

INDUSTRIAL ARBITRATION.

No. 66 of 1966.

AN ACT to amend the Industrial Arbitration Act, 1912-1963.

[Assented to 12th December, 1966.]

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

1. (1) This Act may be cited as the *Industrial Arbitration Act Amendment Act, 1966.*

Short title
and citation.

(2) In this Act the Industrial Arbitration Act, 1912-1963, is referred to as the principal Act.

Vol. 18
Reprinted
Acts.
Approved
for reprint
22nd January,
1964.

(3) The principal Act as amended by this Act may be cited as the Industrial Arbitration Act, 1912-1966.

Commence-
ment.

2. This Act shall come into operation on a date to be fixed by proclamation.

S. 2
amended.

3. Section two of the principal Act is amended by substituting for the numerals "127", in line twenty-two the passage, "127A".

S. 9B
amended.

4. Subsection (2) of section nine B of the principal Act is amended—

(a) by substituting for the passage, "honorary member" the passage, "honorary member or a member who or whose personal representative is entitled to some financial benefit or financial assistance under the rules of the society while not being a worker or employer";

(b) by deleting the word, "and" between paragraph (b) and (c); and

(c) by adding after the word, "Act" being the last word in paragraph (c), a passage as follows—

" ; and

(d) no amendment, repeal or alteration of the rules of a society shall be made unless the amendment, repeal or alteration has been passed and approved by a vote of the majority of the members of the society present in person at a general meeting called for the purpose in manner provided by paragraph (a) of section nine of this Act" .

S. 23
amended.

5. Section twenty-three of the principal Act is amended—

(a) by substituting for the paragraph designation "(e)" in line two of subsection (4), the paragraph designation, "(d)"; and

(b) by adding subsections as follow—

(6) Where the rules of an industrial union that were registered before the commencement of this subsection, empower a body other than the majority of its members present at a duly convened general meeting of that industrial union to amend, repeal or alter those rules, the provisions of paragraphs (a) and (b) of section nine of this Act, as applied by subsection (1) of this section, do not apply in respect of an amendment, repeal or alteration of any rule of that industrial union passed and approved as prescribed by those rules at a duly convened and constituted meeting of that body.

(7) An amendment, repeal or alteration of any rule of an industrial union passed and approved as provided in subsection (6) of this section prior to the commencement of this subsection, is by force of this section as valid as if the amendment, repeal or alteration of the rule were passed and approved by the majority of the members of that industrial union present in person at a duly convened general meeting of that industrial union called for the purpose. .

(8) Notwithstanding the foregoing provisions of this Act and the rules of an industrial union, the Commission in Court Session on the application of the industrial union, may direct that the procedure prescribed in those rules for amending, repealing or altering them may be varied in such manner and to such extent as the Commission in Court Session, having regard to the circumstances set out in the application, thinks fit and specifies in such direction.

(9) Any amendment, repeal or alteration of a rule of an industrial union made in accordance with a direction made pursuant to subsection (8) of this section, is as valid as if it were passed and approved by the majority of the members of that industrial union present in person at a duly convened general meeting of the industrial union called for the purpose.

S. 25
amended.

6. Subsection (7) of section twenty-five of the principal Act is amended by substituting for the word, "Court" in line one, the word, "Commission".

S. 36M
amended.

7. Section thirty-six M of the principal Act is amended—

(a) by repealing and re-enacting subsection (5) as follows—

(5) Where the Registrar decides that a request has been duly made under this section, he shall inform the industrial union accordingly and make arrangements with the Chief Electoral Officer appointed under the Electoral Act, 1907, for the conduct of the election by an officer holding office under that Act or by some other person authorised in writing by the Chief Electoral Officer. ; and

(b) by adding after subsection (5) subsections as follow—

(5a) Where the Registrar decides that a request has not been duly made under this section he shall inform the industrial union accordingly.

(5b) The party that purported to make the request under subsection (2) of this section on behalf of the industrial union may appeal to the Commission in Court Session in the manner prescribed against the decision of the Registrar.

(5c) An appeal under subsection (5b) of this section shall be made within seven days of the industrial union being informed by the Registrar that the request has not been duly made. .

8. Subsection (2) of section seventy of the principal Act is amended— S. 70
amended.

- (a) by adding after the word, “Act” in line two, the passage, “and to paragraph (c) of this subsection”; and
- (b) by adding after paragraph (b) a paragraph as follows—

(c) Notwithstanding paragraphs (a) and (b) of this subsection, an industrial matter or dispute referred to the Commission may be listed by the Commission on its own motion for hearing before it at any time after the expiration of a period of twelve months from the day on which the industrial matter or dispute was so referred. .

9. Section seventy-one of the principal Act is amended— S. 71
amended.

- (a) by adding after the word, “matter” in line two of subparagraph (iv) of paragraph (a), the words “or any part thereof”; and
- (b) by adding after the word, “matter” in line one of paragraph (r), the words, “or any part thereof”.

10. Section seventy-nine of the principal Act is amended— S. 79
amended.

- (a) by substituting for the words, “or an order is issued or made” in line two of subsection (1), the words, “is issued”; and
- (b) by deleting the words, “or an order” in line seven of subsection (2).

S. 103
amended.

11. Subsection (3) of section one hundred and three of the principal Act is repealed and re-enacted as follows—

(3) A judgment, order, conviction, direction or other decision of an Industrial Magistrate—

(a) is enforceable in all respects as if it were made by the Court; and

(b) may be enforced by the Court in accordance with the regulations made by the Governor under section one hundred and seventy-nine of this Act. .

S. 108B
amended.

12. Section one hundred and eight B of the principal Act is amended—

(a) by substituting for the word, “in” in line two of subsection (3), the word, “on”; and

(b) by adding subsections as follow—

Power of
member of
Court.

(6) A member of the Court on the application of any party to any proceedings or matter before the Court may on summons returnable before that member sitting in chambers, make in relation to that proceeding or matter any order that he thinks just as to any interlocutory proceeding to be taken before the hearing including without affecting the generality of the foregoing, the costs of the interlocutory proceeding, the issues to be submitted to the Court and the persons, if any, to be served with notice of those proceedings.

(7) An order made by a member of the Court pursuant to subsection (6) of this section, does not prejudice the exercise by the Court of any power conferred on the Court by this Act. .

13. Part VII of the principal Act is repealed and the following Part substituted—

Part VII
repealed and
Part
substituted.

PART VII.—BASIC WAGE.

123. In this Part, unless the contrary intention appears—

Interpre-
tation.

“commencing day” means the day on which the Industrial Arbitration Act Amendment Act, 1966 comes into operation;

“Commonwealth Act” means the Conciliation and Arbitration Act, 1904, of the Commonwealth Parliament and includes that Act as amended from time to time and any Act passed in substitution therefor;

“Commonwealth Commission” means the Commonwealth Conciliation and Arbitration Commission established under the Commonwealth Act and includes the Commission in Presidential Session;

“existing basic wage” means the basic wage that is paid to adult male workers and to adult female workers immediately prior to the commencing day under an award or industrial agreement then in force under this Act.

124. Notwithstanding the provisions of any Act or law on and from the commencing day the basic wage to be paid to adult male workers and the basic wage to be paid to adult female workers under any award or industrial agreement that is for the time being in force shall, subject to this Part, be the existing basic wage.

Existing
basic wage
to remain
unaltered
until amount
thereof
exceeded by
Common-
wealth basic
wage.

Alteration of
existing basic
wage.

125. Subject to section one hundred and twenty-six of this Act, where on or after the commencing day the Commonwealth Commission pursuant to the Commonwealth Act—

- (a) alters the basic wage for adult males;
or
- (b) determines or alters the basic wage for
adult females,

so that the basic wage being the basic wage known as the basic wage for the six Capital cities of the Commonwealth to be paid to such adult males or such adult females employed under any award made under the Commonwealth Act exceeds the amount to be paid under the existing basic wage to adult male workers or adult female workers or both, as the case may be, then the amount of the basic wage for adult males or adult females as so altered or determined shall, as from the date such alteration or determination takes effect, be the amount of the basic wage for adult male workers or adult female workers as the case requires, for the purpose of any award or industrial agreement while it is in force under this Act, whether made on, before or after that day, until the next alteration or determination of the basic wage by the Commonwealth Commission takes effect.

Amount of
future basic
wage.

126. When and as often as the Commonwealth Commission pursuant to the Commonwealth Act—

- (a) alters the basic wage for adult males;
or
- (b) determines or alters the basic wage for
adult females,

being the basic wage for the six Capital cities of the Commonwealth then the amount of the basic wage for adult males or adult females or both, as so altered or determined shall, as from the date such alteration or determination takes effect, be the amount of the basic wage

for adult male workers or adult female workers, as the case requires, for the purpose of any award or industrial agreement while it is in force under this Act until the next alteration or determination of the basic wage for the six Capital cities of the Commonwealth by the Commonwealth Commission takes effect.

127. (1) When and as often as the basic wage for adult male workers or adult female workers or both is altered by virtue of this Part, the Registrar shall publish notification to that effect in the *Gazette*.

Notification
of basic wage
by Registrar.

(2) A notification made under subsection (1) of this section—

- (a) shall state the amount of the basic wage for adult male workers or the basic wage for adult female workers in accordance with this Part, as the case requires;
- (b) shall state the date the alteration to the basic wage takes effect, being a date in accordance with section one hundred and twenty-five or one hundred and twenty-six of this Act, as the case requires;
- (c) shall provide that payment of the amount by which any basic wage has been increased may be delayed at the option of the employer until the end of the first pay period that commences after the publication of the notification;
- (d) shall on such publication supersede and replace any notification so made and previously so published and shall continue in force until the date upon which a subsequent notification so published takes effect; and
- (e) shall be conclusive evidence for all purposes of the matters stated therein.

(3) On and from the date upon which any alteration in a basic wage pursuant to this Part of this Act takes effect—

- (a) the basic wage prescribed in any award or industrial agreement that is in force shall automatically become increased or decreased so that it conforms to and is in parity with the basic wage as last notified by the Registrar under subsection (2) of this section, but in the case of junior, infirm, aged workers or apprentices, in respect of whom a lower rate of wage than the basic wage may have been prescribed, the increase or decrease shall, subject to subsection (4) of this section, be *pro rata* to that lower rate of wage;
- (b) the terms of all such awards or industrial agreements shall on and from that date be deemed to be varied to the extent necessary to give effect to paragraph (a) of this subsection; and
- (c) no award or industrial agreement shall be made that prescribes a lesser wage than the basic wage from time to time notified as the basic wage in accordance with this Part of this Act, except in the case of junior, infirm, aged workers or apprentices.

(4) Where in any award or industrial agreement a rate of wage for an apprentice is fixed in relation to a wage other than the basic wage, paragraph (a) of subsection (3) of this section applies only to the extent necessary to maintain the relationship so fixed.

(5) The provisions of this Part of this Act apply to any award or industrial agreement that is in force notwithstanding any provision to the contrary contained therein or in this or any other Act.

127A. Awards and industrial agreements made after the commencement of this Part of this Act shall prescribe and distinguish separately—

Certain matters to be prescribed and distinguished in awards.

- (a) the basic wage to be paid to adult male workers or to adult female workers;
- (b) other wages, allowances or additional remuneration; and
- (c) any deductions therefrom. .

14. Paragraph (b) of subsection (1) of section one hundred and sixty-six of the principal Act is amended by substituting for the word, "President" in line three, the word, "Commission".

S. 166 amended.

15. Subsection (1) of section one hundred and seventy of the principal Act is amended by deleting the words, "Court or the" in line one.

S. 170 amended.

16. Section one hundred and seventy-nine of the principal Act is amended—

S. 179 amended.

- (a) by adding after subsection (1) a subsection as follows—

(1a) The Governor may make regulations for the purpose of regulating the practice and procedure before an Industrial Magistrate for and incidental to the enforcement of industrial agreements and awards, and prescribing the costs to be allowed in proceedings before an Industrial Magistrate, and the fees to be paid, and the allowance to witnesses in respect thereof and the enforcement of a judgment, order, conviction, direction or other decision of an Industrial Magistrate. ; and

- (b) by adding after the word, "Commission" in line five of subparagraph (iv) of subsection (2), the words, "or an Industrial Magistrate".

Amendments
to principal
Act to
accord with
Decimal
Currency Act,
1965.

17. The principal Act is amended by substituting for each reference therein to amounts of money, a reference to the corresponding amount of money in decimal currency calculated on the basis of the equivalents specified in subsection (4) of section eight of the Currency Act, 1965 of the Parliament of the Commonwealth.
