

# Supplement to Government Gazette

OF

WESTERN AUSTRALIA.

[Published by Authority.]

No. 26.]

PERTH: MONDAY, MAY 10.

[1909.

Friendly Societies' Office,  
Perth, 10th May, 1909.

HIS Excellency the Governor in Executive Council has been pleased to make the following Regulations under "The Industrial Conciliation and Arbitration Act, 1902."

EDGAR T. OWEN,  
Registrar of Friendly Societies.

## THE INDUSTRIAL CONCILIATION AND ARBITRATION ACT, 1902.

### *Rules for the Conduct of Proceedings before the Court of Arbitration.*

IN pursuance of the powers conferred by "The Industrial Conciliation and Arbitration Act, 1902," His Excellency the Governor in Executive Council has been pleased to make and approve of the following Rules for the conduct of proceedings before the Court of Arbitration:—

1. From and after the date of publication of these Rules in the *Government Gazette*, all rules and forms heretofore in existence in relation to the procedure in the said Court of Arbitration under the above-named Act shall be repealed, and the following Rules shall be observed in lieu thereof.

2. There shall be a seal of the Court bearing the Royal Arms and the words "The Seal of the Court of Arbitration, Western Australia," surrounded by a circle.

3. The Clerk of the Court shall receive all applications made to the Court, and issue all processes out of the Court, keep the register of all proceedings in and orders made by the Court, and affix the seal of the Court to all necessary documents.

4. An application to the Court for the reference of an Industrial Dispute shall be made in triplicate in the Form No. 58 hereto.

5. Where the applicant is an industrial union there shall be filed with the application a certificate in the Form No. 59 hereto and the consent in Form 60 hereto where required under the Act.

6. Forthwith upon the receipt of such application the Clerk of the Court shall lay the same before the President of the Court for his directions thereon.

7. The President may direct notice of the application to be given as well to the parties therein named as to such other persons as may appear necessary, or may refer the same back to the applicant for further particulars if required, which notice may be given in the Form 61 hereto.

8. The Clerk of the Court shall, in the Form No. 62 hereto, send by post to each respondent a citation bearing the seal of the Court.

9. Each respondent upon whom such citation is served shall, within the time therein mentioned, file in the office of the Court his answer thereto in triplicate. Such answer shall be in the Form 63 hereto. Where the place of service is within 100 miles from the General Post Office, Perth, ten days shall be allowed; beyond 100 miles therefrom, 30 days shall be allowed.

10. The answer shall state:—

- (a.) What portion of the claim is admitted.
- (b.) What portion is not admitted.
- (c.) What counter-proposal, if any, the respondent intends to adduce.

11. The respondent shall also, on the day of filing his answer in the Court, serve a copy thereof upon the applicant.

12. The applicant may, at any time after the receipt of the answer, apply personally or by letter to the Clerk of the Court for an order to settle the issues in dispute.

13. Notice of such application shall be given to the respondent by the applicant at least 24 hours before the time fixed for settling the issues in dispute.

14. The Clerk of the Court shall settle the issues in dispute and set them forth in Form 64 hereto, and shall serve a copy thereof on each party. Any party may, if dissatisfied with the settlement of the issues made by the Clerk of the Court, appeal to the President therefrom within seven days from the making thereof. Twenty-four hours' notice of intention to appeal shall be given to the other parties.

15. The President shall hear the appeal and make an order therein.

16. The President may, at any time after the making of the order, fix the date and place for the hearing of the dispute, and at least seven days' notice of such hearing shall be given by the Clerk of the Court to each party in the Form 65 hereto.

17. After the settling of the issues, any party may by notice to any other in the Form 66 hereto require him to produce, at some reasonable time and place, for inspection of the party giving the notice, any book, paper, or other document in his possession, power, or control relating or containing anything relative to the matters in issue.

18. Failing compliance with such notice within seven days from the service thereof, the party giving the same may apply to the Court, under Section 100 of the Act, for an order in that behalf.

19. Any party may, at any time at least seven days before the date fixed for hearing, give notice to any opposing party in the Form 67 hereto, requiring him to admit any fact or facts relative to the issue. The party giving such notice shall file any admission or answer thereto with the Clerk of the Court forthwith after receipt of such admission or answer.

20. Failure to comply with such notice within seven days shall render the party in default liable to pay the costs of establishing such fact, unless the Court shall be of opinion that the fact was not material or that there was reasonable ground for not making the admission.

21. Any party intending to adduce as evidence affidavits or declarations shall furnish the opposing party or parties with a copy thereof at least three days before the date fixed for hearing.

22. When any time is fixed by these rules for doing any act, such time may be extended by consent of the parties or by an order of the Clerk of the Court.

23. All documents required by these rules to be served shall be served by the parties producing same.

24. Service may be either personal or by registered post.

25. Summonses to witnesses shall be in the Form 68 hereto, but not more than five persons shall be included in any one summons.

26. The person effecting service of any document shall indorse on the original document, within a reasonable time, the date and place of such service.

27. Any proceeding before the Court may at any time be amended by leave of the Court, upon such terms as may be just and equitable.

28. The procedure before the Court shall be as follows:—

- (a.) Where any person appears as agent for either party, he shall file his written authority to do so immediately the case is called on (the said authority may be in Form 69 hereto), or if he appears by virtue of Section 51 (5) of the Act he shall satisfy the Court that he is entitled to represent the party in the matter.
- (b.) Upon the case being called on, the applicant or his agent shall state the facts of the case, and shall thereupon call his witnesses.
- (c.) Unless the Court otherwise permits, the examination-in-chief shall be conducted by one person on behalf of the applicant, and the cross-examination shall be conducted by one person on behalf of each respondent. No re-examination shall be permitted except by permission of the Court.
- (d.) The parties shall, at the close of their case, respectively produce such documentary evidence as they may desire.
- (e.) The applicant shall then close his evidence.
- (f.) The same procedure shall apply to the case of the respondent.
- (g.) Where counter-proposals are made in the answer the witnesses, if any, in support thereof shall be called before the close of the respondent's case.
- (h.) The applicant may then, by leave of the Court, call witnesses in reply to the counter-proposal.
- (i.) The Court may request either party at the close of the evidence to address them on the facts adduced. No addresses shall otherwise be made.

29. The Court shall, prior to the hearing of any matter, determine whether the whole or any part of its proceedings therein shall be taken down in shorthand, and may make any order in regard thereto.

30. Forthwith after the delivery of any and every award or any order amending an award, a copy of the same shall be published in the *Government Gazette* by the Clerk of the Court.

31. Application to the Court for the enforcement of any award or order made under the Act, by reason of any breach thereof or default, shall be in the Form numbered 70 in the Schedule annexed hereto, and such application shall be filed with the Clerk of the Court.

32. In every case where an application is filed in Form 70, the applicant shall lodge as many copies thereof respectively as there are parties alleged to have committed a breach or default, together with four additional copies for the use of the Court, and each such application shall be accompanied by the consent in Form 60 and the Certificate in Form 59, required by Section 96 (3) and (4) and Section 97 (3) of the Act respectively. The Clerk of the Court shall indorse at the foot of each copy of application a memorandum signed by him, setting forth the fact and the date of filing the original, and shall then forthwith cause one such copy to be personally served upon or posted by registered letter addressed to each of the aforesaid parties.

33. Every certificate to be given by the Clerk of the Court under the provisions of Section 92, sub-section (5) of the Act, shall be in the Form 71 hereto.

34. The prescribed time and manner for holding the ballot required under Section 96 of the Act shall be as follows:—

- (a.) The taking of the ballot shall not extend beyond a period of seven days, and shall be taken subsequent to the passing of the resolution of the special meeting.
- (b.) Every voting paper shall be initialed by the returning officer. A voting paper shall be supplied to each member who is entitled

to vote and to no other person, and not more than one voting paper shall be supplied to each voter.

- (c.) The ballot paper shall not, when issued, indicate in any manner the name or identity of the voter, provided that if a voter signs or initials a ballot paper it shall not thereby be invalidated.
- (d.) The ballot shall be taken by means of a ballot box. The ballot box shall have a lock, and the returning officer alone shall have the key thereof.
- (e.) Before the ballot is taken the returning officer shall inspect the ballot box, lock the same, and retain the key in his possession until the close of the ballot.
- (f.) Should a voter be unable conveniently to attend at the voting place, he may post or forward his ballot paper to the returning officer during or prior to the period fixed for taking the ballot; but every ballot paper posted or forwarded shall be accompanied, under separate cover, by the voter's name. The envelope containing the ballot paper must be securely closed and have the words "Ballot paper" written thereon.
- (g.) The returning officer shall mark off on the roll of voters the name of each voter who votes, whether in person or by means of ballot paper posted or forwarded, and he shall during the period fixed for taking the ballot open the envelopes received purporting to contain ballot papers, and place the ballot papers (if in order) in the ballot box after detaching and keeping in his own possession the separate papers containing the voters' names.
- (h.) A vote shall be invalid if the ballot paper is received by the returning officer subsequent to the time fixed for the close of the ballot, or if the ballot paper is posted or forwarded without the voter's name being sent therewith, or if any one of the above provisions is infringed or not complied with.

35. The fees payable in respect of matters in or before the Court shall be as follow:—

	s.	d.
Filing any application .. .. .	2	6
Filing an answer .. .. .	2	0
Issuing any summons .. .. .	2	6
Filing any other document .. .. .	1	0

36. Witnesses shall be paid according to the Local Court Scale.

37. The forms prescribed by these Rules may be varied as circumstances require.

The Industrial Conciliation and Arbitration Act, 1902.  
FORM 58 (Rule 4).

No.....

In the Court of Arbitration.

. Between

Applicant

and

Respondent.

(Give addresses.)

*Reference of Industrial Dispute.*

Application is hereby made to the Court of Arbitration for the settlement of the matters in dispute hereinafter referred to between the above-mentioned parties.

The following are the particulars of the matters claimed and disputed:—

1.

2.

3. The applicants request that the same may be inquired into before the Court sitting at

Dated

Applicants' Signatures and Addresses.

This application was filed in my office on the day of 19 .

Clerk of the Court.

The Industrial Conciliation and Arbitration Act, 1902. FORM 59 (Rule 5).

In the Court of Arbitration.

Between No. .... Applicant and Respondent.

Certificate to accompany Reference.

I hereby certify that I am the above-mentioned applicant.

1. On the day of 19 a notice of the intention to hold a special meeting of the Union and to move the subjoined resolution thereat was forwarded by to each of the financial members of the above union.

2. Such notice was delivered personally or sent by post.

3. On the day of , at a special meeting of the union, the said resolution was submitted and passed by a majority of all the members of the Union present.

4. On the day of , at a ballot of the members held in the manner prescribed by the regulations under the Act, the said resolution was confirmed by a majority of the votes therein recorded.

5. I was the Chairman of the special meeting above referred to.

6. The terms of the resolution were as follow:—

Dated (Signature) Filed the day of 19 Clerk of the Court.

The Industrial Conciliation and Arbitration Act, 1902. FORM 60 (Rule 5).

No. ....

Consent to accompany Reference.

To the Court of Arbitration.

Name of Industrial Association or registered Trades and Labour Council. ....

Take notice that the governing body of the above-named Industrial Association (or Trades and Labour Council) hereby consents to the application to the Court of Arbitration annexed hereto, for the reference of an industrial dispute involving questions of \*

in which

is the applicant, and

the respondent.

Or, hereby consents to the application to the Court of Arbitration annexed hereto, for the enforcement of an industrial agreement (or award) in which

is applicant, and

is respondent, the alleged breach being that on the day of , \*\*

For the above-named Industrial Association or Trades and Labour Council.

Chairman.

(Seal.)

Secretary.

Dated this day of 19

N.B.—The above consent must be given by an Industrial Association in every case where the Industrial Union is represented on an Industrial Association, and must be given by a registered Trades and Labour Council in every case where the Union is not so represented, if the Union has less than 150 members.

\* State briefly nature of reference.

\*\* State concise particulars indicating nature of breach.

The Industrial Conciliation and Arbitration Act, 1902. FORM 61 (Rule 7).

In the Court of Arbitration.

Between No. .... Applicant and Respondent.

Notice of Application having been Filed.

Take notice that on the day of 19 the above-named applicant caused to be lodged at my office an application for the settlement of an industrial dispute which is alleged to involve questions of rates of pay, hours of labour, etc., in the trade or industry in the District or Locality.

The said application is open for inspection at my office by all persons interested, free of charge.

Dated this day of 19 Clerk of the Court.

To

The Industrial Conciliation and Arbitration Act, 1902. FORM 62 (Rule 8).

No. ....

In the Court of Arbitration.

Between Applicant and Respondent.

Citation.

To Take notice that the above-named applicant has filed in the office of the Court of Arbitration a request for the settlement of a dispute relative to the matters hereinafter set forth and have named you as (one of) the respondents' parties thereto.

The applicant desires that the hearing should take place at

If you intend to take part in the hearing you are required to file in the office of the Court within days from the date hereof your answer thereto.

If you desire to be represented by an agent, you must notify the name of the agent in your answer.

A copy of your answer as filed must be served on the applicant.

Should you fail to file any answer the Court may proceed in your absence.

Dated (Seal.) Clerk of the Court.

Served on the Respondent (personally or by registered post) this day of 19 (Signature)

The Industrial Conciliation and Arbitration Act, 1902. FORM 63 (Rule 9).

No. ....

In the Court of Arbitration.

Between Applicant and Respondent.

Answer.

The Respondent, in answer to the Applicant's claim, says as follows:—

- 1. He denies (the existence of any dispute between himself and the applicant) as the case may be.
2. He does not admit (that the wages claimed are fair and reasonable) as the case may be.
3. He objects to the condition as to (hours).
4. He says that the condition as to should be disallowed or
5. He submits the following counter-proposals is the duly appointed agent of the

Respondent. Dated (Signature and address.) Filed this day of 19 Clerk of the Court.

Copy served on Applicant (personally or by registered post) this day of (Signature)

The Industrial Conciliation and Arbitration Act, 1902.  
FORM 64 (Rule 14).

No.....  
In the Court of Arbitration.  
Between .....  
Applicant .....  
and .....  
Respondent.

Issues in Dispute.

The following are the issues in dispute in the above matter:—

- 1. The rate of wages to be paid to persons in the industry.
- 2. The hours of employment.
- 3. The area of the award.
- 4. The scope of the industry.
- 5. (Insert any other matters.)

Settled this day of 19 .  
.....  
Clerk of the Court.

The Industrial Conciliation and Arbitration Act, 1902.  
FORM 65 (Rule 16).

No.....  
Notice of Hearing.  
In the Court of Arbitration.  
Between .....  
Applicant .....  
and .....  
Respondent.

To ..... , one of the parties to the above dispute.

Take notice that the Court of Arbitration will meet at ..... on the day of 19 at o'clock in the noon to inquire into and investigate the industrial dispute between the above-named parties.

Dated at this day of 19 .  
.....  
Clerk of the Court.

The Industrial Conciliation and Arbitration Act, 1902.  
FORM 66 (Rule 17).

No.....  
In the Court of Arbitration.  
Between .....  
Applicant .....  
and .....  
Respondent.

Notice to Produce.

Take notice that ..... the applicant (respondent or one of the applicants or respondents) to this dispute, desires to inspect the following books, papers, or documents now in your possession or under your control, namely:—

and for this purpose you are hereby required to forthwith appoint some reasonable time and place when and where such inspection may be made by the said applicant (respondent), or his or its agent or representative, and to produce the same accordingly.

And further take notice that in the event of your failing to comply with the above requirement an application may be made to the Court or to the President thereof in Chambers for an order compelling compliance therewith.

Dated this day of 19 .  
(Signature).....

To

Copy served upon the applicant (respondent) by personal service or by posting same by registered post this day of 19

Indorsed this day of 19 .  
(Sgd.) .....

The Industrial Conciliation and Arbitration Act, 1902.  
FORM 67 (Rule 19).

No.....  
In the Court of Arbitration.  
Between .....  
Applicant .....  
and .....  
Respondent.

Notice to Admit.

To.....  
Take notice that you are required within seven days after the service of this notice upon you to admit in writing the following facts:—

- 1.
- 2.
- 3.
- 4.
- 5. , etc.

Should you fail to make such admission you will be liable to pay the applicant's costs in proving the same before the Court.

Dated ..... (Signature).....

Filed this.....day of ....., 19 .  
.....  
Clerk of the Court.

The Industrial Conciliation and Arbitration Act, 1902.  
FORM 68 (Rule 25).

No.....  
Summons to Witness.  
In the Court of Arbitration.  
Between .....  
Applicant .....  
and .....  
Respondent.

Name in full.	Occupation and Address.
To.....	of.....
.....	of.....
.....	of.....
.....	of.....
and .....	of.....

You are hereby summoned to appear before the above-named Court of Arbitration at ..... on the day of ....., 19 , at o'clock in the noon and thereafter from day to day until discharged from attendance, to give evidence concerning the above-mentioned industrial dispute on behalf of the applicant (respondent)

And you are also required to have and produce all books, papers, or other documents in your possession or under your control in any way relating to the proceedings in the said dispute, and in particular (but not exclusively) the following: \*

If you fail or neglect to comply with this summons, you are liable to a penalty not exceeding £20, or to imprisonment for any term not exceeding one month.

Dated at , this day of 19 .

Issued in the name and on behalf of the Court of Arbitration.  
.....  
Clerk of the Court.

\* Stating them.

The Industrial Conciliation and Arbitration Act, 1902.

FORM 69 (Rule 28 (a)).

No.....

Warrant to appear as Agent, etc.

In the Court of Arbitration.

Between

..... Applicant

and

..... Respondent.

\* of is hereby authorised to appear and act for the Industrial Union of as Agent in the matter of this reference.

Dated this day of 19

For the Industrial Union of

..... Chairman (or as provided in Rules).

\* Name in full of Agent.

The Industrial Conciliation and Arbitration Act, 1902.

FORM 70 (Rule 31).

No.....

Application for Enforcement of Award or Order of Court or Industrial Agreement.

In the matter of the above-named Act, and in the matter of an application for enforcement of an award of the Court or Industrial Agreement.

Whereas by an award (or order) of the Court of Arbitration, dated the day of 19, it was directed, inter alia, that \* or

Whereas by an industrial agreement, dated the day of 19, between and, it was directed, inter alia, that \*

And whereas a breach of the said award (or order or industrial agreement) has been committed by, he being a person upon whom the said award (or order or industrial agreement) is binding, in that \*\*

Now, the Industrial Union (or Association, or Employer), namely, being one of the parties to the said award (or order or indus-

trial agreement), does hereby apply to the said Court for the enforcement of the said award (or order or industrial agreement) pursuant to the provisions of the above-named Act.

With this Application are forwarded the required Certificate in Form 59, and consent in Form 60.

Dated this day of 19 Signed by or on behalf of the above-named applicant, .....Chairman, .....Secretary, .....(or other Officer), .....(or Employer).

This application was filed in my office this day of 19

Clerk of the Court.

\* Set out the particular provision of the award, order or industrial agreement referred to.

\*\* Set out particulars of breach.

The Industrial Conciliation and Arbitration Act, 1902.

No.....

FORM 71 (Rule 33).

Certificate of Clerk of Court for enforcing Payment.

In the matter of the above-named Act, and in the matter of an Award of the Court of Arbitration dated the day of 19, applying to the industry (or trade) and of an application for the enforcement of the said award wherein was applicant and respondent.

(or) Industrial Agreement dated the day of 19, made between and and of an application for the enforcement of the said Agreement wherein was applicant and respondent.

This is to certify that on the day of 19, the Court of Arbitration did order that the sum of should be paid by of and that the said amount (or, being portion of the said amount) is now payable by the said to the said

Dated at this day of 19

Clerk of the Court.