for which regulations are contemplated or required in order to give full effect to this Act.

**113.** NOTHING in any such regulations shall supersede any fees for the time being in force in the Supreme Court, or any other Court, in relation to any proceedings therein, otherwise than is herein expressly provided.

Saving of fees payable in Supreme Court.

1900 Act, s. 102.  
N.Z. Act, s. 114.

**114.** ALL charges and expenses incurred by the Government in connection with the administration of this Act shall be defrayed out of such annual appropriations as from time to time are made for that purpose by Parliament.

Expenses incurred by the Government payable out of moneys appropriated.

1900 Act, s. 103.  
N.Z. Act, s. 115.

**115.** 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:

Stamp duty not payable in certain cases.

1900 Act, s. 104.  
N.Z. Act, s. 116.

**116.** THE Industrial Conciliation and Arbitration Act, 1900, is hereby repealed: Provided nevertheless, as follows:—

Repeal of 1900 Act, (64 Vict., No. 20).

- (1.) Every person appointed to any office under such repealed Act, and holding office at the time of the repeal, shall, subject as aforesaid, be deemed to have been appointed under this Act.
- (2.) Every industrial union or association registered and incorporated under such repealed Act at the time of the repeal shall be deemed to be registered and incorporated under this Act: Provided that the constitution and rules of any such union or association shall, within ninety days after being so required by the Registrar, be amended in such a manner as to bring them into full compliance with this Act, or otherwise the registration may be cancelled by the Registrar.
- (3.) All registers, records, certificates, awards, industrial agreements, and other official documents existing under such repealed Act at the time of the repeal shall endure and continue for the purposes of this Act.
- (4.) All proceedings pending under such repealed Act at the time of the repeal may be continued and completed under this Act.

Saving.

N.Z. Act, s. 117.

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(5.) All regulations in force at the time of such repeal shall be deemed to have been made under this Act.

Offences.

**117.** EVERY person or industrial union or association guilty of an offence against this Act may be convicted thereof by a Court of summary jurisdiction on the information or complaint of the Registrar, and all penalties recovered therefor shall be paid into the Treasury to the credit of the Consolidated Revenue Fund.

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

**118.** 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.

Act not to apply to Crown.  
1900 Act, s. 105.  
N.Z. Act, s. 118.

**119.** EXCEPT as provided by sections one hundred and seven, one hundred and eight, and one hundred and nine hereof, nothing in this Act shall apply to the Crown.

In the name and on behalf of the King I hereby assent to this Act.

ARTHUR LAWLEY, Governor.



SCHEDULE.

Section 37.

REGULATIONS FOR ELECTION OF MEMBERS OF A BOARD OF CONCILIATION.

1900 Act, ss. 33,  
(4, a to c and from  
f to n) and 37.  
N.Z. Act, s. 38.

1. The Clerk shall act as Returning Officer, and shall do all things necessary for the proper conduct of the election.
2. The first election shall be held within not less than thirty nor more than sixty days after the constitution of the district in the case of districts hereafter constituted, and in the case of existing Boards, the election shall be held on a date or dates to be fixed by the Governor in the *Gazette* notice mentioned in section thirty-six.
3. Each subsequent election shall, in every case, be held within not less than twenty nor more than thirty days before the expiry of the then current ordinary term of office.
4. The Governor may extend the period within which any election shall be held for such time as he thinks fit.
5. The Returning Officer shall give twenty-one days' notice, in one or more newspapers circulating in the industrial district, of the day and place of election.
6. For the purposes of each election the Registrar shall compile and supply to the Returning Officer by letter or telegram a roll setting forth the name of every industrial union entitled to vote, and every such union, but no other, shall be entitled to vote accordingly.
7. The roll shall be supplied not less than fourteen days before the day fixed for the election, and shall be open for free public inspection at the office of the Clerk during office hours, from the day on which it is received by the Clerk until the day of the election.
8. Nominations for election shall be made in writing under the seal of the industrial union and the hand of its chairman or secretary.
9. An industrial union not entitled to vote shall not be entitled to nominate.
10. Each nomination shall be accompanied by the written consent of the person nominated, and be lodged with the Returning Officer not later than five o'clock in the afternoon of the twelfth day before the day of election.
11. Forms of nomination shall be provided by the Returning Officer on application to him for that purpose.
12. The Returning Officer shall affix a list of the names of all persons validly nominated on the outside of the door of his office at least four clear days before the day of election, and advertise the names of such persons in one or more newspapers circulating in the district seven days before the day of election.
13. If the number of persons nominated does not exceed the number to be elected, the Returning Officer shall at once declare such persons elected.
14. If the number of persons nominated exceeds the number to be elected, then votes shall be taken.
15. The vote of each industrial union shall be taken in the manner prescribed by the rules of such union, signified by voting-paper under the seal of such union and the hand of the chairman and secretary.

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16. The voting-paper shall be lodged with or transmitted by post or otherwise to the Returning Officer at his office, so as to reach his office not later than five o'clock in the afternoon of the day of the election; and the Returning Officer shall record the same in such manner as he thinks fit.
17. Every voting-paper with respect to which the requirements of these regulations are not duly complied with shall be deemed to be informal.
18. Each industrial union shall be entitled to votes as per the following scale:—

If the members (other than honorary) residing in	
the district do not exceed 100 in number	One vote.
If not exceeding 300, though more than 100	Two votes.
If over 300	Three votes.

The number of members shall be determined by the last preceding list forwarded in accordance with Section 16 of the Act.
19. Every vote must be recorded in favour of a number of candidates equal to the number to be elected, and the persons, not exceeding the number to be elected, having the highest aggregate number of votes in each division shall be deemed elected.
20. In any case where two or more candidates in the same division have an equal number of votes, the Returning Officer, in order to complete the election, shall give a casting vote. Any candidate may, before such casting vote is given, withdraw from the election.
21. As soon as possible after the votes of each division of industrial unions have been recorded, the Returning Officer shall reject all informal votes, and ascertain what persons have been elected as before provided, and shall state the result in writing, and forthwith affix a notice thereof on the door of his office.
22. If any question or dispute arises touching the rights of any industrial union to vote, or the validity of any nomination or vote, or the mode of election or the result thereof, or any matter incidentally arising in or in respect of such election, the same may, in the prescribed manner, be referred to the Registrar at any time before the gazetting of the notice of the election of the members of the Board as hereinafter provided, and the decision of the Registrar shall be final.
23. Except as aforesaid, no such question or dispute shall be raised or entertained.
24. In case any election is not commenced or completed on the respective days appointed, the Returning Officer may adjourn the election, or the completion thereof, to the next or any subsequent day, and may then proceed with the election.
25. The whole of the voting papers used at the election shall be securely kept by the Returning Officer during the election, and thereafter shall be put in a packet and kept until the gazetting of the notice last aforesaid, when he shall cause the whole of them to be effectually destroyed.