

# INDUSTRIAL ARBITRATION.

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No. 108 of 1973.

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AN ACT to amend the Industrial Arbitration Act,  
1912-1971.

[Assented to 4th January, 1974.]

**B**E 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, 1973*.

Short title  
and citation.

(2) In this Act the Industrial Arbitration Act, 1912-1971, is referred to as the principal Act.

Vol. 22 of  
the  
Reprinted  
Acts.  
Approved for  
reprint 23rd  
May, 1969  
and  
amended by  
Acts Nos. 9  
and 62 of  
1971.

(3) The principal Act as amended by this Act may be cited as the Industrial Arbitration Act, 1912-1973.

Commence-  
ment.

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

Long title  
amended.

3. The long title to the principal Act is amended by deleting the words "Arbitration and Conciliation" and substituting the passage "Arbitration, Conciliation and Mediation".

Amendment  
to s. 2.  
(Act divided  
into parts.)

4. Section 2 of the principal Act is amended by adding after the passage, "PART IVA.—WESTERN AUSTRALIAN INDUSTRIAL APPEAL COURT. Ss. 108A-108D." the passage, "PART IVB.—MEDIATION AND CONCILIATION. Ss. 108F-108K." .

Section 4A  
repealed.

5. Section 4A of the principal Act is repealed.

Section 4B  
added.

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

Certain in-  
dustrial  
matters and  
industrial  
disputes  
deemed not  
to have  
arisen in  
certain  
circum-  
stances.

4B. Any industrial matter or industrial dispute referred to the Commission before the date of the coming into operation of the Industrial Arbitration Act Amendment Act, 1973, shall be deemed not to have arisen and shall not be heard and determined or otherwise dealt with by the Commission unless—

- (a) the hearing of that industrial matter or industrial dispute has been commenced by the Commission before that date; or
- (b) the parties to that industrial matter or industrial dispute, within one month after that date, advise the Registrar in writing that they agree that the industrial matter or industrial dispute be heard and determined or otherwise dealt with by the Commission. .

Amendment  
to s. 6.  
(Interpre-  
tation.)

7. Section 6 of the principal Act is amended—

- (a) by deleting the interpretation "certifying solicitor"; and

- (b) by adding after the interpretation “Lock-out” an interpretation as follows—

“Mediator” means a person appointed mediator under this Act; .

8. Section 9 of the principal Act is amended—

- (a) by substituting for the passage “office;” in the last line of paragraph (a) the passage “office, but the Registrar may, upon written request signed by the President and Secretary of the society, authorise the giving of notice of the meeting by a method different from that prescribed in the foregoing provisions of this paragraph, if and only if he is satisfied that all reasonable actions have been or will be taken in order to ensure that all members of the society will thereby receive due notice of the meeting; and” ;
- (b) by repealing paragraph (c) and the word “and” following that paragraph; and
- (c) by repealing paragraph (d).

Amendment to s. 9. (Conditions to be fulfilled before making an application for registration.)

9. Section 9A of the principal Act is repealed.

Section 9A repealed. (Certificate of Certifying Solicitor that rules comply with Act and purposes of society lawful.)

10. Section 9B of the principal Act is amended—

- (a) by deleting the passage “(except in the capacity of an honorary member or a member who or whose personal representative is entitled to some financial benefit or financial assistance under the rules of the society while not being a worker or employer)” in lines three to eight inclusive of paragraph (a) of subsection (2); and

Amendment to s. 9B. (Matters to be provided for in rules.)

(b) by adding after subsection (2) a subsection as follows—

(2a) For the purpose of paragraph (a) of subsection (2) of this section, an honorary member of the society or a member of the society who or whose personal representative is entitled to some financial benefit or financial assistance under the rules of the society while not being a worker or employer, shall be deemed to be a worker or employer as the case may be. .

Amendment  
to s. 10.  
(Amalga-  
mation of  
unions.)

11. Section 10 of the principal Act is amended—

(a) by substituting for the word “chairmen” in line three of subsection (2) the word “presidents”;

(b) by substituting for the word “applications” in line one of subsection (3) the word “application”;

(c) by substituting for the word “Every” in line one of subsection (4) the passage “Subject to subsection (4a) of this section, every”;  
and

(d) by adding after subsection (4) the following subsection—

(4a) Where an application is made under this section—

(a) no objection may be made concerning the qualifications of persons for membership of the proposed new union unless those qualifications exceed in ambit or extent the aggregate of the qualifications for membership of the unions which are parties to the application; and

- (b) no objection may be made concerning the area of operation or industry or calling in respect of which the proposed new union is sought to be registered unless that area of operation or industry or calling exceeds in ambit or extent the aggregate of the areas of operation or industries or callings in respect of which the unions which are parties to the application are registered. .

12. Section 11 of the principal Act is amended—

Amendment  
to s. 11.  
(Mode of  
applica-  
tion.)

- (a) by substituting for the passage “as approved by the certifying solicitor or the Court, as the case may be;” in lines one to three inclusive of paragraph (b) of subsection (1) the passage “referred to in paragraph (b) of section nine of this Act; and” ;
- (b) by substituting for the passage “application; and” in line twelve of subsection (1) the passage “application.” ;
- (c) by deleting paragraph (d) of subsection (1); and
- (d) by substituting for the word “seven” in line one of subsection (2) the word “fourteen”.

13. Subsection (3) of section 15 of the principal Act is amended by substituting for the word “chairman” in line three the word “president”.

Amendment  
to s. 15.  
(Powers  
and  
liabilities  
of industrial  
unions.)

14. Section 23 of the principal Act is amended—

- (a) by deleting the passage “nine A,” in line one of subsection (1);

Amendment  
to s. 23.  
(Amendment  
of rules.)

- (b) by substituting for the words "ten cents" in line five of subsection (2) the words "the cost of production per copy of those rules";
- (c) by deleting subsection (4); and
- (d) by adding after subsection (9) a subsection as follows—

(10) (a) Notwithstanding the foregoing provisions of this Act, any part of an application to amend the rules of a union that does not relate to the qualification of persons for membership of the union, or the area or industry or calling in respect of which the union is registered, shall be referred by the Chief Industrial Commissioner to the Commission constituted by a Commissioner to be dealt with thereby; and the Commission so constituted has and may exercise in dealing with an application that is so referred to it, the powers of the Commission in Court Session.

(b) An application to which paragraph (a) of this subsection refers may be dealt with by the Commission in chambers.

Section 23A  
added.

15. The principal Act is amended by adding after section 23 a section as follows—

Power of  
governing  
body of  
society or  
union to  
make  
certain  
alterations  
to rules.

23A. Where, in the course of dealing with an application by—

- (a) a society for registration as a union;
- (b) two or more unions for registration as one union; or
- (c) a union to amend its rules,

the Commission or, as the case may be, the Commission in Court Session requires that any applicant's rules be altered in form but not in substance the rules may, notwithstanding any

other provision of this Act or the provisions of those rules to the contrary, be so altered by the governing body of the society or union.

16. Subsection (2) of section 24 of the principal Act is amended by substituting for the word "chairman" in line two the word "president".

Amendment to s. 24.  
(Registered office and branch office of industrial union.)

17. Section 25 of the principal Act is amended—

(a) by repealing subsection (2);

(b) by repealing subsection (3);

(c) by substituting for the passage "paragraphs (b), (c) and (d)" in lines three and four of subsection (4) the passage "paragraph (b)";

(d) by adding after the word "section" in line five of subsection (4), the words "and a record of the number of members in the industrial union"; and

(e) by repealing subsection (7).

Amendment to s. 25.  
(Records to be kept and filed by industrial union.)

18. Section 26 of the principal Act is repealed and re-enacted as follows—

Section 26 repealed and re-enacted.

26.(1) Where it appears to the Registrar that the register of members of an industrial union is not being maintained in such a form and manner as to provide, for the purpose of the conduct of a ballot or election in pursuance of this Act, a convenient form of the accurate particulars of the membership of the industrial union, he may direct the union to make such rectifications in the register and such changes in the form or manner in which the register is being maintained, as he considers necessary for that purpose.

Power of Registrar in relation to register of members of industrial union.

(2) An industrial union to which a direction is given under subsection (1) of this section shall comply therewith.

Penalty: Twenty dollars.

(3) A certificate from the Registrar stating that a person specified in the certificate was at a time so specified a member or officer of an industrial union so specified is, in all courts and proceedings, *prima facie* evidence of the facts so stated. .

Amendment  
to s. 36B.  
(Action by  
Registrar.)

19. Section 36B of the principal Act is amended—

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

(1) Where an application made in accordance with section 36A of this Act is lodged with the Registrar, the Registrar shall grant the application and refer the matter to the Court. ;

(b) by repealing subsection (2); and

(c) by deleting the words “or imprisonment for six months” in lines eight and nine of subsection (5).

Amendment  
to s. 36H.  
(Enforce-  
ment of  
orders.)

20. Subsection (2) of section 36H of the principal Act is amended by deleting the words “or imprisonment for six months” in lines five and six.

Amendment  
to s. 36L.  
(Ballot  
papers, etc.,  
to be pre-  
served.)

21. Section 36L of the principal Act is amended by deleting the words “or imprisonment for six months” in lines ten and eleven.

Amendment  
to s. 36M.  
(Registrar  
to conduct  
elections  
upon  
request.)

22. Subsection (7) of section 36M of the principal Act is amended by deleting the words “or imprisonment for six months” in lines fifteen and sixteen.



23. Subsection (3) of section 36N of the principal Act is amended by deleting the words "or imprisonment for six months" in lines two and three.

Amendment to s. 36N.  
(Offences in connection with elections.)

24. Section 36P of the principal Act is amended by substituting for the word "Court" in lines one, eight and twelve respectively the word "Commission".

Amendment to s. 36P.  
(Court may order secret ballot.)

25. Section 36Q of the principal Act is amended—

- (a) by substituting for the word "Court" in line one of subsection (1) and in line two of subsection (2) respectively the word "Commission"; and
- (b) by deleting the words "or imprisonment for six months" in lines five and six of subsection (2).

Amendment to s. 36Q.  
(Enforcement of orders.)

26. Section 36R of the principal Act is amended by substituting for the word "Court" in lines one and seven respectively the word "Commission".

Amendment to s. 36R.  
(Ballot papers, etc., to be preserved.)

27. Section 36S of the principal Act is amended—

- (a) by substituting for the word "Court" in lines one and three respectively of subsection (1) the word "Commission";
- (b) by deleting the passage "-1951" in line five of subsection (1);
- (c) by deleting the words "or imprisonment for six months" in lines thirteen and fourteen of subsection (3); and
- (d) by repealing subsection (6).

Amendment to s. 36S.  
(Persons having the conduct of ballots.)

28. Subsection (3) of section 36T of the principal Act is amended by deleting the words "or imprisonment for six months" in lines two and three.

Amendment to s. 36T.  
(Offences in connection with ballots.)

29. Section 36U of the principal Act is amended by substituting for the word "Court" in line four the word "Commission".

Amendment to s. 36U.  
(Saving of the powers conferred by s. 36P.)

Amendment  
to s. 37.  
(Industrial  
agreements  
may be  
made.)

30. Subsection (5) of section 37 of the principal Act is amended by adding after the word "therefrom" being the last word in the subsection the passage ", until a new agreement or an award in substitution for the first mentioned agreement has been made".

S. 39  
amended.  
(Parties to  
agreement  
may be  
added.)

31. Section 39 of the principal Act is amended—

(a) by adding after the section number "39." the subsection designation "(1)"; and

(b) by adding a subsection as follows—

(2) Where a union satisfies the Commission—

(a) that there is in force an industrial agreement—

(i) to which the union is not a party; and

(ii) which governs any terms and conditions of employment of workers employed in the same or any part of the same area of operation or industry or calling as that in respect of which that union is registered; and

(b) that among the workers whose terms and conditions of employment are governed by that industrial agreement are some of its members,

the Commission may, on application being made by that union, order that that union become a party to that industrial agreement and thereupon for the purposes of this Act that union shall be a party to that industrial agreement and shall be deemed to have concurred therein. .

32. Section 43 of the principal Act is amended by adding after the word "force" in line two the words "by virtue of its term".
- Amendment to s. 43.  
(Variation of an Industrial Agreement inconsistent with an award.)
33. Section 44 of the principal Act is amended—
- (a) by deleting paragraph (b) of subsection (1) and substituting the following paragraph—
- (b) such number of other Commissioners as may, from time to time, be necessary for the purposes of this Act. ; and
- (b) by repealing subsection (2).
- Amendment to s. 44.  
(Constitution of Commission.)
34. Subsection (1) of section 52 of the principal Act is repealed.
- Amendment to s. 52.  
(Rights of Commissioners presumed.)
35. Section 60 of the principal Act is amended by repealing—
- (a) subsection (3);
- (b) subsection (4); and
- (c) subsection (5).
- Amendment to s. 60.  
(Officers of the Commission.)
36. Section 61 of the principal Act is amended—
- (a) by adding after the word "industry" in line three of subsection (1), the passage ", including any industrial matter or industrial dispute referred to it under Part IVB of this Act,"; and
- (b) by deleting paragraph (d) of subsection (2).
- Amendment to s. 61.  
(Jurisdiction of Commission.)
37. Section 65 of the principal Act is amended—
- (a) by substituting for the words "by any party" in line two of subsection (1) the words "pursuant to this Act";
- Amendment to s. 65.  
(Conciliation.)

- (b) by repealing the passage commencing “(c)” in line ten of subsection (2) and ending with the word “Commission” being the last word in the subsection and re-enacting the passage as follows—

“and

- (c) shall, if so filed, be certified subject to this Act, by the Commission in proceedings which shall be held in public,

and when so certified has, subject to this Act, the same effect as and be deemed to be an award of the Commission” ; and

- (c) by repealing and re-enacting subsection (4) as follows—

(4) In proceedings for certification of a memorandum of agreement under this section the Commission may add to or otherwise vary the memorandum—

- (a) if any provision in the memorandum is inconsistent with or contrary to any provision of this Act; or

- (b) if it appears to the Commission to be equitable so to do in the interests of any person who is not a party to the memorandum,

but an alteration shall not be made pursuant to paragraph (b) of this subsection so as to affect the rights or obligations of the parties to the memorandum with respect to one another unless those parties consent thereto. .

38. Section 66 of the principal Act is amended by adding after subsection (2) a subsection as follows—

Amendment to s. 66.  
(By whom an industrial matter or dispute may be referred to Commission.)

(3) Notwithstanding the foregoing provisions of this section or any other provision of this Act, an industrial matter or dispute may be referred to the Commission—

- (a) under Part IVB of this Act; or
- (b) when all parties to the industrial matter or dispute agree that the matter or dispute be determined by the Commission,

and not otherwise. .

39. Subsection (3) of section 69 of the principal Act is amended by adding a paragraph as follows—

Amendment to s. 69.  
(Commission to decide according to equity and good conscience.)

(b) A notification by the Commission under paragraph (a) of this subsection shall be given to the parties to the hearing before any reasons for decision or minutes in which any matter or information referred to in that paragraph has been taken into account, are issued to those parties. .

40. Section 70 of the principal Act is amended—

Amendment to s. 70.  
(Sittings of Commission.)

- (a) by substituting for the words “the Registrar shall give to all parties concerned” in lines three and four of subsection (1) the words “the parties concerned shall be given”;
- (b) by deleting the words “by the Registrar” in line nine of subsection (1); and
- (c) by substituting for the passage “section one hundred and seventy-one” in lines one and two of paragraph (a) of subsection (2) the words “sections one hundred and eight H and one hundred and eight I”.

41. Section 71 of the principal Act is amended by substituting for paragraph (i) the following paragraph—

Amendment to s. 71.  
(Powers of Commission.)

- (i) direct parties to be struck out or persons to be joined; .

Amendment  
to s. 77.  
(Evidence.)

42. Subsection (5) of section 77 of the principal Act is amended by deleting the passage “, and for that purpose any member or the Clerk of the Court may administer an oath or affirmation” in lines two, three and four.

Amendment  
to s. 79.  
(Minutes  
of award or  
amendment  
of award  
or order.)

43. Section 79 of the principal Act is amended—

- (a) by adding after the word “award” in line two of subsection (1) the passage “or an order under Part IVB of this Act”; and
- (b) by adding after the word “award” in the last line of subsection (2) the words “or an order”.

Amendment  
to s. 92.  
(Currency  
and review  
of award.)

44. Section 92 of the principal Act is amended—

- (a) by deleting the word “and” in line four of subsection (2);
- (b) by adding after paragraph (a) of subsection (2) a paragraph as follows—
  - (aa) give such retrospective effect to the whole or any part of the award as the Commission may consider equitable but not beyond the date upon which the Commission first took cognizance of the matter in respect of which the award or part of the award was made; and ;
- (c) by repealing and re-enacting subsection (3) as follows—
  - (3) (a) The Commission may at any time review any provision of the award and may by order, subject to subsection (5) of this section, add to, vary or rescind that provision.

(b) The power conferred on the Commission under paragraph (a) of this subsection, may be exercised on the application of any union, association or employer who is bound by the award.

(c) Subject to paragraph (d) of this subsection, an order made pursuant to paragraph (a) of this subsection has effect from the date specified in the order.

(d) The provisions of paragraph (aa) of subsection (2) of this section apply, with such modifications as circumstances require, to an order made pursuant to paragraph (a) of this subsection.

(e) An order made pursuant to paragraph (a) of this subsection may be limited in its effect to a particular employer or to particular employers; ; and

(d) by repealing and re-enacting subsection (6) as follows—

(6) The provisions of subsection (5) of this section do not apply to—

(a) an award whose term has expired; or

(b) an application by a person who is not a party to that award,

but this subsection does not limit the powers conferred on the Commission by section seventy-one of this Act. .

45. The principal Act is amended by adding after section 92A a section as follows—

Section  
92B  
added.

92B. (1) Where a union satisfies the Commission—

Union  
having  
industrial  
coverage  
may be  
joined as  
party to  
certain  
awards.

(a) that there is in force an award—

(i) to which the union is not a party;  
and

(ii) which governs any terms and conditions of employment of workers employed in the same or any part of the same area of operation or industry or calling as that in respect of which that union is registered; and

(b) that among the workers whose terms and conditions of employment are governed by that award are some of its members,

the Commission may, on application being made by that union, order that that union be made a party to the award and shall thereupon amend the award accordingly.

(2) Where a union has, pursuant to subsection (1) of this section, been made a party to an award, the union may at any time make application for a new award governing the terms and conditions of employment of such of its members as would otherwise be workers to whom that firstmentioned award applied and the Commission is hereby empowered to make such new award notwithstanding that the firstmentioned award is still in force by virtue of its term. .

Amendment  
to s. 99.  
(Enforce-  
ment of  
awards and  
industrial  
agreements.)

46. Section 99 of the principal Act is amended by adding after subsection (5) a subsection as follows—

(6) In this section “award” includes an order made by the Commission under this Act not being an order in respect of which a penalty is prescribed by any other provision of this Act, except this section, for a contravention or failure to comply with the order. .

Amendment  
to s. 102.  
(Property  
liable to  
execution.)

47. Subsection (1) of section 102 of the principal Act is amended by substituting for the words “value of sixty dollars” in the last line the passage “extent to which such goods are from time to time protected from such seizure under the Local Courts Act, 1904”.



48. Subsection (1) of section 107 of the principal Act is amended by adding after the word "Commission" in line four the words "or to an Industrial Magistrate".

Amendment to s. 107. (References to Commission to be approved by resolution of union.)

49. Section 108B of the principal Act is amended—

Amendment to s. 108B. (Jurisdiction of Court.)

- (a) by deleting the passage "in the case of an appeal pursuant to subsection (4) of section nine A of this Act or" in lines six to eight inclusive of paragraph (d) of subsection (1); and
- (b) by deleting the passage "subsection (4) of section nine A of" in lines two and three of subsection (5).

50. Subsection (5) of section 108C of the principal Act is amended by adding after the word "appeal" in the last line of paragraph (b), the passage "and may remit the case to the Commission for further hearing and determination".

Amendment to s. 108C. (Appeals to Commission in Court Session.)

51. The principal Act is amended by adding after section 108E a heading and section as follows—

Heading Part IVB added. Section 108F added.

#### PART IVB.—MEDIATION AND CONCILIATION.

108F. (1) Where the parties to an industrial dispute request a Commissioner in writing to appoint as mediator in the dispute, a person named in the request, the Commissioner shall, if that person is willing to act, appoint him as mediator for the purpose of that dispute.

Request for, and appointment of, mediator in an industrial dispute.

(2) The appointment of a mediator in an industrial dispute shall end when—

- (a) he has completed the functions prescribed by this Act in relation to the industrial dispute;

- (b) any party to the industrial dispute advises the Commissioner by whom he was appointed, in writing that he no longer desires the services of the mediator with respect to the industrial dispute; or
- (c) the mediator advises the Commissioner by whom he was appointed in writing that he resigns his appointment as mediator,

whichever event first occurs.

(3) The Minister shall pay a mediator such fees and expenses as the Commissioner by whom the mediator was appointed, having regard to the circumstances of the case, recommends, and for that purpose the mediator shall, in the prescribed manner, notify that Commissioner of the time spent and of any expenses incurred by him in connection with the settlement of the dispute.

(4) (a) For the purpose of this section the Registrar shall maintain a register of persons who have been nominated in writing by the Trades and Labor Council of Western Australia, The Western Australian Employers' Federation (Incorporated) or the Minister as persons who are proper persons to be, and who are willing to act as, mediators under this Part of this Act.

(b) The register shall be open to inspection by any union, association or employer.

(c) The fact that a person's name does not appear on the register does not prevent that person from being appointed a mediator under subsection (1) of this section. .

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

Section 108G added.

108G. (1) Where, as a result of negotiations relating to an industrial dispute at which a mediator has presided, an agreement is reached as to the whole of the matters in dispute between the parties thereto, a memorandum of the terms of agreement—

Memorandum of agreement as to whole of matters in dispute to be drawn up and referred to Commission.

- (a) shall be drawn up by, or at the direction of the mediator and signed by him; and
- (b) shall, if all of the parties to the dispute so request in writing, be referred by him to the Commission for issuance as an award or an order amending an award.

(2) A reference made pursuant to subsection (1) of this section shall, for all purposes of this Act, be deemed to be—

- (a) the filing of a memorandum of agreement under and for the purposes of section sixty-five of this Act; or
- (b) an application under section ninety-two of this Act,

as the case may be.

(3) Where the request referred to in paragraph (b) of subsection (1) of this section is not made or a reference made pursuant to that paragraph is dismissed by the Commission the parties to the dispute shall, subject to the provisions of this section and to those of Part III of this Act, execute and register an industrial agreement in the terms of the memorandum.

(4) The parties to the dispute may exclude from an industrial agreement made pursuant to this section, and the Commission shall exclude from any award or order made pursuant to this section, any matter contained in the memorandum which, prior to the making of the

industrial agreement or award or order, as the case may be, is made the subject of an unregistered agreement between the parties to the dispute. .

Section 108H  
added.

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

Memoran-  
dum of  
agreement  
as to some  
of the  
matters in  
dispute,  
to be  
drawn up  
and referred  
to Com-  
mission.

108H. (1) Where, as a result of negotiations relating to an industrial dispute at which a mediator has presided, 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, if the parties to the dispute so request in writing, the mediator—

- (a) shall draw up or cause to be drawn up and sign a memorandum of the matters agreed upon, and the matters then in dispute; and
- (b) shall refer the memorandum to the Commission for hearing and determination of those matters in dispute.

(2) In determining a reference made under subsection (1) of this section the Commission shall make an order which shall bind only the parties to the dispute and shall exclude from the order any matters, which prior to the making of the order, the parties make the subject of an unregistered agreement.

(3) Upon, or at any time after the making of an order under this section, the parties may, in the prescribed manner, request the Commission to—

- (a) issue an award in the terms of the order; or
- (b) amend the award by which the parties are bound so as to give effect to the terms of the order.

(4) A request made pursuant to subsection (3) of this section shall, for all purposes of this Act, be deemed to be—

- (a) the filing of a memorandum of agreement under and for the purposes of section sixty-five of this Act; or
- (b) an application under section ninety-two of this Act,

as the case may be.

(5) An order made under subsection (2) of this section shall cease to operate upon the making of an award or order on a request made under subsection (3) of this section.

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

Section 108I added.

108I. (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 the Commissioner.

Power of Commissioner to summon persons to conference.

(2) Any person so summoned shall attend the conference at the time and place specified in the summons and continue his attendance thereat as directed by the Commissioner.

Penalty: Two hundred dollars.

(3) The conference shall be held in private and any notes or transcript taken during the conference shall be used for the purpose of the conference and for no other purpose, unless all parties to the conference otherwise agree.

(4) (a) The power conferred on a Commissioner by subsection (1) of this section may be exercised for the purpose of preventing or settling an industrial dispute, strike or lockout and shall be exercised upon an application made for that purpose by—

(i) any union, association or employer; or

(ii) the Attorney General,

and not otherwise.

(b) An application by the Attorney General under this subsection shall be accompanied by a statement that, in the opinion of the Attorney General, the public interest is or is likely to be seriously and detrimentally affected by the industrial dispute in relation to which the conference is sought.

(5) Where a conference has been held under this section and an agreement has been reached as to the whole of the matters in dispute between the parties thereto a memorandum of the terms of agreement shall be drawn up by, or at the direction of, the Commissioner, and signed by him and the provisions of section one hundred and eight G of this Act, with such adaptations as the circumstances require, apply in relation to that memorandum.

(6) (a) Where a conference has been held under this section and an agreement has been reached as to some of the matters in dispute between the parties thereto but not as to all of them, or if no agreement has been reached, a memorandum of the matters agreed upon and the matters then in dispute may be drawn up by, or at the direction of, the Commissioner and signed by him and the Commissioner may refer the memorandum to the Commission for hearing and determination of the matters in dispute.

(b) The provisions of subsections (2), (3), (4) and (5) of section one hundred and eight H of this Act apply, with such adaptations as the circumstances require, to a reference made under this subsection.

(7) Subject to subsection (8) of this section the Commission is constituted by a Commissioner sitting or acting under this section.

(8) For the hearing and determination of a reference made under paragraph (a) of sub-

section (6) of this section the Commission shall not be constituted by the Commissioner who made the reference unless—

- (a) all parties to the dispute so agree in writing; or
- (b) the only matter in dispute is the date on and from which the whole or any part of the matters contained in the memorandum commenced or shall commence to operate.

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

Section 108J added.

108J. In proceedings before the Commission under this Part of this Act the Commission may, subject to subsection (8) of section one hundred and eight I of this Act, fix the date on and from which the whole or any part of any order or award made under this Part of this Act commenced or shall commence to operate, but any such date shall not be earlier than—

Date on which order or award commences to operate.

- (a) the date on which the Commission first took cognizance of the matter in respect of which the order or the award or the part of the order or the part of the award was made; or
- (b) in a case to which section one hundred and eight G or one hundred and eight H of this Act applies, the date on which the request referred to in subsection (1) of section one hundred and eight F of this Act was made.

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

Section 108K added.

108K. Notwithstanding any other provision of this Act, it is hereby declared—

Additional jurisdiction in relation to certain industrial disputes.

- (a) that any difference or dispute may be an industrial dispute for the purposes of this Part notwithstanding that the subject matter of the difference or

dispute is governed by an industrial agreement or award still in force by virtue of its term;

- (b) that a mediator may be appointed under this Part in respect of, and has, when appointed, all the powers conferred by this Part, in respect of such an industrial dispute as is referred to in paragraph (a) of this section; and
- (c) that the Commission has, on the reference to it by a mediator of such an industrial dispute as is referred to in paragraph (a) of this section, all the powers and functions that it has in relation to an industrial dispute which arises in respect of a difference or dispute which is not governed by an industrial agreement or award still in force by virtue of its term. .

Section 128  
amended.  
(Apprentice-  
ship  
Board.)

57. Subsection (1) of section 128 of the principal Act is amended by deleting paragraph (c) and substituting the following paragraph—

- (c) the third member shall be appointed by the Minister, and shall be the Chairman of the Board. .

Amendment  
to s. 130.  
(Registra-  
tion of  
agreements  
of appren-  
ticeship.)

58. Section 130 of the principal Act is amended by adding after the word “than” in line four of subsection (6) the words “by order of the Commission, but such order shall not be made without the concurrence of the employer to whom an apprentice is to be transferred or”.

Section 133  
repealed.  
(Employers  
or workers  
refusing to  
offer or  
accept  
employment  
upon the  
terms of  
an award  
or agree-  
ment.)

59. Section 133 of the principal Act is repealed.



60. Section 137 of the principal Act is repealed. Section 137 repealed. (Enforcement of award or agreement by Commission in Court Session.)
61. Section 144 of the principal Act is amended— Amendment to s. 144. (Determination of equal pay for male and female workers.)
- (a) by deleting subsection (2); and
- (b) by deleting the passage commencing with the semi-colon in line six of subsection (3) and ending with the word “seventy-two” in lines eleven and twelve of that subsection.
62. Subsection (2) of section 166 of the principal Act is amended by substituting for the passage “the Court, the Commission and the Crown Law officers” in lines eight and nine the words “the Commission”. Amendment to s. 166. (Registrar.)
63. Section 167 of the principal Act is amended by adding after subsection (4) a subsection as follows— Amendment to s. 167. (Publication in Gazette of awards, etc.)
- (5) The Registrar shall, as soon as practicable after any award or order amending an award is made under this Act, publish in the *Gazette*—
- (a) in the case of an award, the number and title of the award, the area of its operation and the date on and from which it operates; and
- (b) in the case of an amendment, the number and title of the award being amended, the number of the amending order, the title of each clause amended or added by the order and the date on and from which the order operates. .

Section 171  
repealed.  
(Commissioner may  
convene  
Compulsory  
Conference.)

64. Section 171 of the principal Act is repealed.

Section 173  
amended.  
(After conference  
Commissioners may,  
by consent,  
hear and  
determine  
dispute.)

65. Section 173 of the principal Act is amended by deleting the words "one hundred and seventy-one" and substituting the passage "one hundred and eight I".

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