

INDUSTRIAL ARBITRATION.

16° GEO. V., No. L.

No. 50 of 1925.

AN ACT to amend the Industrial Arbitration Act, 1912.

[Assented to 31st December, 1925.]

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

Short title.

1. This Act may be cited as the *Industrial Arbitration Act Amendment Act, 1925*, and shall be read as one with the Industrial Arbitration Act, 1912, hereinafter referred to as the principal Act.

Amendment of
Sec. 4 of
principal Act.

2. Section four of the principal Act is amended, as follows:—

- (1) By inserting in the interpretation of "Employer," after the word "workers," the following words:—
—"also the Crown, and any Minister of the Crown or body corporate acting on behalf of the State."
- (2) By adding to the interpretation of "Industrial dispute" the following words:—"The term also includes any dispute in relation to employment or industrial matters in an industry carried on by or under the control of the State, or by or under the control of any Minister of the Crown or body corporate on behalf of the State."

- (3) By adding to subparagraph (vi) of paragraph (f) of the interpretation of "Industrial matters," the following words:—"and the payment of examiners"; and by inserting in paragraph (f) a subparagraph, as follows:—
- (x) Any claim or dispute arising under an agreement of apprenticeship, or relating to an alleged breach of such agreement, notwithstanding that any party to any such agreement may have determined or have purported to determine the agreement.
- (4) By adding to the interpretation of "Industrial matters," the following paragraph:—
- (h) What is fair and right in relation to any industrial matter, having regard to the interests of the persons immediately concerned, and of the community as a whole.
- (5) By inserting in the interpretation of "Industry," after the word "handicraft," in paragraph (a), the word "undertaking."
- (6) By inserting after the words "domestic service," in the interpretation of "Worker," the words, "in a private home, provided that no home in which more than six boarders and/or lodgers are received for pay or reward shall be deemed to be a private home.

The term includes canvassers for industrial insurance whose services are remunerated wholly or partly by commission or percentage reward.

For the purposes of this paragraph, the word "canvassers" means persons wholly and solely employed in the writing of industrial insurance business, and/or in the collection of premiums at not longer intervals than one month in respect to such insurance, but does not include any person who directly or indirectly carries on or is concerned in the carrying on or conduct of any other business or occupation in conjunction or in association with that of industrial insurance.

The term does not include any officer or other person employed under the Public Service Act, 1904; or any officer within the meaning of that word in the Railways Classification Board Act, 1920, or the teaching staff of the Education Department.

(7) By inserting an interpretation of the words "Industrial Board," as follows:—

"Industrial Board" or "Board" means an Industrial Board appointed under Part IV.A of this Act.

Amendment of
Sec. 6.

3. Section six of the principal Act is amended by omitting the word "fifty," in paragraph (a), and substituting the word "fifteen."

4. A section is inserted in the principal Act, as follows:—

Variation of agree-
ment to conform
with common rule.
Com. C. and A. Act,
1904-20, s. 80.

40a. The Court may order that any industrial agreement may be varied so far as it is inconsistent with an award or other industrial agreement in operation as a common rule, and such agreement shall be deemed to be amended or varied as the case may be and take effect accordingly.

Amendment of
Sec. 42.

5. (1.) Section forty-two of the principal Act is amended by inserting after the words "shall be a," in line five, the words, "person qualified to be appointed a," and by substituting for the word "nominated," in line six, the word "appointed," and by substituting for the word "judge," in line seven, the words "third member."

(2.) Such amendment shall have effect from the 7th day of April, 1925.

Amendment of
Sec. 43.

6. Section forty-three of the principal Act is amended by substituting for the words "a Judge of the Supreme Court" the words "a person qualified as aforesaid."

Amendment of
Sec. 47.

7. Section forty-seven of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

Tenure of office.

47. (1.) The tenure of office of the President shall be the same as in the case of a Judge of the Supreme Court, and he shall be entitled to all rights and privileges of a Judge, including pension:

Provided that a President shall not continue in office after he shall have attained the age of seventy years.

(2.) Each ordinary member of the Court shall be appointed for a period of three years, and until the appointment of his successor,

(3.) Each ordinary member of the Court shall be eligible for re-appointment.

(4.) In the event of the period of office of the ordinary members of the Court expiring during the period of any investigation on which the Court has entered, the Governor may continue them in office for such time as may be necessary to enable them to take part in the completion of the matter.

8. Section forty-eight of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

Amendment of
Sec. 48.

48. The President shall receive a salary equal to that of a Judge of the Supreme Court, and each ordinary member of the Court shall receive such salary (not being less than £600 per annum) as shall be fixed from time to time by the Governor, and all such salaries shall be paid out of the Consolidated Revenue Fund.

Salaries.

9. Section forty-nine of the principal Act is amended by omitting the word "ordinary."

Amendment of
Sec. 49.

10. Section fifty-three of the principal Act is amended by omitting the word "ordinary."

Amendment of
Sec. 53.

11. Section fifty-six of the principal Act is amended by omitting the words "other than the President," and by inserting in place of the words "before the President" the words "before a Judge of the Supreme Court."

Amendment of
Sec. 56.

12. Section fifty-eight of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

Amendment of
Sec. 58.

58. The Court shall have jurisdiction—

(a) on its own motion to deal with and determine all industrial matters, and to prevent, settle, and determine all industrial disputes, pursuant to this Act, irrespective of whether the parties to any dispute are registered industrial unions or not, if the dispute has caused a cessation of work:

Jurisdiction.
See Com. C. and A.
Act, 1904-20, ss. 18,
19; S.A. No. 1458,
ss. 17, 36.

Provided that where there is a registered industrial union of workers connected with the calling to which the industrial matter or dispute relates, such industrial union shall be a party to the proceedings, and the award shall be made and issued with reference to such union;

(b) to settle and determine—

- (i) all industrial matters and disputes referred to it by any party or parties under this Act;
- (ii) all industrial matters and disputes as to which the President has held a conference under section one hundred and twenty, and so far as no agreement has been reached, and which the President has referred to the Court; and
- (iii) all industrial matters and disputes as to which a conference has been held under section one hundred and twenty (a) and so far as no agreement has been reached, and which the commissioners have referred to the Court.

Conciliation,
Q. No. 16 of 1916,
s. 22.

13. A section is inserted in the principal Act, as follows:—

61a. (1.) In the course of a hearing, investigation, or inquiry into any industrial dispute (including any compulsory conference), the Court or the President, as the case may be, shall make all such suggestions and do all such things as appear to be right and proper for dealing with the cause or bringing about the settlement of the dispute by amicable agreement.

(2.) If an agreement is arrived at a memorandum of its terms shall be made in writing and certified by the President, and such memorandum shall be filed in the office of the Clerk of the Court, and unless otherwise ordered and subject as may be directed by the Court shall have the same effect as and be deemed to be an award of the Court:

Provided that before any such memorandum of the terms of agreement is certified, all industrial unions that in the opinion of the President may be affected thereby shall be notified, and shall be afforded the opportunity of being heard.

Amendment of
Sec. 62.

14. Section sixty-two of the principal Act is amended by inserting the words "a commissioner or the" after the word "by," in subsection (1).

15. The following words are inserted after the word "Court," in lines three, four, and five of subsection (4) of section sixty-three of the principal Act, namely, "or any industrial Board, Conciliation Committee, or Commissioners appointed under this Act."

Amendment of
Sec. 63.

16. A section is inserted in the principal Act, as follows:—

Intervention of
Crown.
(S.A. 1453, s. 34.)

63a. The Crown may, where, in the opinion of the Minister, a State industry is, or is likely to be affected by the award, order, decision, or determination of the Court, intervene in any proceeding before the Court, and make such representations as may be thought necessary in order to safeguard the public interest.

17. A subsection is added to section sixty-five of the principal Act, as follows:—

Amendment of
Sec. 65.

(3.) All industrial matters and disputes referred to the Court shall be listed and heard in the order in which the issues are settled, unless for a sufficient reason the Court shall otherwise direct.

18. A section is inserted in the principal Act, as follows:—

Power of amend-
ment.

67a. The Court may, at any time before the determination of an industrial dispute of which it has cognisance, allow the amendment, on such terms as it thinks fit, of the plaint or of any subsequent proceeding.

Com. C. and A. Act,
1904-20, s. 39A.

19. A section is inserted in the principal Act, as follows:—

Demarcation of
callings.

67b. (1.) Where it appears to the Court that a question has arisen as to the right of workers in specified callings to do certain work in an industry to the exclusion of the workers in other callings, the Court may, on application made by any industrial union of workers or industrial union of employers, constitute a Special Board to determine such question. Such board shall consist of a chairman and such number of other members as the Court may fix, and—

N.S.W. Act No. 17
of 1912, s. 16 (6).
S.A. No. 1453, s.
145.

(a) if in the opinion of the Court employers are interested in the question, one half of such other members shall be representatives of employers,

and the other half shall be representatives of the industrial unions of workers engaged in the said callings;

- (b) such of the callings as the Court considers to be directly interested in the question shall be represented on the board by an equal number of representatives of employers (if in the opinion of the Court employers are interested in the question) and representatives of the industrial unions of workers concerned.

(2.) The chairman and other members of any such board shall be appointed by the Court, but the Court in making such appointments shall give effect to nominations made in the prescribed manner by the parties concerned.

(3.) The determination shall be adopted by the Court for the purposes of any award or order made by the Court.

Amendment of
Sec. 70.

20. Subsection (2) of section seventy of the principal Act is repealed, and the words "and such parts of the documents as, in the opinion of the Court, do not relate to the matter at issue, may be sealed up" in that subsection, are inserted in subsection (9), after the word "Court," in line five thereof.

Power to remit,
etc.

Q. 1918, No. 18,
s. 11.

21. A section is inserted in the principal Act, as follows:—

73a. (1.) The Court may at any time—

- (a) remit to an Industrial Board for inquiry and report, with or without directions, any industrial matter or dispute which the Court considers it desirable to have included in any reference for investigation, and upon which the Court desires information for the purpose of making an award; and the Court may, but shall not be obliged to accept any conclusion arrived at or recommendation made by such Board, and all persons interested in such conclusions and recommendations shall be entitled to be heard before the Court. Any remission made as aforesaid may be withdrawn by the Court at any time and whether the Board has concluded its work or otherwise;

- (b) remit to a Board, with or without directions, for determination and award any industrial dispute, whereupon such Board shall have power to determine such dispute and make an award therein. Any remission made as aforesaid may be withdrawn by the Court at any time, and whether the Board has concluded its work or otherwise.

(2.) The Court may at any time itself conduct any investigation, inquiry, or proceeding which has been remitted to a Board, and upon intimation being given to this effect by the Clerk to the Court to the Chairman of the Board, the Chairman shall forward to the Clerk to the Court a copy of the evidence taken before the Board and the exhibits thereto.

Power of Court to continue an inquiry.
Q. 1916, No. 16,
s. 11 (2).

Upon such intimation by the Clerk to the Court the jurisdiction of the Board to continue the investigation, inquiry, or proceeding shall cease:

Provided that the Court may at any time again remit to the Board any matter arising in such investigation or inquiry for report, and upon such reference the jurisdiction of the Board to inquire and report upon the matter so referred shall revive.

22. A section is inserted in the principal Act, as follows:—

Award of Board,
Ibid., s. 13.

78b. (1.) The award of a Board when made under the authority of a remission as hereinbefore provided shall be signed by the Chairman and forwarded to the Clerk to the Court, who shall forthwith publish the same in the *Gazette* and notify the parties.

(2.) Such award shall, from a date fixed by the Board, within the locality for which the Board has jurisdiction, take effect and have the force of an award made by the Court.

23. A section is inserted in the principal Act, as follows:—

Appeal to the Court from a Board.

78c. (1.) Subject as hereinafter provided, an appeal shall lie to the Court against any award of a Board made under the authority of a remission, or any part of such award.

See Q. 1916, No. 16
s. 14.

Such appeal may be brought, by leave of the Court but not otherwise, by any person bound by the award, or by any industrial union interested therein, and shall be commenced within six weeks after publication of the award in the *Gazette*, or within such further time as the Court on an application for extension of time deems proper.

The pendency of an appeal against such award or part thereof shall not, unless the Court otherwise orders, suspend or delay the operation of such award or part thereof.

On an appeal the Court shall allow any person or industrial union interested to become a party to the proceedings.

(2.) Every appeal under this Act shall be by way of rehearing or by case stated, and the Court may affirm, revise, or modify the award appealed against, and may give such decision and direction and make such order and award as ought to have been given or made in the first instance and may remit any matter arising out of or involved in the case to the Board, with or without directions and whether for report to the Court or for determination.

Appeals to be by way of rehearing, or case stated.

24. A section is inserted in the principal Act, as follows:—

Board of Reference, Com. 1904-20, s. 40a.

78d. The Court, by its award, or by order made on the application of any industrial union or person bound by the award, may—

- (a) appoint, or give power to appoint, for the purposes of the award, a Board of Reference or Boards of Reference consisting of an equal number of employers' and workers' representatives, and a chairman; and
- (b) assign to a Board of Reference the function of allowing, approving, fixing, determining, or dealing with, in the manner and subject to the condition specified in the award or order, any matters or things arising under or out of the award or order which may require from time to time to be allowed, approved, fixed, determined, or dealt with by the Board.

25. Section eighty-one of the principal Act is amended by omitting the letters (a) and (b), and the words "or for one year and thenceforward from year to year"; and by adding to the section provisos as follows:—

Amendment of
Sec. 81.

Provided that it may be prescribed by an award that any provisions thereof may be referred to the Court for review at such intervals of time as the Court may think fit, with power to the Court to vary or rescind such provisions.

Provided also that at any time after the expiration of the first twelve months from the date of an award, and after the expiration of any subsequent period of twelve months, application may be made to the Court, by leave of the Court obtained by any party to the award, for a review of any of the provisions of the award, and the Court shall have power to vary or rescind such provisions.

26. Section eighty-two of the principal Act is repealed.

Repeal of Sec. 82.

27. Section eighty-three of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

Continuance of
award.

83. (1.) Notwithstanding the expiry of the term of an industrial award, it shall, subject to any variation ordered by the Court, continue in force until a new award has been made.

See Com. C. and A.
Act, 1904-20, s. 28.

(2.) Notwithstanding the continuance of an industrial award after the term thereof has expired, any person or body bound thereby may, during such continuance, refer any industrial matter or dispute to the Court, although the matter or dispute may be governed by the provisions of the award; and, subject to any order of the Court, such award shall continue in force pending a reference and until a new award is made.

28. Section eighty-four of the principal Act is amended, as follows:—

Amendment of
Sec. 84.

(1) By adding to paragraph (a) of subsection (1) the words "and with special provision, when deemed necessary, for a lower rate, to be fixed by the Court, in the case of junior workers."

(2) By inserting after the word "prescribed," in subsection (2), the following words:—"which is less than the basic wage determined under this Act, or if there is no such determination applicable."

Repeal of Sec. 85.

29. Section eighty-five of the principal Act is hereby repealed.

Amendment of Sec. 90.

30. (1.) A subsection is added to section ninety of the principal Act, as follows:—

See S.A. No. 1453, s. 121.

(5.) The Court may, in addition to imposing a penalty for breach of an award, order that any party liable shall pay to any worker the difference between the amount paid and that which should have been paid under the award; and the penalty imposed shall be deemed to be increased by the amount so ordered to be paid, and such amount may be recovered accordingly.

(2.) The words “(not being an order under section ninety-two hereof or section ninety-four of the Industrial Conciliation and Arbitration Act, 1902),” in section ninety of the principal Act, are omitted.

Amendment of Sec. 91.

31. Section ninety-one of the principal Act is amended by omitting the words “and four,” and inserting in place thereof “four and five.”

32. A section is inserted in the principal Act, as follows:—

Enforcement orders may be made by Industrial Magistrates.
See Q. 1916, No. 16, s. 11 (1) (III.)

93a. The powers and jurisdiction of the Court under the last preceding four sections may be exercised by any police or resident magistrate appointed by the Governor as an Industrial Magistrate for the purposes of this Act; and any order, conviction, or other decision of such magistrate shall be enforceable as if made by the Court.

Provided that if in any proceeding before an Industrial Magistrate a question of interpretation of an industrial agreement or award shall arise, it shall be referred to the Court.

Amendment of s. 95.

33. Section ninety-five of the principal Act is amended by inserting the word “otherwise” after the word “where” in line nine of subsection (1), and by the addition of a subsection, as follows:—

(3.) Any writ or warrant of execution may, subject to this Act, be declared, by rules of Court, to have effect against any property (including land under the Transfer of Land Act, 1893) as a writ of *feri facias*, and it shall have such effect in respect of such property accordingly.

34. The following sections, numbered thirty-five to forty-five inclusive, shall be inserted in the principal Act as Part IVA. thereof under the heading "Industrial Boards."

Industrial Boards.

35. (1.) Industrial Boards may, on the recommendation of the Court, be constituted by the Governor for any calling, industry, or undertaking recommended by the Court.

Boards.
Q. 1916, No. 16,
s. 39,
See N.S.W., 1912,
No. 17, Part II.

(2.) The functions of such Boards shall be—

Functions.

(i) The making of an award in any industrial dispute remitted to the Board by the Court under this Act; or

(ii) The making, after inquiry, recommendations to the Court as to the regulation of any calling or callings for the purpose of enabling the Court to make an award; or inquiring into and reporting to the Court on any matter remitted by the Court.

(3.) Each such Board shall consist of a chairman, and of two or four other members, as may be recommended by the Court.

Members.

(4.) The Governor shall appoint as the members of such Boards, other than the chairman, persons who have been nominated by the employers or industrial unions of employers and the industrial unions of workers concerned, respectively, and who have been recommended by the Court.

One-half in number of such members shall be representatives of the employers, and one-half in number of such members shall be representatives of the workers.

(5.) Upon any failure to so nominate, representatives of employers or workers, as the case may be, shall be recommended by the Court and appointed by the Governor.

(6.) The chairman of a Board shall be some other person appointed by the nominated members; but if such members are unable to agree upon an appointment, the chairman shall be appointed by the Governor on the recommendation of the Court.

Chairman.

(7.) On the chairman and members being appointed, a Board shall be deemed to be constituted.

(8.) The employers or industrial unions of employers or industrial unions of workers concerned shall be entitled, on one occasion only but not oftener, to vacate the office of any

member appointed to represent them respectively, whereupon a vacancy shall arise which shall be filled by a fresh appointment on the nomination of the employers or industrial unions concerned, as the case may be, of a person who shall be appointed by the Governor on being recommended by the Court.

36. Every appointment of a member of a Board shall be notified in the *Gazette*.

A copy of a *Gazette* containing a notice of such appointment purporting to have been published in pursuance of this Act shall be conclusive evidence that the person named in such notice was legally appointed to the office named, and had power and jurisdiction to act in such office, and such appointment shall not be challenged.

37. All powers of a Board may be exercised by a majority of the members thereof.

38. Each member of a Board shall, upon his appointment, take an oath that he will faithfully exercise and discharge the powers and duties of his office without fear or favour to any person, and will not therein wilfully make any false or inaccurate statement, and will not disclose any matter or evidence before the Board or the Court relating to—

- (a) Trade secrets; or
- (b) The profits or losses or the receipts and outgoings of any employer; or
- (c) The books of an employer or witness produced before the Board or the Court; or
- (d) The financial position of any employer or of any witness;

and if he violates his oath he shall be liable to a penalty not exceeding five hundred pounds, and on conviction of such offence he shall cease to hold office, and shall not be eligible for re-appointment.

39. If any member of a Board, without reasonable excuse, neglects on two successive occasions to attend meetings of the Board duly convened, or to vote when present at any such meeting on any question duly submitted to the Board, he shall be liable to a penalty not exceeding five pounds, and the Minister may declare his office vacant, and thereupon such member shall cease to hold office.

Gazette of appointments.
Ibid., s. 41.

Exercise of powers.
Ibid., s. 42.

Oath to be taken by members.
Ibid., s. 43.

Failure of member to attend.
Ibid., s. 44.

40. (1.) The Minister, on the recommendation of the Court, may at any time—

Dissolution of Board and removal of member.
Q. 1916, No. 16, s. 46.

(a) Dissolve a Board;

(b) Remove any member of a Board from his office on the ground that such member cannot attend with reasonable regularity the meetings of a Board, or is not properly discharging his duties as a member of such Board.

(2.) During any vacancy in a Board (other than in the office of chairman) the continuing members may act as if no vacancy existed: Provided that in the case of a Board with four nominated members, during the vacancy in the office of one of such members, in order to prevent unequal voting, one of the representatives of the party having two representatives shall refrain from voting on any question on which a division is called.

Effect of vacancy caused by resignation.

(3.) A new Board may be appointed to take the place of a Board that has been dissolved, or the members of which have resigned or have ceased to hold office.

New Board.

Members ceasing to hold office on a Board shall be eligible for appointment to the new Board.

The provisions of this Act relating to the constitution and manner of appointment of Boards shall apply to the appointment of such new Board.

41. (1.) Where from any cause a member of a Board ceases to hold office, the Minister may appoint another member in his place, to represent employers or workers, as the case may be, who shall be duly nominated and recommended by the Court.

Appointment to vacancies.
Q. 1916, No. 16, s. 46.

(2.) Where a person is appointed to any vacancy on a Board, the Board as newly constituted may continue the hearing of and may determine any part-heard case.

42. The members of a Board shall be paid such fees, expenses, and allowances as may from time to time be fixed by the Governor.

Fees, etc.
Ibid., s. 47.

43. (1.) Proceedings before a Board shall be commenced only by remission to the Board by the Court.

Commencement of proceedings.
Q. 1916, No. 16, s. 48.

(2.) All meetings of a Board shall be convened by the chairman by notice served upon the members in the manner prescribed.

(3.) Parties to a remission and other persons concerned shall be summoned to attend the meetings of Boards by the chairman in the manner prescribed.

44. A Board may, on remission to them of any industrial matter or dispute by the Court, with or without directions, whether for determination and award or for inquiry and report—

- (a) Investigate such cause judicially;
- (b) Conduct its proceedings in public;
- (c) Adjourn the proceedings to any time or place;
- (d) Admit and call for such evidence as in good conscience they think to be the best available, whether strictly legal evidence or not;
- (e) Where empowered to make an award make such award;
- (f) In other cases make any recommendation which they deem proper with regard to any industrial matter or dispute remitted to them, and in such recommendation specify in what manner and to what extent in any particular the power of the Court to make awards should in the opinion of the Board be exercised.

45. The chairman or any member of the Board may require any person (including a member) giving evidence before a Board to give his evidence on oath or affirmation, and for such purpose may administer an oath or take an affirmation.

In the exercise of its powers, and for the purpose of obtaining evidence, and compelling the attendance of persons to give evidence, and the punishment of persons failing to attend when summoned or refusing to give evidence or produce documents, and for making any order as to the payment of costs and expenses, including the expenses of witnesses, the Board shall have all the powers and authorities of the Court, and shall be deemed to be the Court.

46. The following sections, numbered forty-seven to forty-nine inclusive, shall be inserted in the principal Act as Part IVB. thereof under the heading "Conciliation Committees."

Powers of Board,
Q. 1916, No. 16,
s. 40.

Power to ad-
minister oaths, etc.
See Q. 1916, No. 16,
s. 50.

Conciliation com-
mittees.

47. The Minister may, for the purposes of this Part of this Act, by a notification in the *Gazette*, constitute districts, and may cancel or amend any notification made under this section.

Notification of districts.
Q. 1910, No. 16, s. 57.
See N.S.W., 1912, No. 17, s. 38.

Such notification may extend to all the callings in the district, or be limited to any specified calling or callings.

48. (1.) The Minister may, in the manner prescribed, constitute for any such district a conciliation committee consisting of a chairman and two or four other members, as the Minister may determine, and to be appointed by him, one half in number of whom shall be nominated as prescribed by the employers or industrial union or unions of employers concerned and the other half nominated as prescribed by the industrial union or unions of the workers concerned, or failing any such nomination shall be recommended by the Court.

Conciliation committees.
Q. 1910, No. 16, s. 58.
See N.S.W. 1912, No. 17, s. 30.

The chairman shall be chosen by the unanimous agreement of the other members, but if no such agreement is arrived at, or if the chairman so chosen is unable or refuses to act, he shall be appointed by the Minister.

(2.) Subject to this section and so far as they may be applicable, such of the provisions of Part IV.A. of this Act as relate to the office of members of Boards shall apply to any member of a Committee constituted under this section.

49. (1.) Any such committee shall meet on being summoned by its chairman, as prescribed, or at the request of the Minister, and shall inquire into any industrial matter or dispute in connection with the calling concerned, or any of them if more than one.

Inquiry by committee.
Q. 1910, No. 16, s. 59.
See N.S.W. 1912, No. 17, s.s. 40, 41.

(2.) The chairman shall preside at all meetings of a committee, and shall endeavour to induce the other members to come to an agreement, but shall not take any part in the decisions of the committee.

(3.) If such agreement is come to, it shall be reduced to writing and signed by the other members on behalf of the employers or industrial unions of employers and the industrial unions of workers concerned.

Agreement to have effect as industrial agreement.

Such agreement, on being certified by the chairman as prescribed, shall be filed in the office of the Clerk of the Court, and shall have effect as an industrial agreement between the parties thereto.

References to Court
by industrial unions
or associations.

50. Sections ninety-seven and ninety-eight of the principal Act are repealed, and a section is inserted in place thereof, as follows:—

97. (1.) No industrial matter (including any application for the enforcement of any industrial agreement or award of the Court) or dispute shall be referred to the Court by an industrial union or association, otherwise than pursuant to a resolution of the governing body of such industrial union or association.

(2.) In the case of an industrial dispute, such resolution shall be published in a newspaper circulating in the district in which the registered office of the union or association is situated.

(3.) If, in the case of an intended reference by an industrial union, a request in writing signed by not less than ten per centum of the union is made to the governing body within fourteen days after such publication to submit the matter of the intended reference to a ballot of the members, such ballot shall be taken in the prescribed manner, and the dispute shall not be referred to the Court unless a majority of the members who record their votes vote in the affirmative.

(4.) In the case of an association, if within fourteen days after the publication of such resolution a majority of the industrial unions represented on the association, at special meetings to be called for the purpose of taking such resolution into consideration, pass resolutions forbidding the reference, the dispute shall not be referred to the Court.

Repeal of Part V.
and insertion of a
new Part in place
thereof.

51. Part V. of the principal Act is hereby repealed, and the following provisions are inserted in place thereof:—

Part V.—Basic Wage.

100. (1.) Before the fourteenth day of June in every year the Court, of its own motion, shall determine and declare—

- (a) a basic wage to be paid to male and female workers; and
- (b) wherever or whenever necessary, differential basic rates to be paid in special or defined areas of the State.

Declaration of basic
wage.

(2.) The expression "basic wage" means a sum sufficient to enable the average worker to whom it applies to live in reasonable comfort, having regard to any domestic obligation to which such average worker would be ordinarily subject:

Provided that in the application of the basic wage to industrial agreements and awards so far as a wage is thereby fixed for workers who receive from their employer without charge board and lodging, or lodging, or board, or partial board, or other allowances which are deemed by the Court to be a just set-off, the monetary value thereof as assessed by the Court shall be deemed, *pro tanto*, payment of a portion of the wage received by the worker:

Provided, also, that in fixing the basic wage the Court shall not deem itself bound by any previous decision of the Court or any other Court fixing a minimum or basic wage.

(3.) By leave of the Court any party concerned may be represented at and take part in any inquiry which may be held by the Court when determining the basic wage. The Court may allow such reasonable costs to the parties as it may deem to be sufficient, and such shall be payable from moneys appropriated by Parliament for the purposes of this Act.

(4.) The determination of the Court shall be presented to the Minister, who shall cause it to be published forthwith in the *Gazette*.

(5.) The basic wage so declared shall operate and have effect from the first day of July thence next ensuing, and shall remain in force until the thirtieth day of June in the year following.

(6.) After the declaration of the basic wage as aforesaid, no award or industrial agreement shall be made which prescribes a lesser wage than the basic wage, except in the case of junior, infirm or aged workers, or apprentices.

101. Awards and industrial agreements made before the first declaration of a basic wage under this Part of this Act may be varied by the Court on the application of either party so far as the same may be inconsistent with the basic wage as determined under this Part of this

Existing awards and agreements.

Act. If no application is made, such awards and industrial agreements shall continue in force until the expiration of their currency.

New awards
and agreements.

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

- (a) the basic wage; and
- (b) other wages or allowances, and/or additional remuneration; and
- (c) any deductions therefrom.

Automatic increases
or decreases.

103. Subject to section one hundred and one the basic wage prescribed in every award and industrial agreement shall, from time to time, automatically become increased or decreased so that it conforms to and is in parity with the basic wage as last determined by the Court: Provided that in the case of junior, infirm or aged workers or apprentices, in respect to whom a lower basic wage may have been prescribed, such increase or decrease shall be *pro rata* to such lower rate of wage.

Amendment of
Sec. 110.

52. Section one hundred and ten of the principal Act is amended by inserting a subsection, as follows:—

(2.) The Court shall have the same power as the Supreme Court to punish for contempt, and nothing in this section shall be deemed to derogate from such power.

Amendment of
Sec. 115.

53. Section one hundred and fifteen of the principal Act is amended by adding thereto the following two subsections:—

(2.) It shall be the duty of the Registrar whenever a total or partial cessation of work occurs in or in connection with any industry to make immediate inquiry into the cause thereof, and if on such inquiry he shall be of the opinion that any person has committed or is committing any breach of this Act, or of any industrial agreement or award of the Court, he shall forthwith acquaint the Court and the Crown Law officers accordingly.

(3.) In the carrying out and discharge of his duties under this section, the Registrar shall be entitled to the assistance of all industrial inspectors and officers of the Court.

54. A new part is inserted to the principal Act, to stand as Part VA, as follows:—

Apprentices in
building trades.

Part Va.—Apprentices.

103a. (1.) The Governor may appoint a board of three members, to be called “the Apprenticeship Board,” which shall be constituted as follows:—

- (a) One member shall be nominated by the industrial unions of employers in the building trade;
- (b) One member shall be nominated by the industrial unions of workers in the building trade;
- (c) The third member shall be appointed chairman, and shall be a member of the Court of Arbitration.

(2.) No person shall be employed or become an apprentice in the building trade otherwise than as prescribed by this section and the regulations.

Penalty: One hundred pounds.

(3.) Whenever any person who is indentured as an apprentice to the Board shall have already served for some period as an apprentice to the building trade (including service with the parent of the apprentice), such service shall be taken into consideration in fixing the period of apprenticeship to the Board.

(4.) Every such apprentice shall be indentured to the Apprenticeship Board in the prescribed form, and shall be placed from time to time with an employer under an agreement of apprenticeship between the Apprenticeship Board, the apprentice, and the employer, with power reserved to the Board to abrogate any agreement, and to transfer the apprenticeship from one employer to another:

Provided that the members of the said Board shall not be personally liable under this Act, or under any agreement or indenture of apprenticeship entered into with the said Board, nor shall such members be liable to any action or proceeding at the instance of any apprentice or employer or other person joined in such agreement or indenture.

(5.) The Governor may, on the recommendation of the Court, by regulation define the term “building trade” for the purposes of this section.

Apprenticeship
generally.

55. A section is inserted in the principal Act, as follows:—

103b. (1.) Every person desirous of becoming an apprentice shall be employed on probation for a period of three months to determine his fitness or otherwise for apprenticeship. In the event of his becoming an apprentice, such probationary period shall be counted as part of the term of apprenticeship.

(2.) No premium shall be paid to or accepted by an employer for taking an apprentice.

(3.) It shall be provided in every agreement of apprenticeship—

(a) that technical instruction of the apprentice, when available, shall be at the employer's expense, and shall be in the employer's time, except in places when such instruction is given after the ordinary working hours;

(b) that in the event of any apprentice, in the opinion of the examiners, not progressing satisfactorily, increased time for technical instruction shall be allowed at the employer's expense to enable such apprentice to reach the necessary standard.

(4.) Any employer who, when required by the Court, or by the Apprenticeship Board in the case of apprenticeships in the building trade, to enter into an agreement of apprenticeship, neglects or refuses to do so without reasonable cause shall be guilty of an offence.

Penalty: Fifty pounds.

(5.) This section applies to apprenticeship generally to any industry to which this Act relates.

(6.) So far as the Act to declare the law relating to masters and apprentices (37 Victoria, No. 12) is inconsistent with the provisions of this Act, or of any industrial agreement or award, it shall be of no effect.

56. A section is inserted in the principal Act, as follows:—

103c. (1.) No apprentice shall be employed by an employer in an industry which is subject to an industrial agreement or award, otherwise than by an agreement in writing registered with the Clerk of the Court.

Registration of
agreements of
apprenticeship.

(2.) Application for the registration of an agreement for apprenticeship shall be made by the employer to the Clerk of the Court within fourteen days from the date of the agreement.

(3.) Subject to section one hundred and three (a) subsection (3), service under an agreement of apprenticeship shall not commence until registration, unless an application for registration has been duly made within the prescribed time, in which case, on registration of the agreement, service thereunder shall be deemed to have commenced from the date of the agreement, or such other date (not being earlier than the date of the agreement, or such other time as may be mutually agreed between the industrial union of workers and the employers) as may be thereby fixed:

Provided that if it is proved to the satisfaction of the Court that by inadvertence, or from some cause for which there is sufficient excuse, an application for registration was not made within the prescribed time, the Court may permit the registration after the expiration of such time, but in such case the service shall date from the registration, unless the Court otherwise directs.

(4.) Except as provided by this section, every agreement of apprenticeship shall be subject to the provisions of any industrial agreement or award in force for the time being applicable to apprenticeship in the industry to which the agreement relates.

(5.) Notice of application for the registration of an agreement for apprenticeship shall be given by the Clerk of the Court to the industrial unions or associations of workers or employers in the industry, and any such union or association may, within a time to be fixed by a notice (not being less than fourteen days from the date thereof) give notice to the Clerk of the Court of its objection to the registration of the agreement, and the grounds thereof.

On receipt of such notice of objection the Clerk shall refer the matter to the Court, and shall notify all parties concerned of the time and place appointed for the hearing, and the Court may make such order for registration of the agreement or otherwise as it thinks fit.

(6.) Except as provided in subsection (4) of section one hundred and three (a) an apprentice shall not be transferred from one employer to another otherwise than by an agreement in writing registered by the Clerk of the Court. The provisions of subsection (5) of this section shall *mutatis mutandis* apply to the registration of any such transfer.

(7.) No apprentice employed under a registered agreement shall be discharged by the employer for alleged misconduct until the registration of the agreement of apprenticeship has been cancelled by order of the Court on the application of the employer.

(8.) If at the commencement of this section any employer in an industry to which this section applies is employing any person as an apprentice under an agreement that has not been registered with the Clerk of the Court, such employer shall forthwith apply for the registration of such agreement under this section, and service under such agreement shall be deemed not to have commenced until registration, unless on an application by the employer, or by or on behalf of the apprentice, the Court shall otherwise direct.

(9.) The breach or non-observance by an employer of any of the provisions of this section shall be an offence against this Act.

Penalty: Fifty pounds.

Regulations as to
apprenticeship." (1)
see Q. 1923, No. 10,
s. 29.

57. 103d. (1.) The Court, with the approval of the Governor, may make regulations—

- (a) prescribing the method in which apprentices shall be indentured and placed with employers, and the terms and conditions of apprenticeship;
- (b) prescribing the matters to be taught to apprentices, the methods, times, and conditions of instructing apprentices, and the examinations (if any) which shall be passed by them;
- (c) for the training of apprentices in technical schools or otherwise;
- (d) for the examination of apprentices, and the appointment and payment of examiners; and
- (e) prescribing all such other matters relating to apprentices as may be deemed necessary or desirable.

(2.) The Governor may, on the recommendation of the Apprenticeship Board, by regulations prescribe the wages to be paid by employers to apprentices employed in the building trade, when such wages are not fixed by an industrial agreement or award, and by such regulations may impose a penalty not exceeding twenty pounds for any breach thereof.

Provided that this section shall not operate in limitation of the powers of the Court in respect to industrial matters.

58. Section one hundred and sixteen of the principal Act is repealed, and a section is inserted in place thereof, as follows:—

Publication in
Gazette of awards,
etc.

116. (1.) It shall be the duty of the Clerk of the Court to publish in the *Gazette* all industrial agreements and awards filed in his office, and all orders of the Court whereby industrial agreements and awards are amended, interpreted, or affected.

(2.) The production of the *Gazette* in which is published any industrial agreement or award, or any order of the Court as aforesaid, or any notification made under the authority of this Act, shall, before all Courts and persons acting judicially, be *prima facie* evidence of such agreement, award, order, or notification, and of any matters therein stated.

59. (1.) Subsections (5) and (6) of section one hundred and twenty of the principal Act are repealed, and subsections are inserted in place thereof, as follows:—

Amendment of
Sec. 120.

(5.) Whenever a conference has been held under this section, and an agreement has been reached as to the whole or some portion of the matters in dispute, the President shall sign and cause to be filed with the Clerk of the Court a memorandum of the matters upon which an agreement has been reached, and the terms and conditions agreed upon; and unless otherwise ordered, and subject to any direction by the President, such memorandum shall thereupon have the force and effect of an award of the Court, and shall be enforceable accordingly:

Provided that before any such memorandum is signed all industrial unions and employers that in the opinion of the President 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 the whole of the matters in dispute, the President may refer to the Court the matters in dispute as to which no agreement has been reached, and the Court shall have jurisdiction to hear and determine such matters so referred to it, and may incorporate in its award all matters as to which an agreement was reached at the conference.

(7.) Whenever a conference has been held under this section and no agreement has been reached, the President may refer to the Court all or any of the matters in dispute, and the Court shall have jurisdiction to hear and determine the same.

60. Sections one hundred and twenty (a) and one hundred and twenty (b) of the principal Act are repealed, and a section is inserted in lieu thereof, as follows:—

120a. (1.) In this section the term “industrial dispute” includes any threatened or impending or probable industrial dispute.

(2.) The Minister may appoint Commissioners for the purpose of preventing or settling any industrial dispute, and notwithstanding that any lock-out or strike may exist.

(3.) Such Commissioners may summon any person to attend, at a time and place specified in the summons, at a conference.

The words “any person” in this section include not only persons engaged in or connected with an industrial dispute, but also any person, whether connected with an industrial dispute or not, whose presence at the conference the Commissioners think is likely to conduce to the prevention or settlement of the industrial dispute.

(4.) Any person so summoned shall attend the conference and continue his attendance as directed by the Commissioners.

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

(6.) In furtherance of such conference the Commissioners shall have and may exercise any of the powers of the Court, and the provisions of section seventy re-

lating to evidence shall apply, as if the Commissioners were the Court acting in exercise of its jurisdiction when an industrial dispute is referred to it.

(6a) The Commissioners may make such order as to costs, and for the payment to be made to persons summoned for their attendance, as may be made by the President at a compulsory conference convened under section one hundred and twenty.

(7.) The Commissioners may take evidence on oath or affirmation, and for that purpose any Commissioner may administer an oath or affirmation.

(8.) Any person summoned to attend before the Commissioners who fails to attend and to continue his attendance, shall be liable to a penalty not exceeding five hundred pounds.

Sec W.A. 1902, No. 28, s. 3; 1914, No. 6, s. 2.

(9.) Where a conference has been held under this section, and an agreement as to the whole or part of an industrial dispute is reached, the Commissioners shall sign and cause to be filed with the Clerk of the Court a memorandum of the matters on which an agreement has been reached and of the terms and conditions agreed upon, and such memorandum shall thereupon have the force and effect of an award of the Court for a period therein specified, and shall be enforceable accordingly, and the provisions of this Act relating to awards shall apply:

Provided that before any such memorandum is signed, all industrial unions that in the opinion of the Commissioners may be affected thereby shall be notified, and shall be afforded an opportunity of being heard.

(10.) Where a conference has been held under this section, but agreement has not been reached as to the whole of the industrial dispute, the Commissioners shall furnish a report in writing to the Court of their proceedings on the matter in dispute as to which agreement has not been reached, and the Court shall have jurisdiction to hear and determine any matter so referred to it as an industrial dispute under this Act.

(11.) The Minister may, for the purposes of this section, appoint one Commissioner instead of several Commissioners, and in such case the Commissioner so appointed shall have and may exercise the powers of Commissioners appointed under this section.

After conference President or Commissioners may, by consent, exercise powers of Court.

61. A section is inserted in the principal Act, as follows:—

120b. Where a conference has been held under section 120 or 120a of this Act, and an agreement as to the whole or part of the matters in dispute is not reached, but all parties to the dispute consent in writing to the dispute or the matters in difference being heard and determined by the President or the Commissioners, as the case may be, the President or the Commissioners shall have all the jurisdiction and powers of the Court to hear and determine the dispute, and the award of the President or the Commissioners shall have the effect of an award of the Court.

Amendment of Sec. 125.

62. Paragraphs are inserted in subsection two of section one hundred and twenty-five of the principal Act, as follows:—

(vi.) Regulating the practice and procedure before an industrial magistrate for and incidental to the enforcement of industrial agreements and awards, and prescribing the costs to be allowed in such proceedings, and the fees to be paid, and the allowances to witnesses.

(vii.) Providing for the registration of junior workers under a prescribed age employed in any industry.

Amendment of Sec. 126.

63. Subsection (2) of section one hundred and twenty-six of the principal Act is amended by substituting for the words "three months" the words "twelve months."

Principal Act to be reprinted as amended.

64. All copies of the principal Act to be hereafter printed by the Government Printer shall be printed as amended by this Act and the Industrial Arbitration Act Amendment Act, 1920, under the superintendence of the Clerk of Parliaments, and references to the amending Acts shall be made in the margin.

In such reprint of the principal Act the sections may be renumbered in arithmetical order, and cross references adjusted, and the short title shall be the Industrial Arbitration Act, 1912-1925.