

INDUSTRIAL ARBITRATION (No. 2).

12° Elizabeth II., No. LXXVI.

No. 76 of 1963.

AN ACT to amend the Industrial Arbitration Act, 1912-1961 and for other purposes.

[Assented to 19th December, 1963.]

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 (No. 2), 1963.* Short title and citation.

(2) In this Act the Industrial Arbitration Act, 1912-1961, is referred to as the principal Act. Reprinted in Vol. 10 of the Reprinted Acts amended by Act No. 62 of 1961.

(3) The principal Act as amended by this Act may be cited as the Industrial Arbitration Act, 1912-1963.

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

Heading
added.

3. The principal Act is amended by adding before section one the following passage—

PART I.—INTRODUCTORY.

S 2 repealed
and
re-enacted.

4. Section two of the principal Act is repealed and re-enacted as follows—

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

PART I.—INTRODUCTORY. Ss. 1 to 7.

PART II.—INDUSTRIAL UNIONS AND ASSOCIATIONS. Ss. 8-36U.

Division I.—Industrial Unions. Ss. 8-32.

Division II.—Industrial Associations. Ss. 33-36.

Division III.—Disputed Elections. Ss. 36A-36N.

Division IV.—Jurisdiction to order submission of matters to secret Ballot. Ss. 36P-36U.

PART III.—INDUSTRIAL AGREEMENTS. Ss. 37-43.

PART IV.—THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION. Ss. 44-108.

Division I.—Constitution of Commission. Ss. 44-60.

Division II.—Jurisdiction of Commission and Court. Ss. 61-108.

PART IVA.—WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT. Ss. 108A-108D.

PART VII.—BASIC WAGE. Ss. 123-127.

PART VIII.—APPRENTICES. Ss. 128-131.

PART IX.—OFFENCES. Ss. 132-142A.

PART X.—GOVERNMENT OFFICERS. Ss. 143-165.

PART XI.—MISCELLANEOUS. Ss. 166-180.

FIRST SCHEDULE.—ACTS REPEALED.

SECOND SCHEDULE.—NOTICES AND MATTERS FOR PUBLICATION IN THE WESTERN AUSTRALIAN INDUSTRIAL GAZETTE.

Heading
deleted.

5. The principal Act is amended by deleting the heading, "Part I.—PRELIMINARY" which appears after section three.

6. The principal Act is amended by adding after ^{S. 4A added.} section four a section as follows—

4A. (1) If the hearing of any appeal under this Act has commenced before the date of the coming into operation of the Industrial Arbitration Act Amendment Act (No. 2), 1963, the appeal shall be heard and determined under and in accordance with the provisions of this Act as those provisions existed immediately before that date.

(2) Where any appeal has been instituted under this Act before the date of the coming into operation of the Industrial Arbitration Act Amendment Act (No. 2), 1963, if the hearing of the appeal has not been commenced before that date the appeal shall be heard and determined under the provisions of this Act as amended by the Industrial Arbitration Act Amendment Act (No. 2), 1963, and for the purpose a reference to the Court—

(a) in section one hundred and three A of this Act, as it existed before the date referred to in subsection (1) of this section shall be read as a reference to the Western Australian Industrial Appeal Court; and

(b) in section one hundred and eight C of this Act, as it so existed shall be read as a reference to the Commission in Court Session.

(3) Where the hearing of any application, matter or thing, other than an appeal—

(a) has not been commenced before the date referred to in subsection (1) of this section, the application, matter or thing shall be heard and determined by the appropriate authority under the provisions of this Act as those provisions exist after that date; or

(b) has been commenced before that date, the application, matter or thing shall be heard and determined under the provisions of this Act as those provisions existed immediately before that date.

S. 6
amended.

7. Section six of the principal Act is amended—

- (a) by adding after the interpretation, “award” the following interpretations—

“calling” means any trade, craft or occupation of a worker;

“certifying solicitor” means the person appointed certifying solicitor under this Act;

“Commission” means The Western Australian Industrial Commission established under this Act;

“Commission in Court Session” means the Commission constituted by not less than three Commissioners sitting or acting together;

“Commissioner” means a Commissioner appointed under this Act and includes the Chief Industrial Commissioner; ;

- (b) by substituting for the words, “Court of Arbitration” in the interpretation, “Court”, the words, “Western Australian Industrial Appeal Court”;

See s. 4
Act No. 30
of 1918.

- (c) by deleting the interpretation, “Gazette”;

- (d) by adding after the word, “agreement” where first appearing in line one of the interpretation, “industrial agreement”, the passage, “or “agreement””, and substituting for the words, “one hundred” in lines four and five of that interpretation the passage, “ninety-nine”;

- (e) by adding after the word, “Association” in line one of the interpretation, “Industrial Association”, the passage, “or “Association””;

- (f) by deleting the interpretation, “Industrial Board” or “Board”;

- (g) by substituting for the interpretation, "Industrial dispute", the following interpretation—

"Industrial dispute" means a dispute as to industrial matters between a union or association of workers on the one hand and an employer or a union or association of employers on the other hand;

- (h) by deleting paragraph (e) and paragraph (g) of the interpretation, "Industrial matters";

- (i) by adding after the word, "union" where it first appears in the interpretation, "Industrial Union", the passage, "or "union" ";

- (j) by adding after the interpretation, "irregularity" the following interpretation—

"judge" includes a person appointed a Commissioner under section forty-nine of the Supreme Court Act, 1935;

- (k) by deleting the interpretations—

- (i) "Minister"; and
(ii) "Prescribed".

See s. 4
Act No. 30
of 1918.

8. Section seven of the principal Act is amended by deleting the words, "of Arbitration" in line eight. S. 7
amended.

9. Section eight of the principal Act is amended— S. 8
amended.

- (a) by substituting for the word, "Registrar" in line three of subsection (2), the words, "Commission in Court Session";
- (b) by substituting for the word, "President" in line two of subsection (3), the words, "Commission in Court Session";
- (c) by substituting for the passage, "Court (or if the Court is not sitting) the President", in lines four and five of subsection (4) the words, "Commission in Court Session";

- (d) by substituting for the words, “such Court or President” in line eleven of subsection (4), the words, “the Commission in Court Session”; and
- (e) by repealing subsections (5) and (6).

S. 9 repealed
and section
substituted.

10. Section nine of the principal Act is repealed and the following section substituted—

Conditions
to be
fulfilled
before
making
application
for registra-
tion.

9. A society shall not make application to be registered as a union unless and until—

- (a) a resolution authorising the application has been passed by a majority of the members of the society present in person at a general meeting of the society specially called for the purpose, of which seven days’ previous notice specifying the time, place and objects of the meeting has been given, by publishing a copy of a notice thereof in a newspaper circulating generally in the district in which the office of the society is situate and by posting a copy of the notice in a conspicuous place outside that office;
- (b) the society has, by a vote of the majority of the members of the society present at that general meeting or at another general meeting called in like manner for the purpose, passed and approved rules of the society for the purposes of this Act;
- (c) the society has served two copies of those rules on the Registrar together with the prescribed fee; and
- (d) the society has obtained a certificate from the certifying solicitor to the effect that the rules comply with this Act and that the purposes of the society are lawful or, as the case may be, the society has obtained pursuant to subsection (4) of section nine A of this Act a declaration from the Court that the rules so comply and the purposes are lawful.

11. The principal Act is amended by adding after section nine a section as follows—

9A. (1) The Registrar shall submit to the certifying solicitor one copy of the rules referred to in paragraph (c) of section nine of this Act as soon as practicable after the receipt by him of the copy and the certifying solicitor shall, upon being satisfied that those rules comply with this Act and that the purposes of the society are lawful, send to the society a certificate to that effect and a copy of the certificate to the Registrar.

Certificate of
Certifying
Solicitor
that rules
comply with
Act and
purposes of
society
lawful.

(2) Where the certifying solicitor is of opinion that any of the rules do not comply with this Act or that the purposes of the society are not lawful, he shall refuse to issue the certificate referred to in subsection (1) of this section and shall, in the prescribed manner, notify the society and the Registrar accordingly.

(3) If the society within six weeks after it has been notified in accordance with subsection (2) of this section, makes such amendments to the rules as are considered necessary by the certifying solicitor, in order to make them comply with this Act, the certifying solicitor shall, if the purposes of the society are lawful, send the certificate and copy certificate referred to in subsection (1) of this section to the society and the Registrar.

(4) A society in respect of which a certificate has been refused under subsection (2) of this section may, at any time within the period of six weeks referred to in subsection (3) of this section, appeal in the manner prescribed to the Court against such refusal on the ground that the reasons for the refusal are erroneous in law, and on the hearing of the appeal the Court may—

- (a) dismiss the appeal;
- (b) give such directions to the society relating to its rules or purposes as the Court thinks fit;

- (c) issue a declaration that the rules of the society comply with this Act and that the purposes of the society are lawful.

(5) In making a decision under this section, the certifying solicitor or, as the case may be, the Court shall disregard the rules of the society relating to the qualification of persons for membership of the society, the area and the industry or calling in respect of which the society seeks to be registered as a union.

S. 9B added.

12. The principal Act is amended by adding a section as follows—

Matters to be provided for in rules.

9B. (1) The rules of a society shall specify the purposes for which the society is formed, and shall provide for—

- (a) the appointment to and removal from and powers and duties of office;
- (b) the manner of calling general or special meetings, the powers thereof, and the quorum and manner of voting thereat;
- (c) the mode in which industrial agreements and all deeds and instruments shall be made and executed by the society and in what manner the society shall be represented in proceedings before the Commission and before the Court;
- (d) the device, custody, and use of the seal of the society;
- (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 of the society 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, but so that a member shall not discontinue his membership without giving at least three months' previous written notice to the secretary, or paying a sum equal to three months' contributions instead of notice, or until that member has paid all fees, fines, levies, or other dues payable by him under the rules to the end of the period covered by the notice, or has obtained a clearance card duly issued in accordance with the rules of the society;
 - (h) the purging of the register by striking off members in arrears of dues for such period as is prescribed by the rules not exceeding twelve months, but without releasing those 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) the amendment, repeal, or alteration of the rules, subject to the requirements of this Act; and
 - (k) any prescribed matter.
- (2) The rules of a society shall expressly provide that—
- (a) a person shall not be a member of the society who is not a worker or employer, as the case may be (except in the capacity of an honorary member);
 - (b) no part of the funds or property of the society shall be paid or applied for in connection with or to aid or assist any person engaged in any strike or lock out in this State; and

- (c) all industrial disputes in which the society or any of its members may be concerned shall, unless settled by mutual consent, be referred for settlement pursuant to this Act.

(3) Rules of a society relating to elections for office—

- (a) shall provide that the election shall be by secret ballot; and
- (b) shall make provision for—
 - (i) absent voting;
 - (ii) the manner in which persons may become candidates for election;
 - (iii) the appointment, conduct and duties of returning officers;
 - (iv) the conduct of the ballot;
 - (v) the appointment, conduct and duties of scrutineers to represent the candidates at the ballot; and
 - (vi) the declaration of the result of the ballot;

and those rules shall be such as will ensure, as far as practicable, that no irregularity can occur in connection with the election.

(4) Without prejudice to the operation of subsections (5) and (6) of this section, the rules of a society applying for registration, or registered as a union, relating to elections for office may provide for compulsory voting.

(5) The Court may, upon its own motion or upon application made under this section, disallow any rule of a union that, in the opinion of the Court—

- (a) is contrary to law, or to an award, order or industrial agreement;

- (b) is tyrannical or oppressive;
- (c) prevents or hinders members of the union from observing the law or the provisions of an award, order or industrial agreement; or
- (d) imposes unreasonable conditions upon the membership of a member or upon an applicant for membership,

and a rule so disallowed is void.

(6) A member of a union or any person who in the opinion of the Court has sufficient interest in the disallowance of the rule, may apply to the Court for the disallowance of a rule of the union on any of the grounds specified in subsection (5) of this section.

(7) The Court may, instead of disallowing the rule, direct the union concerned to alter that rule, within a specified time, so as to bring it into conformity with the requirements of this Act and, if, at the expiration of that time, the rule has not been so altered, the Court may then disallow the rule and thereupon the rule is void.

(8) (a) The Court may, upon complaint by a member of a union and after giving persons against whom an order is sought an opportunity of being heard, make an order giving directions for the performance or observance of any of the rules of a union by persons under obligation to perform or observe those rules.

(b) A person who fails to comply with directions so given commits an offence against this Act.

Penalty: Twenty-five pounds.

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

S. 10
amended.

13. Section ten of the principal Act is amended—

- (a) by substituting for the word, “Registrar” in line four of subsection (1), the words, “Commission in Court Session”;
- (b) by substituting for the word, “nine” in line three of paragraph (b) of subsection (3) the passage, “nine B”; and
- (c) by substituting for the words, “at a general meeting of such union”, in lines five and six of paragraph (c) of subsection (3) the words, “at a general meeting of each of those unions”.

S. 11
amended.

14. Section eleven of the principal Act is amended—

- (a) by adding after the section number, “11.” the subsection designation, “(1)”;
- (b) by substituting for the word, “Registrar” in line two, the words, “Commission in Court Session”;
- (c) by repealing paragraph (b) and re-enacting it as follows—
 - (b) Three copies of the rules of the society as approved by the certifying solicitor or the Court, as the case may be; ;
- (d) by adding after the word “application” being the last word in paragraph (c), the following passage, “and
 - (d) The certificate of the certifying solicitor or the declaration of the Court referred to in section nine A of this Act.” ;

and

- (e) by adding the following subsections—

- (2) The applicant society shall, within seven days of filing the application for registration of the society as a union, serve a notice in the prescribed form accompanied by a copy of the rules of

the society relating to the qualification of persons for membership of the society, on each union whose comparative rules include or are capable of including workers having the same calling as those to which the rules of the applicant society relate; and for this purpose the Registrar shall supply the applicant society with a list of the unions to be served with the notice.

(3) The Registrar shall, at least fourteen days before the hearing of the application, give notice of the application by publishing a notice in a newspaper circulating generally in the district or locality in respect of which the society is formed and shall include in the notice an address where a copy of the rules of the society may be inspected.

(4) Any union referred to in subsection (2) of this section or any employer who employs or usually employs or is likely to employ members of the applicant society or any union of employers of which that employer is a member or any association on which that union of employers is represented, may, upon giving the Registrar and the applicant society notice in the prescribed form, be heard in objection to the application.

(5) In dealing with an application for registration the Commission in Court Session may—

- (a) direct the Registrar to register the applicant society; or
- (b) direct the Registrar to register it when the society has duly made such amendments to such of its rules as are referred to in subsection (5) of section nine A of this Act, as the Commission in Court Session thinks fit.

S. 12 repealed
and section
substituted.

15. Section twelve of the principal Act is repealed and the following section substituted—

Registration
of Society.

12. (1) The Registrar shall comply with a direction of the Commission in Court Session given pursuant to section eleven of this Act.

(2) Where the Registrar is directed by the Commission in Court Session to register a society as a union the Registrar shall so register it, by registering its name, its rules and the address of the office of the union and that office shall be the registered office for the purposes of this Act.

(3) On the registration of a society as a union the Registrar shall give to the union a certificate of registration in the prescribed form which until cancelled is, subject to this Act, conclusive evidence of the registration under this Act of the union specified therein and of the union having complied with the prescribed conditions that entitle it to be so registered.

S. 13
amended.

16. Section thirteen of the principal Act is amended—

(a) by substituting for the word “Court” in the last line of subsection (1), the words, “Commission in Court Session”; and

(b) by repealing subsection (2) and re-enacting it as follows—

(2) The registered name shall clearly indicate whether the union is a union of employers or a union of workers and shall also indicate the general locality in which the majority of its members reside or exercise their calling.

S. 14
amended.

17. Section fourteen of the principal Act is amended by adding after the word, “Court” in line three, the words, “and the Commission”.

18. Subsection (2) of section sixteen of the principal Act is amended by substituting for the words, "with the insertion of the additional words provided in section thirteen hereof" in lines two, three and four, the words, "and shall comply with subsection (2) of section thirteen of this Act".

S. 16
amended.

19. Section seventeen of the principal Act is amended—

S. 17
amended.

- (a) by substituting for the figures, "1893" in line five of subsection (2) the figures, "1961";
- (b) by adding after the word, "nine" in line nine of that subsection the passage, "nine A, nine B"; and
- (c) by substituting for subsection (4) the following subsection—

(4) Subsection (2) of section thirteen of this Act does not apply to an incorporated company that is registered as an industrial union.

20. Section twenty-one of the principal Act is amended by substituting for the word, "Registrar" in line one, the words, "Commission in Court Session".

S. 21
amended.

21. Section twenty-two of the principal Act is repealed.

S. 22
repealed.

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

S. 23
amended.

- (a) by repealing subsection (1) and re-enacting it as follows—

(1) The provisions of section nine, nine A, nine B, eleven and twenty-one of this Act relating to an application by a society applying for registration under this Act the rules of that society and the registration of those rules, apply, with

such modifications as the circumstances require, to any amendment or rescission of the rules of any union and no amendment or rescission thereof is valid until those provisions are complied with to the extent required by this section. ;

- (b) by repealing subsections (4) and (5) and substituting a subsection as follows—

(4) The provisions of paragraphs (c) and (d) of section nine, section nine A and paragraph (e) of subsection (1) of section eleven of this Act do not apply to an application by a union for amendment or rescission of any rule of the union that relates solely to the qualifications of persons for membership of the union or the area of operation or industry or calling in respect of which the union is registered.

S. 29
amended.

23. Section twenty-nine of the principal Act is amended—

- (a) by substituting for the word, "President" in line one of subsection (2), the words, "Commission in Court Session";
- (b) by substituting for the passage, " , the President, or the Conciliation Commissioner" in lines three and four of paragraph (f) of subsection (2), the words, "or the Commission"; and
- (c) by substituting for the word, "President" in the third last line of subsection (2) the words, "Commission in Court Session".

S. 30
amended.

24. Section thirty of the principal Act is amended by deleting the words, "of the Court" in line ten.

S. 32
amended.

25. Section thirty-two of the principal Act is amended—

- (a) by substituting for the word, "President" in lines two, five and six and ten, the words, "Commission in Court Session"; and

- (b) by substituting for the word, "him" in line three the word, "it".

26. Section thirty-four of the principal Act is amended by deleting the passage, "Provided that no industrial association shall be entitled to recommend the appointment of a member of the Court" in the last four lines of the section. S. 34
amended.

27. Subsection (1) of section thirty-five of the principal Act is amended by substituting for the passage, "paragraphs f, g, and h of section nine", in lines two and three the passage, "paragraphs (f), (g) and (h) of subsection (1) of section nine B of this Act". S. 35
amended.

28. Subsections (2) and (3) of section thirty-six C of the principal Act is repealed. S. 36C
amended.

29. Section thirty-six F of the principal Act is amended— S. 36F
amended.

- (a) by repealing subsection (4); and
- (b) by repealing subsection (5) and re-enacting it as follows—

(5) The provisions of subsection (1) of section sixty-nine of this Act apply in relation to proceedings under this Division and in applying those provisions to the proceedings the reference to the Commission in those subsections shall be read as though it was a reference to the Court.

30. Section thirty-seven of the principal Act is amended— S. 37
amended.

- (a) by substituting for the words, "any award of the Court" in lines two and three of subsection (5) the words, "this Act"; and
- (b) by substituting for the words, "Clerk of the Court" in lines three and four of subsection (6) the word, "Registrar".

S. 38
amended.

31. Section thirty-eight of the principal Act is amended—

- (a) by substituting for the words, “Clerk of the Court” in lines three and four of subsection (1), the word, “Registrar”;
- (b) by substituting for the word, “Court” in line six of subsection (2) the word, “Commission”; and
- (c) by substituting for the words, “Clerk of the Court” in line seven of subsection (2) the word, “Registrar”.

S. 40
amended.

32. Section forty of the principal Act is amended—

- (a) by deleting the passage, “subsection (2) of section thirty or in” in lines two and three of subsection (1);
- (b) by substituting for subsection (2) the following subsection—

(2) Except to the extent mentioned in section ninety-eight A of this Act, the agreement also extends to and binds every worker who, at any time while the agreement is in force, is employed on any work to which the agreement relates by any employer on whom the agreement is binding. ;

and

- (c) by repealing subsection (3).

S. 41
repealed and
re-enacted.

33. Section forty-one of the principal Act is repealed and re-enacted as follows—

Power to
vary, renew
or cancel
industrial
agreements.

41. Every industrial agreement may be varied, renewed, or cancelled by a subsequent agreement made by and between all the parties thereto and in so far as the agreement relates to an employer, union or association of

employers, on the one hand, and to a union or association of workers, on the other hand, it may be varied, renewed or cancelled by a subsequent agreement between that employer, union or association of employers and that union or association of workers.

34. Section forty-two of the principal Act is repealed and the following section substituted—

S. 42
repealed
and section
substituted.

42. On the application of any party to an industrial agreement, the Commission may cancel, amend or vary any provision of the industrial agreement at any time, while the agreement is in force, if in the opinion of the Commission—

Power of
Commission
to vary
industrial
agreement
in certain
instances.

(a) circumstances have arisen since the making of the agreement that at the time the agreement was made could not reasonably have been foreseen by the parties to the agreement; and

(b) those circumstances render that provision of the agreement no longer just,

and the provision shall be cancelled, amended or varied accordingly.

35. Section forty-three of the principal Act is repealed and the following section substituted—

S. 43
repealed
and a section
substituted.

43. Where at the date of the making of an industrial agreement, an award is in force in relation to any employer or worker on whom the agreement is binding, if any provision of the agreement is inconsistent with the award, the provision is, to the extent of the inconsistency, void and the Commission may by order vary the agreement so as to remove the inconsistency.

Variation of
Industrial
Agreement
inconsistent
with an
award.

Headings
substituted.

36. The headings,

“PART IV.—THE COURT OF ARBITRATION.
Division I.—Constitution of Court.”

are deleted and the following headings substituted—

“PART IV.—THE WESTERN AUSTRALIAN INDUSTRIAL COMMISSION.

Division I.—Constitution of Commission.”

S. 44
repealed
and section
substituted.

37. Section forty-four of the principal Act is repealed and the following section substituted—

Constitution
of Commission.

44. (1) There is hereby established a Commission by the name of “The Western Australian Industrial Commission” which shall consist of the following members—

- (a) a Chief Industrial Commissioner; and
- (b) three other Commissioners.

Conciliation
Commissioner to be
member.

(2) One of the first members shall be the person who, immediately before the coming into operation of the Industrial Arbitration Act Amendment Act (No. 2), 1963, held the office of Conciliation Commissioner under this Act.

Tenure of
Commissioners.

(3) Each member of the Commission shall be appointed by the Governor by Commission in Her Majesty’s name, and subject to this Act, shall hold office until he attains the age of sixty-five years.

Commission
on Court of
Record.

(4) The Commission is a Court of Record and shall have an official seal.

Judicial
Notice.

(5) All Courts, judges and persons acting judicially shall take judicial notice of the seal of the Commission affixed to a document and shall presume that it has been duly so affixed.

S. 45
repealed.

38. Section forty-five of the principal Act is repealed.

39. Section forty-six of the principal Act is repealed and the following section substituted—

S. 46
repealed
and section
substituted.

46. (1) Where a Commissioner is unable to attend to his duties under this Act, whether on account of illness or otherwise, the Governor may in accordance with this Act appoint a person eligible to be appointed a Commissioner, to be an acting Commissioner during the inability of the firstmentioned Commissioner and that person, while so acting has and may exercise all the powers and functions of the Commissioner in whose place he is so acting.

(2) Notwithstanding the expiry of the period for which a Commissioner or acting Commissioner has been appointed under this Act, the Governor may continue him in office for such period as the Governor determines, in order to enable him to complete all matters, proceedings or inquiries that he has entered upon and has not completed before the expiry.

(3) The Governor may from time to time extend any period determined by him under subsection (2) of this section for such period or periods as he thinks fit.

40. Section forty-seven of the principal Act is repealed.

S. 47
repealed.

41. Section forty-eight of the principal Act is repealed.

S. 48
repealed.

42. Section forty-nine of the principal Act is amended by substituting for the words, "a full Court has been appointed" in lines one and two the words, "the Commission has been established".

S. 49
amended.

43. Section fifty of the principal Act is repealed and the following section substituted—

S. 50
repealed
and section
substituted.

50. (1) A Commissioner sitting or acting alone constitutes the Commission and, except as otherwise provided in this Act, he has and may exercise while so sitting or acting, all the powers and jurisdiction of the Commission.

Commis-
sioner
constituting
Commission.

(2) Where more than one Commissioner is sitting or acting at the same time in the exercise of the jurisdiction of the Commission under this Act, each such Commissioner constitutes the Commission.

S. 51
repealed
and section
substituted.

Salaries of
Commis-
sioners.

44. Section fifty-one of the principal Act is repealed and the following section substituted—

51. (1) The salary of the Chief Industrial Commissioner and the salary of each other Commissioner shall be at the rate fixed from time to time by the Governor, and the Consolidated Revenue is appropriated accordingly.

(2) The Chief Industrial Commissioner and each other Commissioner shall be paid such travelling expenses as are considered reasonable by the Minister.

Commis-
sioner
deemed to be
employee for
purposes
Act. No. 34
of 1938.

(3) A Commissioner shall, while he holds his office, be deemed to be an employee within the meaning of and for the purposes of the Superannuation and Family Benefits Act, 1938.

S. 52
repealed
and section
substituted.

Rights of
Commis-
sioners
presumed.

45. Section fifty-two of the principal Act is repealed and the following section substituted—

52. (1) The Commissioner who, immediately before his appointment as Commissioner, was the Conciliation Commissioner under this Act, retains his existing rights and accruing rights relating to leave and allowances under the Public Service Act, 1904, and the regulations made thereunder, and for the purpose of determining those rights his service as a Commissioner shall be taken into account as if it were service in the Public Service of the State.

(2) Where a Commissioner was immediately before his appointment as a Commissioner, an officer of the Public Service of the State, he retains his existing and accruing rights and for

the purpose of determining those rights, his service as a Commissioner, shall be taken into account as if it were service within the Public Service of the State.

46. Section fifty-three of the principal Act is repealed and the following section substituted—

S. 53
repealed
and section
substituted.

53. A Commissioner has, in the performance of his functions and duties as a Commissioner, the same protection and immunity as a judge.

Protection of
Commis-
sioners.

47. Section fifty-four of the principal Act is repealed and the following section substituted—

S. 54
repealed
and section
substituted.

54. (1) The Commissioners, other than the Chief Industrial Commissioner, have seniority according to the dates of their appointments or, where the appointments of two or more of them were made on the same day, according to such order of seniority as may be assigned to them by the Governor when appointing them.

Seniority of
Commis-
sioners.

(2) Where the Chief Industrial Commissioner is absent or unable to perform the duties of his office, or where there is a vacancy in the office of Chief Industrial Commissioner, the duties and powers of the Chief Industrial Commissioner devolve on the Commissioner who is next in order of seniority.

(3) The Chief Industrial Commissioner—

(a) shall allocate the work of the Commissioners; and

(b) shall, before the first day of October in each year, make a written report to the Minister as to the operations of the Commission under this Act up to the last preceding thirtieth day of June.

48. Section fifty-five of the principal Act is amended by substituting for the word, "Court" being the last word in the section, the word, "Commission".

S. 55
amended.

S. 56
repealed
and section
substituted.

49. Section fifty-six of the principal Act is repealed and the following section substituted—

Vacation of
office of
Commis-
sioners.

56. The office of a Commissioner shall be vacated if—

- (a) he engages in paid employment outside the duties of his office;
- (b) becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his salary for their benefit;
- (c) he becomes permanently incapable of performing his duties as Commissioner;
- (d) except on leave granted by the Minister, he absents himself from duty for fourteen consecutive days or for twenty-eight days in the aggregate in any twelve months; or
- (e) he resigns his office by writing under his hand addressed to the Governor and his resignation is accepted,

and the Governor declares by notice published in the *Gazette* that the office has become vacant.

S. 57
repealed
and section
substituted.

50. Section fifty-seven of the principal Act is repealed and the following section substituted—

Removal on
suspension
from office of
Commis-
sioner.

57. (1) The Governor may remove a Commissioner from office on an address praying for his removal on the ground of proved misbehaviour or incapacity being presented to the Governor by each House of Parliament in the same session of Parliament.

(2) The Governor may suspend a Commissioner from office on the ground of misbehaviour or incapacity.

(3) A full statement of the ground of the suspension shall be laid by the Minister before each House of Parliament within seven sitting days of that House after the suspension.

(4) The Commissioner shall be restored to office unless each House of Parliament within twenty-one sitting days after the statement has been so laid before it, presents to the Governor an address praying for the removal of the Commissioner on the grounds of proved misbehaviour or incapacity.

51. Section fifty-eight of the principal Act is repealed. S. 58
repealed.

52. Section fifty-nine of the principal Act is amended by substituting for the word, "Court" in line two and again in the last line, the word, "Commission". S. 59
amended.

53. Section sixty of the principal Act is repealed and re-enacted as follows— S. 60
repealed and
re-enacted.

60. (1) The Governor may, on the recommendation of the Public Service Commissioner, appoint under and subject to the Public Service Act, 1904, such officers to the Commission as may be necessary for the purposes of this Act. Officers of
the Com-
mission.

(2) The duties of the officers of the Commission shall be as prescribed and as directed by the Commission or the Chief Industrial Commissioner.

(3) The Governor may appoint a person who is a practitioner within the meaning of that expression as defined in section three of the Legal Practitioners Act, 1893, to be the certifying solicitor for the purposes of this Act. Certifying
solicitor.

(4) The certifying solicitor shall be paid such fees for his services and allowances as may be prescribed.

(5) The Governor may appoint a person eligible to be the certifying solicitor, to be the acting certifying solicitor and the provisions of subsection (1) of section forty-six apply to the acting certifying solicitor, and in applying those provisions the expression, "Commissioner" includes the certifying solicitor.

Division
substituted
for Division
II.

54. The heading, "Division II.—Jurisdiction and Procedure of Court", is deleted and the following heading substituted, "Division II.—Jurisdiction of Commission and Court".

S. 61
repealed
and section
substituted.

55. Section sixty-one of the principal Act is repealed and the following section substituted—

Jurisdiction
of Commis-
sion.

61. (1) Subject to this Act, the Commission has cognisance of and power to enquire into any industrial matter or industrial dispute in any industry and in respect of that industry may, on any reference or application to it, make an order or award—

- (a) fixing the prices for work done by, and the rates of wages payable to workers in the calling or callings to which the industrial matter or industrial dispute relates;
- (b) fixing the number of hours and the times to be worked in order to entitle those workers to the wages so fixed;
- (c) limiting the hours of piece workers;
- (d) fixing the rates for overtime, work on holidays, shift work, week-end work and other special work, including allowances as compensation for overtime or any of such work referred to in this paragraph;

- (e) determining any industrial matter;
- (f) declaring what deduction may be made from the prices or wages of workers for board or residence or board and residence provided for workers and for any customary provisions or payments in kind conceded to such workers; and
- (g) determining, declaring or fixing any matter or thing that by this Act, is required or permitted to be determined, declared or fixed by an order or award of the Commission.

"This Act" includes regulations. S. 4 Act No. 30 of 1918.

(2) The Commission in the exercise of the jurisdiction conferred on it by this Act shall not by any order or award—

- (a) except as provided by section sixty-one C of this Act prohibit the employment of workers on any day of the week or restrict in any other way the number of days or hours in the week during which any operation may be carried on in any industry or by any employer but nothing in this paragraph prevents the exercise by the Commission of its powers under paragraph (d) of subsection (1) of this section;
- (b) prohibit shift work in any industry, except as provided by section sixty-one C of this Act;
- (c) require any worker to enter into, remain in, or resume employment with an employer unless in the opinion of the Commission—
 - (i) the worker is taking part in a strike; or
 - (ii) the worker has failed or refused to enter into, remain in, or resume employment with an employer solely because that employer is an officer or member of a union or association or of a society that has applied to be

registered as a union or association or solely because the employer has claimed any benefit to which he is entitled under an award or agreement;

(d) require any employer to employ or continue to employ or to re-employ any worker unless, in the opinion of the Commission—

(i) the employer is taking part in a lock-out; or

(ii) the employer has dismissed or failed or refused to employ or to continue to employ or to re-employ a worker because the worker is an officer or member of a union or association or of a society that has applied to be registered as a union or association or because the worker has claimed any benefit to which he is entitled under any award or industrial agreement; or

(e) limit the working hours of workers engaged in the agricultural and pastoral industries.

S. 61B added.

56. The principal Act is amended by adding a section as follows—

Exemption
from union
member-
ship.

61B. (1) For the purposes of this section “conscientious belief” includes a conscientious belief whether the grounds for the belief are or are not of a religious character and whether the belief is or is not part of the doctrine of any religion.

(2) A person who—

(a) objects on the grounds of conscientious belief to being a member of a union;

(b) applies in the manner prescribed to the Registrar for a certificate of exemption from membership of any such union; and

- (c) pays to the Registrar an amount equivalent to the subscription prescribed by the rules of the union for membership thereof,

shall be issued by the Registrar with a certificate of exemption from membership of the union, unless the Registrar is satisfied that the objections of the person on the grounds of conscientious belief are not genuine.

(3) A certificate issued under this section shall remain in force for the period specified therein and may be renewed from time to time by the Registrar upon payment of such amount, not exceeding the amount referred to in paragraph (c) of subsection (2) of this section, as the Registrar may require.

(4) The Registrar shall pay to the credit of the Consolidated Revenue Fund any amount received by him pursuant to subsections (2) and (3) of this section.

(5) (a) A person whose application for a certificate of exemption from membership of a union or for any renewal thereof under this section is refused may, within twenty days of the decision of the Registrar refusing the application, appeal in the manner prescribed to the Court from that decision.

(b) The Court may on the hearing of the appeal make such order as it thinks fit.

57. The principal Act is amended by adding a section as follows—

61C. (1) The Commission shall, upon application made to it by any party to an award or industrial dispute, fix rates of wages

Power of
Commission
relating to
shift work.

and conditions of employment or service to apply to shift work in the industry to which the award or industrial dispute relates and may fix different rates and conditions for different work.

(2) An inspector appointed under the—

- (a) Factories and Shops Act, 1904;
- (b) Inspection of Scaffolding Act, 1924;
- (c) Health Act, 1911; or
- (d) Electricity Act, 1945,

may exercise all the powers of entry and examination conferred on him by the Act under which he was appointed in relation to any place where shift work is being worked, for the purpose of ascertaining whether that shift work or the manner, conditions or circumstances in or under which it is being performed, is likely to result in injury to or endanger the health of workers engaged therein.

(3) Any inspector referred to in subsection (2) of this section shall enter any place where shift work is being worked, upon any reasonable request being made by any union of workers whose members are engaged therein.

(4) Where an inspector who has entered a place pursuant to subsection (3) of this section is of opinion that any shift work being carried on therein or thereon, or the manner, conditions or circumstances in or under which it is being performed, is likely to result in injury to or endanger the health of workers engaged on the work, he shall notify the Commission as soon as practicable and the Commission may make such order as it deems necessary to avoid that result.

(5) (a) An order made by the Commission under subsection (4) of this section may be made—

- (i) unconditionally or subject to such conditions or exceptions or both as the Commission thinks fit;
- (ii) without limitation of time or for a specified time or until subsequent order of the Commission,

and the Commission shall specify in the order the person or class of person to whom the order applies.

(b) By subsequent order the Commission may from time to time as it thinks fit, vary or suspend or cancel the order wholly or in part.

(6) The provisions of this section do not derogate from any other powers or authority of an inspector under any of the Acts mentioned in subsection (2) of this section.

58. Section sixty-two of the principal Act is amended by substituting for the word, "Court" in line three the word, "Commission". S. 62
amended.

59. Section sixty-three of the principal Act is amended by substituting for the word, "Court" in line three, the word "Commission". S. 63
amended.

60. Section sixty-four of the principal Act is repealed and re-enacted as follows— S. 64
repealed and
re-enacted.

64. The Commission has jurisdiction to determine in any proceedings before it whether any matter referred to it is an industrial matter and any finding by the Commission that a matter referred to it is or is not an industrial matter is, subject to sections one hundred and eight C and one hundred and eight D of this Act, final and conclusive with respect to those proceedings. Power of
Commission
to decide
whether
matter is
industrial
matter.

S. 65
amended.

61. Section sixty-five of the principal Act is amended—

- (a) by substituting for the word, “Court” in line two of subsection (1) the word, “Commission”;
- (b) by substituting for the passage, “Court or the President, as the case may be,” in lines five and six of that subsection the word, “Commission”; and
- (c) by repealing subsection (2) and re-enacting it as follows—

(2) Where the parties to an industrial dispute relating to any calling or callings in any industry have reached agreement on the matter in dispute, whether before or after the dispute has been referred to the Commission, a memorandum of the terms of the agreement—

- (a) may be made in writing;
 - (b) may, if so made, be filed at the office of the Registrar;
 - (c) shall, if so filed, be certified by the Commission; and
 - (d) subject to this Act, when so certified, has the same effect as and be deemed to be an award of the Commission. ;
- (d) by adding subsections as follows—
- (3) Before the memorandum of the terms of the agreement is certified by the Commission all unions and associations that in the opinion of the Commission, may be affected thereby, shall be notified by the Registrar and shall be afforded the opportunity of being heard in relation thereto.

(4) Where, in the opinion of the Minister, the terms of any such agreement adversely affect the interest of the public or are likely to do so he may—

- (a) intervene in any proceedings before the Commission prior to the Commission certifying the memorandum as referred to in subsection (2) of this section; or
- (b) if the agreement has been so certified by the Commission appeal to the Commission in Court Session against the certification of the memorandum by the Commission,

and make such representations as may be thought necessary in order to safeguard the public interest.

62. Section sixty-six of the principal Act is repealed and the following section substituted—

S. 66
repealed
and section
substituted.

66. (1) Any industrial matter or dispute relating to any specified calling or callings in any specified industry may be referred to the Commission—

By whom an
industrial
matter or
dispute may
be referred to
Commission.

- (a) by any employer or employers employing workers in that or those callings in that industry;
- (b) by any union of employers any of whose members employ such workers;
- (c) by any association of employers on which any such union is represented;
- (d) by any union of workers having, or entitled to have, members in that or those callings in that industry;
- (e) by any association of workers if any union represented on that association has or is entitled to have members in that or those callings in that industry;
and

- (f) subject to subsection (2) of this section by any person acting on behalf of less than fifteen workers in that or those callings in that industry.

(2) An industrial matter may not be referred to the Commission pursuant to paragraph (f) of subsection (1) of this section if, in the opinion of the Commission—

- (a) there is a union to which the workers concerned can conveniently belong; or
- (b) the workers concerned could join with other workers to form a society that would be eligible to become registered as a union.

S. 67
amended.

63. Section sixty-seven of the principal Act is amended—

- (a) by substituting for the passage commencing with the word, “Court” in line five of paragraph (a) of subsection (4) and ending with the word, “Act” in line twelve the passage, “Commission in any capacity whatsoever, or to attend the Commission to advise the representative of any party before the Commission”;
- (b) by repealing paragraph (b) of subsection (4); and
- (c) by substituting for the word, “Court” in lines two and three of paragraph (c) of subsection (4) the word, “Commission”.

S. 68
repealed and
re-enacted.

64. Section sixty-eight of the principal Act is repealed and re-enacted as follows—

Intervention
of Crown.

68. Where in the opinion of the Minister, the public interest is or is likely to be adversely affected by any industrial dispute or by any award, order, decision or determination of the

Court or the Commission, the Crown may intervene in any proceedings before the Court or the Commission as the case may be, and may make such representations as may be thought necessary to safeguard the public interest.

65. Section sixty-nine of the principal Act is ^{S. 69} amended—
amended—

- (a) by repealing and re-enacting subsection (1) as follows—

(1) In the exercise of its jurisdiction under this Act, the Commission shall act according to equity, good conscience, and the substantial merits of the case without regard to technicalities or legal forms, and shall not be bound by any rules of evidence, but may inform itself on any matter in such a way as it thinks just. ;

- (b) by substituting for the word, “Court” in line two of subsection (2) the word, “Commission”; and

- (c) by adding subsections as follows—

(3) Where the Commission, in deciding any industrial matter or dispute, proposes or intends to take into account any matter or information that was not raised before it on the hearing of the industrial matter or dispute, the Commission shall notify the parties to the hearing and afford them the opportunity of being heard in relation to that matter or information.

(4) If the Commission proposes to grant relief or redress not sought in the specific claims then before the Commission on the hearing of the industrial matter or dispute the Commission shall,

before doing so, notify the parties to the hearing and afford them the opportunity of being heard in relation to the relief or redress proposed to be granted.

S. 70
repealed
and section
substituted.

66. Section seventy of the principal Act is repealed and the following section substituted—

Sittings of
Commission.

70. (1) The sittings of the Commission shall be held at such time and place as may from time to time be fixed by the Commission, and the Registrar shall give to all parties concerned at least seven days' notice of the time and place of each sitting other than an adjourned sitting, except where the Commission is of the opinion that urgency requires shorter notice in which case the notice to be given by the Registrar shall be that fixed by the Commission.

(2) (a) Subject to section one hundred and seventy-one of this Act, an industrial matter or dispute referred to the Commission shall not be listed for hearing before the Commission unless and until—

(i) issues have been settled; and

(ii) the party or parties or a majority of the parties which made the reference has or have applied in writing to the Commission for the matter or dispute to be heard,

but subparagraph (i) of this paragraph does not apply in any case in which the Commission, as it is hereby empowered to do, decides that a settlement of issues is unnecessary.

(b) All industrial matters and disputes referred to the Commission shall be listed and heard by the Commission in the order in which applications for hearing have been made pursuant to paragraph (a) of this subsection unless for a sufficient reason the Commission otherwise directs.

67. Section seventy-one of the principal Act is repealed and the following section substituted—

S. 71
repealed
and section
substituted.

71. Except as otherwise provided in this Act, the Commission may, in relation to any dispute or other matter before it—

Powers of
Commission.

(a) dismiss the dispute or other matter or any part thereof at any stage of the proceedings if it is satisfied—

(i) that the matter or dispute or part thereof is trivial;

(ii) that further proceedings are not necessary or desirable in the public interest;

(iii) that the party or parties which referred the matter or dispute to the Commission do not, where there is more than one party on that side, represent the view of the majority of those parties; or

(iv) that for any other reason the dispute or other matter should be dismissed;

(b) take evidence on oath or affirmation;

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

(d) proceed to hear and determine any dispute or other matter in the absence of any party thereto who has been duly summoned or duly served with notice to appear therein;

(e) sit at any place;

- (f) adjourn to any time and place;
- (g) conduct its proceedings or any part thereof in private;
- (h) refer any matter to an expert and accept his report as evidence;
- (i) direct parties to be joined or struck out;
- (j) allow the amendment of any proceedings on such terms as it thinks fit;
- (k) correct, amend, or waive any error, defect, or irregularity whether in substance or in form;
- (l) extend any prescribed time or any time fixed by any order of the Commission;
- (m) make such orders as may be just with respect to any interlocutory proceedings to be taken before the hearing of any dispute or matter, the costs of those proceedings, the issues to be submitted to the Commission, the persons to be served with notice of proceedings, delivery of particulars of the claims of all parties, admissions, discovery, inspection, or production of documents, inspection or production of property, examination of witnesses, and the place and mode of hearing;
- (n) enter upon any manufactory, building, workshop, factory, mine, mine-workshop, ship or vessel, shed, place, or premises of any kind whatsoever, wherein or in respect of which any industry is or is reputed to be carried on, or any work is being or has been done or commenced, or any matter or thing is taking or has taken place, which is made the subject of a reference to the Commission;

- (o) inspect and view any work, material, machinery, appliance, article, matter, or thing whatsoever being in such manufactory, building, workshop, factory, mine, mine-working, ship or vessel, shed, place or premises referred to in paragraph (n) of this section;
- (p) interrogate any person who may be in or upon any such manufactory, building, workshop, factory, mine, mine-working, ship or vessel, shed place or premises referred to in paragraph (n) of this section in respect of or in relation to any matter or thing hereinbefore mentioned in this section;
- (q) consolidate or divide references relating to the same industry and all or any matters before the Commission; and
- (r) refer the dispute or other matter to the Commission in Court Session for hearing and determination by the Commission in Court Session;
- (s) generally give all such directions and do all such things as are necessary or expedient for the expeditious and just hearing and determination of the matter or dispute.

68. Section seventy-two of the principal Act is repealed and re-enacted as follows—

S. 72
repealed and
re-enacted.

72. The power mentioned in paragraph (h) of section seventy-one of this Act shall be exercised by the Commission if so required by any party to the dispute or other matter before it and any power mentioned under paragraph (n), (o) or (p) of that section may, if the Commission so directs in any case, be exercised by any officer of the Commission or by any expert to whom any matter has been referred by the Commission.

Exercise by
Commission
of certain
powers.

S. 73
repealed.

69. Section seventy-three of the principal Act is repealed.

S. 74
amended.

70. Section seventy-four of the principal Act is amended—

- (a) by substituting for the word, "Court" in lines one, five, nine, eleven, seventeen and twenty-one of subsection (1), the word, "Commission";
- (b) by substituting for the word, "Court" wherever appearing in line two of subsection (2), the word, "Commission"; and
- (c) by substituting for the word, "Court" in lines two and three of subsection (3) the word, "Commission".

S. 75
repealed.

71. Section seventy-five of the principal Act is repealed.

S. 76
repealed.

72. Section seventy-six of the principal Act is repealed.

S. 77
amended.

73. Subsection (9) of section seventy-seven of the principal Act is amended by substituting for the word, "President" in line three the word, "Commission".

S. 78
repealed.

74. Section seventy-eight of the principal Act is repealed.

S. 79 repealed
and section
substituted.

75. Section seventy-nine of the principal Act is repealed and the following section substituted—

Minutes of
award or
amendment
of award
or order.

79. (1) Before an award or an amendment to an award or an order is issued or made by the Commission, it shall be drawn up in the form of minutes which shall be handed down to the parties concerned.

(2) The representatives of the parties concerned shall, at a time fixed by the Commission, be entitled to speak to matters contained in those minutes and the Commission may, after hearing those representatives, amend or vary the terms of those minutes before they are issued as an award or amendment of an award or an order, as the case may be.

76. Section eighty of the principal Act is repealed and the following section substituted—

S. 80
repealed
and section
substituted.

80. (1) The decision of the Commission shall in every case be signed and delivered by the Commissioner constituting the Commission that heard the matter to which the decision relates or, in the case of a decision of the Commission in Court Session shall be signed and delivered by the senior Commissioner among the Commissioners constituting the Commission in Court Session.

Decision of
Commission
method of
delivery.

(2) The decision of the Commission including the Commission in Court Session may at the discretion of the Commissioner giving the decision, be delivered by the Registrar.

(3) When the members of the Commission in Court Session are divided in opinion on a question, the question shall be decided according to the decision of the majority of the members.

Decision of
majority
decision of
Commission.

77. Section eighty-one of the principal Act is repealed.

S. 81
repealed.

78. Section eighty-two of the principal Act is amended—

S. 82
amended.

(a) by substituting for the word, "Court" in line one the word, "Commission"; and

(b) by substituting for the words, "Clerk of the Court" in line three the word, "Registrar"

S. 83 repealed
and section
substituted.

79. Section eighty-three of the principal Act is repealed and the following section substituted—

Terms of
award.

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

- (a) each union or association, and employer who is a party to the award;
- (b) the locality (if any) to which the award or any part thereof is limited; and
- (c) the term of the award.

(2) The award shall also state in clear terms what is or is not to be done by any union or association, employer or worker, bound by the award and may provide for an alternative course to be taken by any party.

S. 84
amended.

80. Section eighty-four of the principal Act is amended—

- (a) by substituting for the word, “Court” in line one of subsection (1) the word “Commission”; and
- (b) by substituting for the word, “Court” in line one and again in line seven of subsection (2) the word, “Commission”.

S. 85 repealed
and section
substituted.

81. Section eighty-five of the principal Act is repealed and the following section substituted—

Award.

85. (1) Except to the extent mentioned in section ninety-eight A of this Act and subject to this Act, an award while it is in force is binding—

- (a) on all workers employed in the calling or callings mentioned therein in the industry to which the award relates; and
- (b) on all employers employing those workers.

(2) Where the operation of an award or any part thereof is limited to any particular locality it is not, as regards matters to which the limitation applies, binding beyond that locality.

82. Section eighty-six of the principal Act is repealed and the following section substituted—

S. 86 repealed and section substituted.

86. (1) Where an award has been made on the application of any of the parties referred to in paragraph (d), (e) or (f) of subsection (1) of section sixty-six of this Act, any employer on whom the award is binding, and who, prior to the hearing of the application, was not served with a copy thereof and with proper notice of the hearing may, by leave of the Commission, apply to the Commission for variation of, or addition to, any of the provisions of the award and on any such application the Commission may—

Power of parties not served to apply to be heard. Powers of Court on the application.

- (a) in respect of that employer, order that the award or any provisions thereof be varied or added to; or
- (b) make the order unconditionally or subject to such conditions or exceptions or both as the Commission thinks fit and without limitation of time or for a specified time.

(2) Any employer who makes an application under this section shall serve within the time and in the manner prescribed, a copy of the application on each party to the award and any such party is entitled to appear and be heard on the hearing of the application but no such application may be made after a period of twelve months has elapsed—

- (a) since that award was made; or
- (b) since that employer became bound by that award.

83. Section eighty-seven of the principal Act is repealed.

S. 87 repealed.

S. 88
repealed.

84. Section eighty-eight of the principal Act is repealed.

S. 89
repealed
and section
substituted.

85. Section eighty-nine of the principal Act is repealed and the following section substituted—

Board of
Reference.

89. (1) The Commission may, by an award or by order made by it, on the application of a union, association or employer bound by an award or agreement—

- (a) appoint or give power to appoint for the purposes of the award or agreement, as the case may be, a Board of Reference consisting of an equal number of employers' and workers' representatives and a Chairman of the Board, who shall be a Commissioner unless the parties to the application agree that a person other than a Commissioner shall be the Chairman of the Board; and
- (b) assign to the Board of Reference the function of allowing, approving, fixing, determining or dealing with in the manner and subject to the conditions specified in the award or order a matter or thing that, under the award or agreement, as the case may be, may from time to time require to be allowed, approved, fixed, determined or dealt with by a Board of Reference.

(2) An appeal lies to the Commission in Court Session against any determination, decision or finding of any Board appointed under this section, upon such conditions as may be prescribed.

S. 90
amended.

86. Section ninety of the principal Act is amended—

- (a) by adding after the section number, "90." the subsection and paragraph designation, "(1) (a)";
- (b) by adding before the word, "The", in line eight, the paragraph designation, "(b)";

- (c) by substituting for the word, "Court" in lines three and eight, the word, "Commission";
- (d) by substituting for the passage, "paragraphs (vi) and (x)", the passage, "paragraph (h)"; and
- (e) by adding a subsection as follows—

(2) The provisions of subsection (1) of this section apply to an industrial agreement with such modifications as circumstances require.

87. Section ninety-one of the principal Act is S. 91 amended.
amended—

- (a) by substituting for the word, "Court" in line two the word, "Commission"; and
- (b) by adding after the word, "award" in line four the words, "or as the case may be the industrial agreement".

88. Section ninety-two of the principal Act is S. 92 repealed and section substituted.
repealed and the following section substituted—

92. (1) The term of an award may be any specified period not exceeding three years from the date of the award. Currency and review of award.

(2) The Commission may, by its award—

- (a) prescribe that any specified provision of the award shall operate for a period shorter than the term of the award; and
- (b) reserve to any party to the award liberty to apply to the Commission to amend the award in respect to any specified provision.

(3) Any party to the award may apply to the Commission to review any provision of the award and on the review the Commission may by order, subject to subsection (5) of this

section, add to, vary or rescind that provision and any such order has effect from the date specified therein, but that date shall not be earlier than the date of the order.

(4) Where the Commission reserves to any party liberty to apply in accordance with paragraph (b) of subsection (2) of this section, it shall clearly indicate, either in the award or in the judgment accompanying the award, in what circumstances and under what conditions the liberty may be exercised.

(5) Subject to this Act the Commission shall not add to, vary or rescind any provision of an award unless—

(a) liberty to apply has been reserved in accordance with the preceding provisions of this section and the events have occurred or the circumstances have arisen which were in contemplation by the Commission when it reserved liberty; or

(b) in the opinion of the Commission—

(i) circumstances have arisen which, at the time the award was made, or when the provision was last reviewed under this Act, could not reasonably have been foreseen by the parties; and

(ii) those circumstances render that provision of the award no longer just.

(6) The provisions of subsection (5) of this section do not apply to an award whose term has expired.

(7) Notwithstanding the foregoing provisions of this section but subject to the provisions of section one hundred and eight C of this Act, the Commission may, at any time, add to, vary, or rescind any provision of an award but only in a manner and to an extent agreed to by all of the parties to the award.

89. The principal Act is amended by adding after section ninety-two a section as follows— S. 92A added.

92A. (1) An employer, union or association bound by an award may, while the term of the award is still current, refer any industrial matter or dispute to the Commission pursuant to this Act, but only if the matter or dispute is not governed by the provisions of the award and did not form part of the claims filed with the Registrar by the parties to the award prior to the making of the award. Supplement-
ary award.

(2) An award made by the Commission on a reference made under this section shall be known as a supplementary award and shall be—

(a) made for a term expiring no later than the term of the award which it supplements; and

(b) in all other respects subject to the provisions of section ninety-two of this Act.

90. Section ninety-three of the principal Act is repealed and the following section substituted— S. 93
repealed
and section
substituted.

93. Notwithstanding the expiry of the term of an award, the award shall, subject to any variation made under this Act, continue in force until a new award in substitution for that award has been made. Continuance
of award.

91. Section ninety-four of the principal Act is repealed and re-enacted as follows— S. 94
repealed
and
re-enacted.

94. The Commission may by an award— Minimum
wage.

(a) prescribe a minimum rate of wage or other remuneration, with special provision for a lower rate being fixed, by such tribunal or person, in such manner and subject to such provisions as the Commission may think fit to prescribe in the award, in the case of any

worker who is unable to earn the prescribed minimum by reason of old age or infirmity and with special provision, when deemed necessary, for a lower rate to be fixed by the Commission in the case of junior workers and apprentices; and

- (b) prescribe such rules for the regulation of any industry to which the award applies as may appear to the Commission to be necessary to secure the peaceful carrying on of such industry.

S. 95
amended.

92. Section ninety-five of the principal Act is amended by adding after the word, "Court" in line one, the words, "or Commission".

S. 96
amended.

93. Section ninety-six of the principal Act is amended by—

- (a) substituting for the word, "Court" in line three the words, "Court of Arbitration or the Commission";
- (b) by deleting the words, "or the Clerk of the Court" in line four; and
- (c) by adding after the word, "Court" in the last line, the words, "or the Commission as the case requires".

S. 97
amended.

94. Section ninety-seven of the principal Act is amended by adding after the word, "Court" in lines one, three, four and six the words, "or Commission".

S. 98
repealed.

95. Section ninety-eight of the principal Act is repealed.

S. 98A
amended.

96. Section ninety-eight A of the principal Act is amended by substituting for the word, "Court" in lines two, four and nineteen, the word, "Commission".

97. Section ninety-nine of the principal Act is repealed and the following section substituted—

S. 99 repealed
and section
substituted.

99. (1) Where a person contravenes or fails to comply with any provision of an award or agreement, the Registrar, an Industrial Inspector or any employer, union or association bound by the award or agreement, may apply in the prescribed manner to an Industrial Magistrate for the enforcement of the award or agreement.

Enforcement
of awards
and
industrial
agreements.

(2) On the hearing of an application under subsection (1) of this section the Industrial Magistrate may, by order—

(a) impose for the contravention or failure to comply with the provisions of the award or agreement, such penalty as he deems just but not exceeding Five hundred pounds in the case of an employer, union or association and fifty pounds in any other case; or

(b) dismiss the application,

in any case with or without costs, but in no case shall any costs be given against the Registrar, or to any party to the application for the services of any counsel, solicitor or agent of that party.

(3) (a) Where in any proceedings brought under subsection (1) of this section against an employer it appears to the Industrial Magistrate before whom the proceedings are brought, that a worker employed by that employer has not been paid the amount to which he is entitled under an award or agreement, the Industrial Magistrate may order that the employer shall pay to that worker the amount by which the worker has been underpaid by the employer, but no order shall be made in respect of so much of that amount as relates to any period more than twelve months prior to the commencement of those proceedings.

(b) An amount ordered to be paid pursuant to paragraph (a) of this subsection shall be deemed to be a penalty imposed under this Act and may be recovered accordingly.

(4) Where the Industrial Magistrate, by an order made pursuant to subsection (2) or (3) of this section, imposes a penalty or costs, he shall state in the order the name of the person liable to pay the penalty or costs and the name of the person to whom the penalty or costs are payable.

(5) (a) Where in any proceedings brought pursuant to subsection (2) of this section, it appears to the Industrial Magistrate before whom the proceedings are brought, that a question of interpretation of an award or agreement has arisen he may, and shall, if so requested by the defendant in the proceedings, state a case in writing for the opinion of the Commission in Court Session on that question.

(b) The Commission in Court Session shall hear and determine a question referred to it pursuant to paragraph (a) of this subsection and shall remit the case with its opinion thereon to the Industrial Magistrate who shall give effect to that opinion unless an appeal against that opinion is made pursuant to section one hundred and eight D of this Act.

S. 100
repealed
and section
substituted.

98. Section one hundred of the principal Act is repealed and the following section substituted—

Jurisdiction
of Industrial
Magistrate.

100. (1) Proceedings under this Act in respect of the following matters shall be commenced before an Industrial Magistrate and not otherwise, that is to say—

(a) offences against this Act or the regulations for which a maximum penalty of not more than one hundred pounds is provided; and

(b) applications made pursuant to section ninety-nine of this Act.

(2) An Industrial Magistrate has jurisdiction to hear and determine the matters referred to in subsection (1) of this section in the exercise of his summary jurisdiction.

99. Section one hundred and one of the principal Act is amended— S. 101 amended.

- (a) by substituting for the word, “The” in line one of subsection (1) the words, “Subject to the provisions of section one hundred of this Act the”; and
- (b) by deleting the words, “made thereunder” in line three of that subsection.

100. Section one hundred and three of the principal Act is repealed and the following section substituted— S. 103 repealed and section substituted.

103. (1) The Governor may appoint any stipendiary magistrate appointed, or deemed to be appointed, under the Stipendiary Magistrates Act, 1957, to be an Industrial Magistrate for the purposes of this Act. Appointment of Industrial Magistrates.

(2) An Industrial Magistrate may, in addition to the powers and jurisdiction otherwise conferred on him by this Act, exercise the powers and jurisdiction of the Court under sections one hundred and two and one hundred and thirty-two of this Act.

(3) Any judgment, order, conviction, direction or other decision of an Industrial Magistrate is enforceable as if it were made by the Court.

101. Subsection (1) of section one hundred and three A of the principal Act is amended by deleting the interpretation, “Industrial Magistrate”. S. 103A amended.

102. Section one hundred and four of the principal Act is amended— S. 104 amended.

- (a) by deleting the words, “of Arbitration” in lines three and four, lines six and seven and line eight of subsection (1); and

(b) by repealing subsection (2) and substituting a subsection as follows—

(2) Subsection (1) of this section does not apply to a charge of any offence referred to in section one hundred of this Act.

S. 105
amended.

103. Section one hundred and five of the principal Act is amended by substituting for the word, "President" in lines eight and eleven the word, "Commission".

S. 106
repealed
and section
substituted.

104. Section one hundred and six of the principal Act is repealed and the following section substituted—

Appoint-
ment, duties
and powers
of Industrial
Inspectors.

106. (1) The Governor may, on the recommendation of the Minister, appoint industrial inspectors for the purpose of securing the observance of the provisions of this Act and of awards and agreements.

(2) An industrial inspector shall perform such duties and shall make such investigations and reports in relation to the observance of the provisions of this Act, the regulations and of any award or agreement, as the Minister directs.

(3) For the purpose of carrying out his duty under this section, an industrial inspector may,—

(a) at any time during working hours, enter any building, mine, mine-working, ship, vessel, place or premises of any kind whatsoever wherein or in respect of which any industry is carried on or any work is being or has been done or commenced or any matter or thing is taking or has taken place, in relation to which any industrial dispute is pending, or any award or agreement has been made or any offence against this Act is suspected; and

- (b) inspect any work, material, machinery, appliances, articles, book, or document therein and may interview any employee engaged therein.

105. Section one hundred and seven of the principal Act is amended— S. 107 amended.

- (a) by deleting the words, “of the Court” in line three of subsection (1);
- (b) by substituting for the word, “Court” in line four of subsection (1) the word, “Commission”;
- (c) by substituting for the word, “Court” in line eight of subsection (3) the word, “Commission”; and
- (d) by substituting for the word, “Court” being the last word in subsection (4) the word, “Commission”.

106. Section one hundred and eight of the principal Act is repealed and the following section substituted— S. 108 repealed and section substituted.

108. (1) Proceedings before the Commission shall not be impeached or held bad for want of form nor shall they be removable to any Court by certiorari or otherwise. Proceedings of Commission not to be impeached for want of form.

(2) Except as provided by this Act, no award, order or proceeding of the Commission shall be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court on any account whatsoever.

107. The heading, “PART IVA.—CONCILIATION COMMISSIONER.”, is repealed and the following heading substituted, “PART IVA—WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT.” Heading repealed and heading substituted.

S. 108A
repealed
and section
substituted.

108. Section one hundred and eight A of the principal Act is repealed and the following section substituted—

Constitution
of Western
Australian
Industrial
Court.

108A. (1) There is hereby established a Court by the name of the "Western Australian Industrial Appeal Court", which shall consist of three members namely—

(a) a judge who shall be the President;
and

(b) two judges.

President
and members
of Court.

(2) The members of the Court shall be such judges as the Chief Justice of Western Australia shall, from time to time nominate, either generally or for a specified time, to be members of the Court and the President shall be such one of those members as the Chief Justice of Western Australia shall nominate to be the President.

Court of
Record.

(3) The Court is a Court of Record and shall have an official seal.

Judicial
notice.

(4) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Court affixed to a document and shall presume that it has been duly so affixed.

(5) The provisions of section forty-six of this Act apply to a member and acting member of the Court and in so applying those provisions any reference therein to a Commissioner or acting Commissioner shall be read as a reference to a member of the Court or an acting member of the Court respectively, and any reference to the Governor shall be read as a reference to the Chief Justice of Western Australia.

S. 108B
repealed and
section
substituted.

109. Section one hundred and eight B of the principal Act is repealed and the following section substituted—

Jurisdiction
of Court.

108B. (1) The Court has jurisdiction—

(a) to determine and declare in any particular case that a cessation or limitation of work, or refusal to work, or a refusal or neglect to offer for or accept employment, does not constitute a strike;

- (b) from time to time to make declarations for the purposes of paragraph (e) of the interpretation, "office";
- (c) to make any order that it deems necessary for the purpose of preventing the improper use or the needless dissipation or the improper concealment of the funds or property of a union;
- (d) to make such orders as it thinks just as to the costs and expenses (including the expenses of witnesses) of proceedings before the Court, including dismissal for want of jurisdiction but shall not make any such order in the case of an appeal pursuant to subsection (4) of section nine A of this Act or in the case of an appeal pursuant to subsection (5) of section sixty-one B of this Act; and
- (e) generally to determine any application that may, under this Act, be made to the Court and to exercise all the powers otherwise conferred on it by this Act.

(2) When the members of the Court are divided in opinion on a question, the question shall be decided according to the decision of the majority of the members.

Majority
decision.

(3) The Court may exercise the jurisdiction conferred on it by this Act in the application of a person who, in the opinion of the Court has a sufficient interest.

(4) No decision, order, declaration, judgment, conviction, penalty or proceeding given, made or imposed by the Court in the exercise of its jurisdiction under this Act, shall be liable to be challenged, appealed against, reviewed, quashed or called in question by or in the Supreme Court or any other Court.

(5) The functions, powers and jurisdiction conferred on the Court by the provisions of subsection (4) of section nine A, of section nine B, of Division III of Part II and of subsection (5) of section sixty-one B of this Act may be exercised by any member of the Court nominated from time to time by the President, sitting or acting alone and while so sitting or acting that member of the Court shall, for the purposes of those provisions, be deemed to be the Court.

S. 108C
repealed and
section
substituted.

110. Section one hundred and eight C of the principal Act is repealed and the following section substituted—

Appeals to
Commission
in Court
Session.

108C. (1) In this section “the Commission” means the Commission constituted by a Commissioner.

(2) An appeal lies, within the time and in the manner prescribed, from any decision, order or award of the Commission to the Commission in Court Session.

(3) An appeal under this section may be instituted by—

- (a) any party to the proceedings wherein the decision, order or award of the Commission was made; and
- (b) the Minister on behalf of the Crown, where in his opinion, the public interest is, or is likely to be, adversely affected by the decision, order or award against which the appeal is brought.

(4) Jurisdiction is conferred on the Commission in Court Session to hear and determine an appeal brought pursuant to this section.

(5) In the exercise of its jurisdiction under this section, the Commission in Court Session—

- (a) shall hear and determine the appeal upon the evidence and matters raised in the proceedings before the Commission; and

- (b) may confirm, reverse, vary, amend, rescind, set aside or quash the decision, order or award the subject of appeal.

(6) Any decision of the Commission in Court Session determining an appeal under this section has effect on and from the date of the decision, order or award, the subject of the appeal, or such later date as the Commission in Court Session orders.

111. The principal Act is amended by adding a section as follows—

S. 108D
added.

108D. (1) An appeal lies, within the time and in the manner prescribed to the Court from any decision, order, award or proceeding of the Commission or the Commission in Court Session, on the ground that the decision, order, award or proceeding is erroneous in law or is in excess of jurisdiction but upon no other ground.

Appeal to
the Court.

(2) For the purpose of this section the interpretation of an award or agreement made by the Commission or the Commission in Court Session shall not in itself be deemed to be a question of law.

(3) Jurisdiction is conferred on the Court to hear and determine an appeal made under this section.

(4) On the hearing of the appeal the Court may confirm, reverse, vary, amend, rescind, set aside or quash the decision, order, award or proceeding the subject of appeal and may remit the matter to the Commission, or as the case requires the Commission in Court Session, for further hearing and determination according to law.

(5) An appeal under this section may be instituted by—

- (a) any party to the proceeding, order, award or decision against which the appeal is brought; or

- (b) the Minister on behalf of the Crown where, in his opinion the public interest is, or is likely to be, adversely affected by that proceeding, order, award or decision.

S. 108E
added.

112. The principal Act is amended by adding a section as follows—

Representa-
tion of
parties
before the
Court.

108E. (1) In proceedings before the Court under this Act, a party—

- (a) may appear personally or by his agent; or

- (b) may be represented by Counsel or Solicitor.

(2) In this section, “party” includes an intervenor.

Part V
repealed.

113. PART V.—INDUSTRIAL BOARDS, containing section one hundred and nine to section one hundred and nineteen inclusive of the principal Act is repealed.

Part VI
repealed.

114. PART VI.—CONCILIATION COMMITTEES, containing section one hundred and twenty to section one hundred and twenty-two inclusive of the principal Act is repealed.

S. 123
amended.

115. Section one hundred and twenty-three of the principal Act is amended—

- (a) by substituting for the words, “Court shall have” in line one of subsection (1), the words, “Commission has”;
- (b) by substituting for the word, “Court” in line two of subsection (2) the word, “Commission”;
- (c) by substituting for the word, “Court” in lines one, three, ten and thirteen of subsection (3) the word, “Commission”;

- (d) by substituting for the word, "Court" in lines six and eight of subsection (4) the word, "Commission";
- (e) by substituting for the word, "Court" in lines one and three of subsection (5) the word, "Commission";
- (f) by substituting for the word, "Court" in lines one and nine of subsection (6) the word, "Commission";
- (g) by substituting for the word, "Court" in lines one, three and four of subsection (7) the word, "Commission";
- (h) by substituting for the word, "Court" in line one of subsection (8) the word, "Commission";
- (i) by substituting for the word, "Court" in line three of subsection (9) the word, "Commission";

and

- (j) by adding a subsection as follows—

(11) In this section, "Commission" means the Commission in Court Session.

116. Section one hundred and twenty-six of the principal Act is amended— S. 126
amended.

- (a) by substituting for the word, "Court" in line five the words, "Commission in Court Session";
- (b) by adding after the word, "lower" in line seven the words, "rate of wage than the".

117. Section one hundred and twenty-seven of the principal Act is amended— S. 127
amended.

- (a) by substituting for the word, "Court" in lines three, eleven and fourteen of subsection (1), the word, "Commission";

- (b) by substituting for the word, "Court" in lines two and three of subsection (2) the word, "Commission";
- (c) by substituting for the word, "Court" in lines two and seven of subsection (3) the word, "Commission"; and
- (d) by adding a subsection as follows—

(4) In this section, "Commission" means the Commission in Court Session.

S 128
amended.

118. Section one hundred and twenty-eight of the principal Act is amended—

- (a) by substituting for the words, "Court of Arbitration" in lines two and three of paragraph (c) of subsection (1) the word, "Commission"; and
- (b) by substituting for the word, "Court" in line two of subsection (5) the words, "Commission in Court Session".

S 129
amended.

119. Section one hundred and twenty-nine of the principal Act is amended—

- (a) by adding after the word "apprentice" in line three of subsection (3) the passage, "prescribed by any award or agreement binding on the apprentice and his employer or by the regulations relating to the apprenticeship";
- (b) by adding after the word, "standard" being the last word in paragraph (b) of subsection (3), the passage, "but if and only if, the failure of the apprentice to make satisfactory progress is due to the fault of the employer or is due to the inability of the apprentice to attend to his duties at any time during the term of his apprenticeship, whether on account of illness or other lawful reason";

- (c) by substituting for the word, "Court" in line two of subsection (4) the words, "Commission in Court Session".

120. Section one hundred and thirty of the principal Act is amended— S. 130 amended.

- (a) by substituting for the word, "Court" in lines two, five and seven of the proviso to subsection (3) the word, "Commission";
- (b) by substituting for the word, "Court" in lines eleven and fourteen of subsection (5), the word, "Commission";
- (c) by deleting the words, "the Clerk of the Court" in line twelve of subsection (5);
- (d) by substituting for the word, "Court" in line five of subsection (7) the word, "Commission"; and
- (e) by substituting for the word, "Court" in the second last line of subsection (8) the word, "Commission".

121. Section one hundred and thirty-one of the principal Act is amended— S. 131 amended.

- (a) by deleting the subsection designation (1);
- (b) by substituting for the word, "Court" in line one, the words, "Commission in Court Session"; and
- (c) by repealing subsection (2).

122. Section one hundred and thirty-seven of the principal Act is repealed and a section substituted as follows— S. 137 repealed and section substituted.

137. (1) The Commission in Court Session may, by order, enjoin any person from committing or continuing a contravention of this Act or a breach or non-observance of an award or agreement. Enforcement of award or agreement by Commission in Court Session.

(2) The Minister, on behalf of the Crown and in the public interest, or any person who, in the opinion of the Commission in Court Session has a sufficient interest may apply in the manner prescribed to the Commission in Court Session for an order under subsection (1) of this section.

(3) An order made pursuant to subsection (1) of this section may be made unconditionally or subject to such conditions or exceptions or both, as the Commission in Court Session thinks fit, and without limitation of time or for a specified time.

(4) The Commission in Court Session may, by order, at any time and from time to time, on the application of the Minister or any person referred to in subsection (2) of this section, vary, suspend or cancel, wholly or in part, an order made pursuant to subsection (1) of this section.

(5) Any person who disobeys an order made under this section commits an offence.

Penalty: Five hundred pounds in the case of a union, association or employer and fifty pounds in any other case.

S. 138
amended.

123. Subsection (5) of section one hundred and thirty-eight of the principal Act is repealed.

S. 142
amended.

124. Subsection (2) of section one hundred and forty-two of the principal Act is amended by deleting the words, "of Arbitration" in line one.

125. Section one hundred and forty-three of the principal Act is amended— S. 143
amended.

- (a) by inserting after the interpretation, “Association”, the following interpretation—

“Commission” means the Commission in Court Session;

- (b) by deleting the interpretation, “Court”;
- (c) by substituting for the word, “Court” in line two of paragraph (v) of the proviso to the interpretation, “Government Officer” the word, “Commission”;
- (d) by deleting the interpretation, “Minister”;
- (e) by substituting for the word, “Court” in line sixteen of the interpretation, “justiciable salary” the word, “Commission”; and
- (f) by deleting the interpretation, “President”.

126. Section one hundred and forty-six of the principal Act is amended by substituting for the word, “Court” in line four the word, “Commission”. S. 146
amended.

127. Section one hundred and forty-seven of the principal Act is amended— S. 147
amended.

- (a) by substituting for the word, “Court” in line one of paragraph (a) the word, “Commission”;
- (b) by substituting for the word, “Court” in lines two and four of paragraph (b) the word, “Commission”; and
- (c) by substituting for the word, “Court” in line three of paragraph (c) the word, “Commission”.

S. 148
amended.

128. Section one hundred and forty-eight of the principal Act is amended—

- (a) by substituting for the word, “Court” in lines nine and ten of subsection (2) the word, “Commission”;
- (b) by substituting for the word, “Court” in line one of subsection (3), the word, “Commission”; and
- (c) by substituting for the word, “Court” in lines three and eight of subsection (4) the word, “Commission”.

S. 149
amended

129. Section one hundred and forty-nine of the principal Act is amended—

- (a) by substituting for the word, “Court” in lines three, ten and thirteen of subsection (1), the word, “Commission”;
- (b) by substituting for the words, “Clerk of the Court” in lines one and two of subsection (2) the word, “Registrar”;
- (c) by substituting for the word, “President” in lines two and three of subsection (2) the words, “Chief Industrial Commissioner”;
- (d) by substituting for the word, “Court” in lines six and eight of subsection (4) the word, “Commission”;
- (e) by substituting for the word, “Court” in line four of subsection (5) the word, “Commission”; and
- (f) by substituting for the word, “Court” in line one of subsection (7) the word, “Commission”.

130. Section one hundred and fifty of the principal Act is amended— S. 150
amended.

- (a) by substituting for the word, "Court" in line two the word, "Commission";
- (b) by substituting for the word, "Court" in line five of paragraph (c) the word, "Commission";
- (c) by substituting for the word, "Court" in line five of paragraph (d) the word, "Commission";
- (d) by substituting for the word, "Court" in line one of paragraph (i) of the proviso the word, "Commission";
- (e) by substituting for the word, "Court" in lines eleven, fifteen and eighteen of paragraph (ii) of the proviso the word, "Commission";
- (f) by substituting for the word, "court" in line two of paragraph (iii) of the proviso the word, "Commission"; and
- (g) by substituting for the word, "Court" in lines twenty-one, thirty-two and thirty-three of paragraph (iii) of the proviso the word, "Commission".

131. Section one hundred and fifty A of the principal Act is amended— S. 150A
amended.

- (a) by substituting for the word, "Court" in line one of subsection (1) the word, "Commission";
- (b) by substituting for the word, "Court" in lines one, three and eight of subsection (2) the word, "Commission";

- (c) by substituting for the words, "clerk of the Court" in line two of subsection (3) the word, "Registrar";
- (d) by substituting for the words, "clerk of the Court" in line one of subsection (4) the word, "Registrar";
- (e) by substituting for the word, "Court" in line two of subsection (4) the word, "Commission"; and
- (f) by substituting for the word, "Court" in line one of subsection (5) the word, "Commission".

S. 151
amended.

132. Section one hundred and fifty-one of the principal Act is amended by substituting for the word, "Court" in lines one, ten, twelve, fifteen, twenty-five and twenty-six the word "Commission".

S. 152
amended.

133. Section one hundred and fifty-two of the principal Act is amended—

- (a) by substituting for the word, "Court" in line one of subsection (1) the word, "Commission"; and
- (b) by substituting for the word, "Court" in line one of subsection (2) the word, "Commission".

S. 153
amended.

134. Section one hundred and fifty-three of the principal Act is amended by substituting for the word, "Court" in lines one, five and six the word, "Commission".

S. 154
amended.

135. Section one hundred and fifty-four of the principal Act is amended—

- (a) by substituting for the word, "Court" in lines six and ten of subsection (1) the word, "Commission";

- (b) by substituting for the word, "Court" in line nine of subsection (2) the word, "Commission";
- (c) by substituting for the word, "Court" in line twenty of subsection (4) the word, "Commission";
- (d) by substituting for the word, "Court" in lines three and six of subsection (5) the word, "Commission"; and
- (e) by substituting for the word, "Court" in lines seven and eleven of subsection (6) the word, "Commission".

136. Section one hundred and fifty-five of the principal Act is amended— S. 155
amended.

- (a) by substituting for the word, "Court" in lines six, fifteen and seventeen of subsection (1) the word, "Commission";
- (b) by substituting for the word, "Court" in lines six and eight of subsection (2) the word, "Commission";
- (c) by substituting for the word, "President" in line six of subsection (3) the words, "Chief Industrial Commissioner";
- (d) by substituting for the word, "Court" in line twenty of subsection (5) the word, "Commission";
- (e) by substituting for the word, "Court" in lines seven and eight of subsection (6) the word, "Commission";
- (f) by substituting for the word, "Court" in lines eight and fifteen of subsection (7) the word, "Commission"; and
- (g) by substituting for the word, "Court" in line seven of subsection (8) the word, "Commission".

S. 156
amended.

137. Section one hundred and fifty-six of the principal Act is amended—

- (a) by substituting for the word, "Court" in lines two, nine and fifteen of subsection (1) the word, "Commission";
- (b) by substituting for the word, "President" in lines five and six of subsection (2) the words, "Chief Industrial Commissioner";
- (c) by substituting for the word, "Court" in line twenty of subsection (4) the word, "Commission";
- (d) by substituting for the word, "Court" in line seven of subsection (5) the word, "Commission";
- (e) by substituting for the word, "Court" in lines seven and thirteen of subsection (6) the word, "Commission"; and
- (f) by substituting for the word, "Court" in line nine of subsection (7) the word, "Commission".

S. 157
amended.

138. Section one hundred and fifty-seven of the principal Act is amended—

- (a) by substituting for the word, "Court" in lines five and six of subsection (1) the word, "Commission";
- (b) by substituting for the word, "Court" in line two of subsection (2) the word, "Commission"; and
- (c) by substituting for the word, "President" in line three of subsection (2) the words, "Chief Industrial Commissioner".

S. 158
amended.

139. Section one hundred and fifty-eight of the principal Act is amended by substituting for the word, "Court" in line one the word, "Commission".

140. Section one hundred and fifty-nine of the principal Act is amended by substituting for the word, "Court" in lines one, nine and fifteen the word, "Commission".

S. 159
amended.

141. Section one hundred and sixty of the principal Act is amended by substituting for the word, "Court" in lines one and four the word, "Commission".

S. 160
amended.

142. Section one hundred and sixty-one of the principal Act is amended—

S. 161
amended.

- (a) by substituting for the word, "Court" in line two the word, "Commission";
- (b) by substituting for the word, "Court" in line one of paragraph (i) of the proviso the word, "Commission";
- (c) by substituting for the word, "Court" in lines three, four and five of paragraph (ii) of the proviso the word, "Commission"; and
- (d) by substituting for the word, "Court" in lines five and seven of paragraph (iii) of the proviso the word, "Commission".

143. Section one hundred and sixty-two of the principal Act is amended—

S. 162
amended.

- (a) by substituting for the word, "Court" in line three of subsection (1) the word, "Commission"; and
- (b) by substituting for the word, "Court" in lines six and eight of subsection (2) the word, "Commission".

144. Section one hundred and sixty-three of the principal Act is amended by substituting for the word, "Court" in line two the word, "Commission".

S. 163
amended.

S. 164
amended.

145. Section one hundred and sixty-four of the principal Act is amended by substituting for the word, "Court" in lines two, three, thirteen and seventeen the word, "Commission".

S. 165
amended.

146. Section one hundred and sixty-five of the principal Act is amended—

- (a) by substituting for the word, "Court" in lines nine, ten, thirteen and fifteen of subsection (1) the word, "Commission";
- (b) by substituting for the word, "Court" in lines five, seven and twelve of subsection (3) the word, "Commission";
- (c) by substituting for the word, "Court" in line sixteen of subsection (4) the word, "Commission"; and
- (d) by substituting for the word, "Court" in lines two, twenty, twenty-nine and thirty-six of subsection (5) the word, "Commission".

S. 166
amended.

147. Section one hundred and sixty-six of the principal Act is amended—

- (a) by deleting the words, "of the Court" in lines seven and eight of subsection (2);
- (b) by adding before the word, "and" in line eight of that subsection the words, "the Commission";
- (c) by deleting the words, "industrial inspectors and", in line three of subsection (3); and
- (d) by adding after the word, "Court" in line four of subsection (3) the words, "and of the Commission".

148. Section one hundred and sixty-seven of the principal Act is amended— S. 167
amended.

- (a) by substituting for the word, "It" in line one of subsection (1) the words, "Subject to the provisions of subsection (4) of this section it";
- (b) by substituting for the words, "Clerk of the Court" in lines one and two of subsection (1) the word, "Registrar";
- (c) by deleting the words, "of the Court" in line four of subsection (1);
- (d) by deleting the words, "of the Court" in lines three and four of subsection (2);
- (e) by adding after the word, "Court" in line five of subsection (3) the words, "or the Commission"; and
- (f) by adding a subsection as follows—

(4) Where the *Western Australian Industrial Gazette* is regularly published at intervals of less than one month the Registrar may, if the Chief Industrial Commissioner so directs, discontinue publishing in the *Gazette* the matters required by subsection (1) of this section to be published therein.

149. Paragraph (a) of section one hundred and sixty-eight of the principal Act is amended by substituting for the word, "President" the passage, "President of the Court of Arbitration, President of the Western Australian Industrial Appeal Court, Chief Industrial Commissioner, Commissioner". S. 168
amended.

S. 170
repealed and
re-enacted.

150. Section one hundred and seventy of the principal Act is repealed and re-enacted as follows—

Powers of
Court and
Commission
to direct
investigation
and institu-
tion of pro-
ceedings.

170. (1) The Court or the Commission may, of its own motion, for the purpose of effectively exercising all or any of the powers and functions respectively conferred on it by this Act—

- (a) direct any record to be kept by any person for the purpose of affording evidence of the compliance or non-compliance with any provision of an award, order, agreement or of this Act;
- (b) direct the Registrar or the Assistant Registrar to make such investigations and reports in relation to the observance of this Act and the regulations and of any award as it deems necessary;
- (c) direct the Registrar, Assistant Registrar or an industrial inspector to institute proceedings for an offence against this Act or for the recovery of a penalty under section ninety-nine of this Act.

(2) The Registrar, Assistant Registrar or an industrial inspector shall carry out a direction given to him under subsection (1) of this section.

(3) No order for costs shall be made against the Registrar, Assistant Registrar or an industrial inspector in proceedings instituted by him pursuant to a direction given under subsection (1) of this section.

S. 171
repealed
and section
substituted.

151. Section one hundred and seventy-one of the principal Act is repealed and the following section substituted—

Commis-
sioner may
convene
Compulsory
Conference.

171. (1) Subject to this section, a Commissioner may summon any person to attend, at a time and place specified in the summons, at a conference presided over by himself.

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

Penalty: One hundred pounds.

(3) The conference may be held partly or wholly in public or in private at the discretion of the Commissioner.

(4) The power conferred on a Commissioner by subsection (1) of this section may be exercised whenever a strike or lock-out has occurred or whenever in his opinion a strike or lock-out appears likely to occur and shall be exercised whenever an employer, a union, or the Minister notifies the Registrar that a strike or lock-out has occurred or appears likely to occur and requests that a conference be called under this section.

(5) (a) Whenever a conference has been held under this section and an agreement has been reached as to the whole or some of the matters in dispute, the Commissioner shall sign and cause to be filed with the Registrar a memorandum of the matters upon which an agreement has been reached and the terms and conditions agreed upon.

(b) When the memorandum is so signed and filed it has the force and effect of an award and is enforceable accordingly, but before the memorandum is signed all industrial unions and employers that in the opinion of the Commissioner may be affected thereby shall be notified and shall be afforded the opportunity of being heard.

(6) Whenever a conference has been held under this section and an agreement has been reached as to some of the matters in dispute but not as to all of them, or if no agreement has

been reached, the Commissioner may refer to the Commission in Court Session any matter in dispute but, if and only if—

- (a) the matter in dispute is an industrial matter;
- (b) he considers the matter to be of such urgency that it should be dealt with immediately (but the fact that a strike or lock-out exists or is imminent does not of itself justify such a reference); and
- (c) where the matter is already dealt with by the provisions of an award or agreement the term of which has not expired, the Commissioner is of the opinion that circumstances have arisen that could not reasonably have been foreseen by the parties to the award or agreement at the time the award or agreement was made or when those provisions were last reviewed by the Commission and that those circumstances render those provisions no longer just,

and the Commission in Court Session has jurisdiction to hear and determine any matter or matters so referred.

(7) (a) Where a strike or lock-out exists at the time a conference relating thereto is held under this section, any reference made to the Commission in Court Session under subsection (6) of this section shall lapse, if the strike or lock-out continues for more than forty-eight hours, or such lesser time as the Commissioner may fix, after the conference is ended, but if within that time work has resumed and continues the reference shall be dealt with by the Commission in Court Session as soon as practicable.

(b) Any reference to the Commission in Court Session made pursuant to subsection (6) of this section shall lapse if a strike or lock-out commences after the conference is ended.

152. Section one hundred and seventy-two of the principal Act is repealed. S. 172
repealed.

153. Section one hundred and seventy-three of the principal Act is amended— S. 173
amended.

- (a) by deleting the words, “or one hundred and seventy-two” in lines two and three; and
- (b) by substituting for the passage, commencing with the word, “President” in line seven and ending with the word, “Court” in the last line, the passage, “Commissioner who presided over the conference, that Commissioner has jurisdiction to hear and determine the dispute or the matters in difference”.

154. Subsection (2) of section one hundred and seventy-six of the principal Act is amended by deleting the words, “of the Court” in line seven. S. 176
amended.

155. Section one hundred and seventy-nine of the principal Act is amended— S. 179
amended.

- (a) by adding after the word, “Court” in line one the passage, “with respect to any of the following purposes that relate to the Court, and the Commission with respect to any of the purposes that relate to the Commission”;
- (b) by substituting for the words, “Clerk of the Court” in paragraph (ii) of subsection (1) the word, “Registrar”;
- (c) by deleting paragraph (iii) of subsection (i);
- (d) by adding after the word, “Court” in line two of paragraph (iv) the words, “and the Commission”;

- (e) by adding after the word, "Court" in line two of subparagraph (a) of paragraph (iv) of subsection (1), the words, "and the Commission";
- (f) by adding after the word, "Court" in line three of subparagraph (d) of paragraph (iv) of subsection (1), the words, "and the Commission";
- (g) by adding after the word, "Court" in line two of paragraph (v) of subsection (1), the words, "and the Commission";
- (h) by adding after the word, "Court" in line four of paragraph (viii) of subsection (1), the words, "and the Commission"; and
- (i) by adding after the word, "Court" in line five of paragraph (iv) of subsection (2) the words, "or the Commission".

Second
Schedule
amended.

156. The Second Schedule to the principal Act is amended—

- (a) by deleting the words, "of the Court" in line one of clause 4;
- (b) by substituting for the words, "of the Court" in line one of clause 5, the words, "made pursuant to this Act";
- (c) by deleting the words, "of the Court or President" in line one of clause 7;
- (d) by deleting the words, "of the President" in line one of clause 8, and substituting for the words, "constitution of the union" in line three of that clause the words, "qualifications for membership of the union or the area in respect of which the union is registered";

- (e) by deleting the words, "of the Court" in line one of clause 9;
- (f) by deleting the words, "of the Court" in line one of clause 11;
- (g) by deleting the words, "of the Court" in line one of clause 12;
- (h) by repealing clause 13 and re-enacting it as follows—

13. All decisions of the Court and the Commission. ;

and

- (i) by substituting for the word, "President" in line two of clause 14, the words, "Chief Industrial Commissioner".
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