

[CONFIDENTIAL.]
(Rough Draft for Consideration Only.)

No. , 1938.

A BILL

To consolidate the Acts relating to
Industrial Arbitration.

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of New South
Wales in Parliament assembled, and by the authority of
the same, as follows :—

PART I.

PRELIMINARY.

1. This Act may be cited as the " Industrial Arbitra- Short title.
tion Act, 1938."

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

Division
into Parts.

PART I.—PRELIMINARY—ss. 1-13.

PART II.—THE COMMISSION, CONCILIATION COMMISSIONER, CONCILIATION COMMITTEES, AND APPRENTICESHIP COUNCILS—ss. 14-19.

DIVISION 1.—*Constitution of Commission*—s. 14.

DIVISION 2.—*Conciliation Commissioner*—ss. 15-17.

DIVISION 3.—*Establishment of Committees*—s. 18.

DIVISION 4.—*Apprenticeship Councils*—s. 19.

PART III.—JURISDICTION OF COMMITTEES, CONCILIATION COMMISSIONER, APPRENTICESHIP COUNCILS, AND COMMISSION—ss. 20-38.

DIVISION 1.—*Committees*—ss. 20-23.

DIVISION 2.—*Conciliation Commissioner*—ss. 24-27.

DIVISION 3.—*Apprenticeship Councils*—ss. 28, 29.

DIVISION 4.—*Commission*—ss. 30-38.

PART IV.—BASIS OF ASSESSMENT OF RATES OF WAGES—ss. 39-48.

PART V.—HOURS—ss. 49-59.

DIVISION 1.—*Pending Declaration*—s. 49.

DIVISION 2.—*Declaration of Hours*—ss. 50, 51.

DIVISION 3.—*Overtime*—ss. 52-54.

DIVISION 4.—*Rationing*—ss. 55, 56.

DIVISION 5.—*Works for Unemployed*—s. 57.

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PART VI.—PROCEDURE—ss. 60-72.

DIVISION 1.—*Conciliation Committees*—ss. 60-63.

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PART VII.—AWARDS—ss. 73-77.

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Industrial Arbitration.

PART X.—TRADE UNIONS—ss. 93–103.

PART XI.—GENERAL AND SUPPLEMENTAL—ss. 104–116.

PART XII.—RURAL INDUSTRIES—s. 117.

PART XIII.—THE ORGANISATION OF THE LABOUR MARKET—ss. 118–139.

DIVISION 1.—*State Labour Exchanges*—ss. 118–121.

DIVISION 2.—*Private Employment Agencies; Theatrical Agencies and Employers*—ss. 122–134.

DIVISION 3.—*General Provisions and Penalties for the purposes of this Part*—ss. 135–139.

PART XIV.—INSURANCE AGAINST UNEMPLOYMENT—s. 140.

PART XV.—CONSEQUENTIAL AMENDMENTS—s. 141.

3. The Acts mentioned in the Schedule hereto are hereby repealed. Repeals.

4. (1) All awards, declarations, determinations, orders, rulings, decisions, verdicts, judgments, recommendations, licenses, authorities, permits, apprenticeship regulations, and industrial agreements made under the authority of the repealed Acts and in force at the commencement of this Act shall, until varied or rescinded under this Act, continue in force, and shall be deemed to have been made under this Act. In construing any such award, declaration, determination, order, ruling, decision, verdict, judgment, recommendation, license, authority, permit, apprenticeship regulation or industrial agreement references to the registrar shall be read as references to the registrar appointed under this Act, references to the Court of Industrial Arbitration, or the industrial commission shall be read as references to the industrial commission constituted by this Act, references to the deputy commissioner, or the chairman of a conciliation committee, or the conciliation commissioner or an additional conciliation commissioner shall be read as references

Savings.
Act No. 17,
1912, s. 4
(2).

references to the conciliation commissioner or an additional conciliation commissioner appointed under this Act, references to a conciliation committee shall be read as references to a conciliation committee established under this Act, and references to the apprenticeship commissioner, an additional apprenticeship commissioner or an apprenticeship council shall be read as references to the apprenticeship commissioner, an additional apprenticeship commissioner appointed or apprenticeship council established under this Act.

(2) All matters, inquiries or proceedings initiated, pending or part heard at the commencement of this Act before the commission or a member or additional member thereof, the conciliation commissioner, an additional conciliation commissioner, a conciliation committee, the apprenticeship commissioner, an additional apprenticeship commissioner, an apprenticeship council, the registrar, the deputy registrar, a district court, a court of petty sessions, a stipendiary, police or industrial magistrate, or any two justices in petty sessions, as the case may be, shall be continued as if such matters or proceedings had been taken under this Act.

cf. Act. No.
17, 1912,
s. 4 (3).

Provided that any matter pending or part heard before the deputy commissioner or a conciliation committee before the sixth day of December, one thousand nine hundred and thirty-two, may, unless the commission otherwise directs, be heard or continued before the conciliation commissioner, as if this Act had not been passed.

(3) The registrar, deputy registrar, additional conciliation commissioner, additional apprenticeship commissioner, inspectors, industrial magistrates and members and deputy or alternate members of conciliation committees appointed under any Act hereby repealed and holding office at the commencement of this Act shall be deemed to have been appointed under this Act for the remainder of their current term of office.

Ibid. s. 4
(4).

Conciliation committees in existence immediately before the commencement of this Act shall be deemed to have been established under this Act.

(4)

(4) All rules and regulations made and instructions given under the Acts hereby repealed and in force at the commencement of this Act, shall, *mutatis mutandis*, apply as if made under this Act.

Act No. 17,
1912, s. 4
(5).

Definitions.

5. In this Act, unless the context otherwise indicates,—

Interpretation
of Act No. 17,
1912, s. 5.

“ Agreement ” means an industrial agreement and includes an agreement filed under section twelve of this Act.

Act No. 22,
1930, s. 3.

“ Apprentice ” means an employee who is serving a period of training under an indenture or other written contract for the purpose of rendering him fit to be a qualified worker in an industry.

Act No. 14,
1936, s. 2
(a) (i).

“ Award ” means award under this Act, and includes a variation of such award.

“ Calling ” means craft or other occupation.

“ Commission ” means the Industrial Commission of New South Wales established under this Act.

Act No. 14,
1926, s. 2.

“ Committee ” means a conciliation committee established under this Act.

Ibid.

“ Employee ” means person employed in any industry, whether on salary or wages or piece-work rates, or as member of a butty-gang, but shall not include a member of a family in the employment of a parent, and the fact that a person is working under a contract for labour only, or substantially for labour only, or as lessee of any tools or other implements of production, or any vehicle used in the delivery of goods, shall not in itself prevent such person being held to be an employee.

Act No. 50,
1919, s. 2.

“ Employees of the Crown ” includes employees of any person or corporation employing persons on behalf of the Government of the State.

Act No. 14,
1926, s. 15.

“ Employer ” means person, firm, company, or corporation employing persons working in any industry, whether on behalf of himself or itself

or

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or any other persons or on behalf of the Government of the State, and includes the Crown (except as to any employees employed under the Police Regulation Act, 1899, or any statute passed in substitution for or amendment of the same), the Commissioner for Railways, the Commissioner for Road Transport and Tramways, the Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Hunter District Water Supply and Sewerage Board, and any council of a municipality or shire, and includes for the purpose of constituting a special board, a director, manager, or superintendent of an employer as defined as aforesaid.

“**Improver**” means an employee under twenty-two years of age not being a trainee apprentice who is serving for the purpose of rendering him fit to be a qualified worker in an industry or special section of an industry.

Act No. 14,
1936, s. 2
(a) (ii).

“**Industrial agreement**” means industrial agreement made and filed under any Act hereby repealed, or under this Act.

“**Industrial magistrate**” means industrial magistrate appointed under this Act.

“**Industrial matters**” means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and, without limiting the ordinary meaning of the above definition, includes all or any matters relating to—

- (a) the wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the piece-work contract, or other prices paid or to be paid therein in respect of such employment, and the question whether piece-work or contract work or any other system of payment

payment by results shall be allowed, forbidden, or exclusively prescribed in and for an industry or calling, and whether monetary allowance shall be made by employers in respect of standing back or waiting time;

- (b) the hours of employment, sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment;
- (c) the employment of children or young persons, or of any persons or class of persons in any industry, or the right to dismiss or refuse to employ or reinstate in employment any particular person or class of persons therein; but not so as to give preference of employment to members of industrial unions, except in accordance with the provisions of paragraph (g) of subsection one of section twenty of this Act;
- (d) any established custom or usage of any industry, either general or in any particular locality;
- (e) the interpretation of an industrial agreement or award;
- (f) any shop, factory, craft or industry dispute or any matter which may be a contributory cause of such a dispute;
- (g) any claim that the same wage shall be paid to persons of either sex performing the same work or producing the same return of profit or value to their employer.

“ Industrial union ” means industrial union registered as an industrial union under this Act.

“ Industry ” means craft, occupation, or calling in which persons of either sex are employed for hire or reward, and unless otherwise indicated by the context or any provisions of this Act any division of an industry or combination, arrangement, or grouping of industries.

“ Justice ”

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- “ Justice ” means justice of the peace, and includes a magistrate.
 - “ Lock-out ” (without limiting its ordinary meaning) includes a closing of a place of employment, or a suspension of work, or a refusal by an employer to continue to employ any number of his employees with a view to compel his employees, or to aid another employer in compelling his employees, to accept terms of employment.
 - “ Magistrate ” means stipendiary or police magistrate.
 - “ Managerial position ” means the position of an employee who is principally engaged in the direction and control of other employees, but does not include the position of a shopwalker, ganger, or foreman stevedore.
 - “ Metropolitan district court ” means district court of the metropolitan district, holden at Sydney.
 - “ Minister ” means Minister of the Crown administering this Act.
 - “ Prescribed ” means prescribed by this Act, or by rules and regulations made thereunder.
 - “ Registrar ” means industrial registrar appointed under this Act.
 - “ Repealed Acts ” means the Acts repealed by this Act.
 - “ Strike ” (without limiting its ordinary meaning) includes the cessation of work by any number of employees acting in combination, or a concerted refusal or a refusal under a common understanding by any number of employees to continue to work for an employer with a view to compel their employer, or to aid other employees in compelling their employer, to accept terms of employment, or with a view to enforce compliance with demands made by them or other employees on employers.
 - “ Trade union ” means trade union registered under the Trade Union Act, 1881-1936, and includes a branch so registered.

“ Trainee

“Trainee apprentice” means an employee who, under conditions prescribed by an award of an apprenticeship council relating to any trade, is serving a period of training without an indenture of apprenticeship or other written contract for the purpose of rendering him fit to be a qualified worker in that trade.

Act No. 14,
1936, s. 2
(a) (iii).

Industrial unions.

6. The registrar may, on application made as herein-after provided, register under this Act as an industrial union of employers any person or association of persons, or any incorporated company, or association of incorporated companies, who or which has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees.

Registration
of industrial
union of
employers.

Act No. 17,
1912, s. 6.

Such application shall be made as prescribed, and, if made by an association or company, shall be signed by a majority in number of the governing body thereof.

7. Any person or body whose registration under the Acts hereby repealed or the Trade Unions Re-registration Act, 1920, as an industrial union is at the commencement of this Act in force, shall, unless and until such registration is cancelled and subject to such conditions as may have been imposed upon the registration thereof, be deemed to be an industrial union.

Registration
under
repealed
Act.

Ibid. s. 7.

8. (1) The registrar may, on application made as hereinafter provided, register under this Act any trade union of employees. On such registration the trade union shall be an industrial union until such registration is duly cancelled.

Registration
of industrial
union of
employees.

Ibid. s. 8.

(2) Such application shall be made in writing as prescribed by the committee of management of the trade union, and shall be signed by a majority in number of the members of such committee. Notice of any such application shall be published as prescribed.

The registrar may require such proof as he thinks necessary of the authority of the said members to make the said application.

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(3) Any such application may be refused by the registrar if he is of opinion that the organization applying is not a bona-fide trade union, or if registered under this Act would not be a bona-fide industrial union, or to the extent to which in his opinion the interests under this Act of persons represented by the applicant union may be protected by a previously registered industrial union which has not since the twenty-second day of March, one thousand nine hundred and eighteen, taken part in, aided, or abetted an illegal strike:

Provided that any application for registration as an industrial union, made by a trade union, all of whose members are employees of the Crown, shall not be refused upon the ground only that the interests of the employees represented by the applicant union may be protected by a previously registered industrial union.

(4) The registrar shall fix a day for considering any objections on the above ground to the granting of the application, and shall notify the same as prescribed.

(5) No branch shall be registered unless it is a bona-fide branch of sufficient importance to be registered separately.

(6) When any trade union registered as an industrial union has changed its name, or when two or more trade unions, all of which are registered as industrial unions, have amalgamated, the registrar may, upon application in the prescribed manner by any industrial union or industrial unions, and upon the production of the prescribed particulars, record any such change of name or amalgamation in the register of industrial unions. Any such record shall be deemed to be a re-registration of the applicant union or unions in such changed name or as so amalgamated as the case may be: Provided that any such change of name or amalgamation shall not affect any rights or liabilities of any such union or unions: Provided also that the registrar may at his discretion, upon any such application, require the applicant union or unions to follow the procedure hereinbefore set out in respect of applications for the registration of industrial unions.

Change of name or amalgamation of unions.

(7)

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Industrial Arbitration.

(7) Any decision of the registrar under this section in respect of an objection taken as aforesaid, or on refusal of registration, shall be subject to appeal to the commission as prescribed.

(8) The commission may for any reasons which appear to it to be good cancel the registration of any industrial union: Provided that, save where otherwise mentioned in this Act, such cancellation shall not relieve the industrial union or any member thereof from the obligation of any award or industrial agreement, or order of the commission, or a committee or the apprenticeship council or from any penalty or liability incurred prior to such cancellation.

(9) Where the commission is satisfied that an industrial union has ceased to exist it may order the removal of its name from the Register of Industrial Unions.

9. The commission may cancel the registration of an industrial union if proof is given to its satisfaction that a majority in number of the members of the union, by secret ballot taken as prescribed, require such cancellation:

Cancellation of registration at request of union.
Act No. 17, 1912, s. 9.

Provided that such power of cancellation shall not be exercised while any award or any industrial agreement relating to members of any such union whether made under the repealed Acts or this Act is in force.

10. The commission may, if satisfied that an industrial union is instigating to or aiding any other union or any of its members in a lock-out or strike for which such other union or any of its members are liable to a penalty under this Act, in its discretion cancel such registration and cancel any award or industrial agreement relating to such industrial union or the members thereof.

The commission may cancel registration.
Ibid. s. 10.

Industrial agreements.

11. Any industrial union of employees may make an agreement in writing with an employer or any other industrial union relating to any industrial matter.

Power to make industrial agreements.
Ibid. s. 11.

Any

Any such agreement if made for a term specified therein not exceeding five years from the making thereof, and if filed at the office of the registrar, shall be an industrial agreement within the meaning of this Act and shall be binding on the parties, and on all persons for the time being members of such unions, but may be rescinded or varied in writing by the parties. Any variation of any such agreement, if filed as aforesaid, shall be binding as part of the agreement.

Any such industrial agreement may be enforced under this Act.

12. If after the commencement of this Act any trade union of employees, not being an industrial union, enters into and executes in the manner prescribed by the rules of such union any agreement relating to any industrial matters with an employer or an industrial union of employers, either party to such agreement may file the same in the office of the registrar. Any such agreement, if made for a term specified therein not exceeding five years from the making thereof, shall, in so far as it relates to industrial matters, be binding on the parties, and on all persons for the time being members of such unions, and shall be enforceable in the same manner as an industrial agreement made under this Act. Such agreements may be rescinded or varied by the parties, and any such variation if filed as aforesaid shall be binding as part of the agreement.

Industrial agreements filed in office of registrar. Act No. 17, 1912, s. 12.

13. An industrial agreement shall continue in force after the expiration of the term specified therein until varied or rescinded by the parties or by the commission or until notice of termination shall have been given in writing by a party thereto to the other party or parties and to the registrar.

Continuance in force of industrial agreement after expiry. Ibid. s. 12c.

PART II.

THE COMMISSION, CONCILIATION COMMISSIONER, CONCILIATION COMMITTEES, AND APPRENTICESHIP COUNCILS.

DIVISION 1.—*Constitution of commission.*

14. (1) There shall be an industrial commission of New South Wales. The Governor may appoint four persons each of whom shall be a member of the commission. One of such persons shall be by his commission appointed President.

Industrial
commission.
Act No. 45,
1927, s. 2
(1) (a).
Act No. 14,
1936, s. 3 (1)
(a) (1).

The commission shall be a superior court of record, and its seal shall be judicially noticed.

(2) A person to be qualified for appointment as a member shall be a puisne judge of the Supreme Court, a District Court judge, a barrister of not less than five years' standing, or a solicitor of not less than seven years' standing.

Each member shall, subject to this section, hold office during good behaviour, shall have the same rank, title, status, and precedence and the same salary, pension and other rights as a puisne judge of the Supreme Court, and shall be removable from office in the same manner only as a judge of the Supreme Court is by law liable to be removed from his office.

Such salary and pension shall be charged upon and be payable out of the Consolidated Revenue Fund.

Each member shall retire on the day on which he attains the age of seventy years, unless he is granted retiring leave, in which case he shall retire on the expiration of such leave.

A member of the commission shall not be capable of accepting or holding any other office or any other place of profit within the State, except any such judicial office as may be conferred upon him by or under any law of the State.

The persons who, immediately before the commencement of this Act, were President and other members of the industrial commission of New South Wales as constituted immediately before the commencement of this

Act No. 14,
1936, s. 3
(2).

Act

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Act shall continue to hold office as President and members of the commission in all respects as if this Act had been in force at the date of their respective appointments.

(3) If a member of the commission is prevented by any cause from attending to his duties as such, the Governor may appoint some person qualified to be appointed a member to act temporarily as a member of the commission, and such person shall, while so acting, have all the powers of a member of the commission.

(4) The Governor may, upon a report by the commission that the commission is unable to cope promptly and expeditiously with the matters in the commission's list, appoint some person qualified to be appointed a member to act temporarily as an additional member of the commission, and such additional member, while so acting, shall have and exercise the jurisdiction and powers of the commission in all matters referred to him by the commission.

(5) On appointment the members of the commission shall take the oath of allegiance and the judicial oath.

This subsection extends to a person appointed to act temporarily as a member.

(6) The members other than the President shall have seniority according to the dates of their commissions or when the commissions of two or more of them bear the same date according to the precedence assigned to them by their commissions or failing such assignment according to the order of their being sworn.

cf. Judiciary Act, 1903-1933 (Commonwealth), s. 6. Act No. 14, 1930, s. 3 (1) (a) (iv).

(7) The commission may direct the conciliation commissioner, a committee, or the industrial registrar to inquire into any matter as to which it requires information for the purpose of the exercise of the jurisdiction of the commission.

The conciliation commissioner, committee, or registrar shall inquire accordingly and report to the commission.

For the purpose of any such inquiry the conciliation commissioner, committee, or registrar may summon any person, administer oaths, and take affidavits and examine parties and witnesses.

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The provisions of section thirty-three of this Act shall extend to any such inquiry.

Every person so summoned shall be bound to attend upon such summons and shall for disobedience thereto be liable to a penalty not exceeding fifty pounds.

(8) (a) At sittings of the commission three members shall be present as arranged by the President, and any question shall be decided according to the decision of the majority:

Act No. 14, 1936, s. 3 (1) (a) (v).

Provided, however, that the commission may in any particular matter delegate any of its powers or functions to any one member.

(b) From any order, award, ruling or decision made by such member an appeal shall lie to the commission, and on the appeal the commission may vary any such order, award, ruling or decision in such manner as it thinks just.

Industrial Arbitration (Amendment) Act, 1926, s. 6 (7).

(c) No member shall sit on the hearing of the appeal from any order, award, ruling or decision made by him other than an appeal from an order, award, ruling or decision pronounced or made pro forma by consent of the parties.

cf. Act No. 35, 1900, s. 18.

(d) Any member may state any case or reserve any question for the consideration of the commission or may direct any case or question to be argued before the commission.

cf. Judiciary Act, 1903-1933 (Commonwealth), s. 18.

(9) (a) In case of the absence of the President or of his inability to perform the duties of his office, all the duties and powers of the President shall, during such absence or inability, devolve upon the senior member.

cf. *Ibid.* s. 7. Act No. 14, 1936, s. 3 (1) (a) (v).

(b) In case of the absence or inability of any member upon whom such powers and duties devolve they shall, during such absence or inability, devolve upon the member who is next in seniority.

(10) The registry of the industrial commission of New South Wales as constituted immediately before the commencement of this Act shall be the registry of the commission, and the registrar shall have such duties with respect to the commission, the conciliation commissioner, the conciliation committees, and the apprenticeship council as may be prescribed.

Act No. 14, 1926, s. 6 (10).

(11) The commission may elect to sit with assessors representing the interests of each of the parties before it. Such assessors shall be appointed by the commission from persons nominated as prescribed.

Commission may sit with assessors. Act No. 17, 1912, s. 13A.

The commission may commit to such assessors sitting without the commission or a member thereof for determination or for consideration and report any issue of fact or the items of any log of prices or other basis for the payment of work by results or any other matter prescribed.

Each assessor shall upon his appointment take an oath not to disclose any matter or evidence before the commission relating to—

Ibid. s. 13r.

- trade secrets;
- the profits or losses or the receipts and outgoings of any employer;
- the books of an employer or witness produced before the commission; or
- 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.

Every appointment of an assessor shall be published in the Gazette, and 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 for any cause.

Assessors shall be paid such fees as may be prescribed by the Governor.

(12) Where any question or application is referred to the commission under this Act, members of the committee other than the conciliation commissioner shall, if the commission so directs, sit with the commission, but as assessors only, and without vote.

Act No. 14, 1926, s. 2 (7).

DIVISION 2.—*Conciliation commissioner.*

15. (1) The Governor may appoint a person to be the conciliation commissioner.

Conciliation commissioner.

(2) The salary of the conciliation commissioner shall be fixed by the Governor.

Act No. 39, 1932, s. 3.

(3) The conciliation commissioner shall be appointed for a term of seven years and shall be eligible for reappointment.

(4) The conciliation commissioner may be suspended from his office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in manner following, that is to say—

(a) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session, or if not, then within seven sitting days after the commencement of the next session.

(b) The commissioner suspended under this subsection shall be restored to office unless each House of Parliament within twenty-one sitting days from the time when such statement has been laid before it, declares by resolution that the commissioner ought to be removed from office, and if within the time aforesaid each House of Parliament so declares, the commissioner shall be removed by the Governor accordingly.

(5) The conciliation commissioner shall be deemed to have vacated his office if he—

(a) becomes bankrupt, compounds with his creditors, or makes an assignment of his salary or estate for their benefit;

(b) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Minister (which leave he is authorised to grant) or becomes incapable of performing his duties;

(c) becomes an insane person or patient or an incapable person within the meaning of the Lunacy Act of 1898;

(d)

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(d) resigns his office by writing under his hand addressed to the Governor.

(6) The person holding the office of conciliation commissioner immediately prior to the commencement of this Act shall be the conciliation commissioner as if his appointment had been made under this Act: Provided that failing reappointment he shall not hold the office of conciliation commissioner for a period extending beyond seven years from the date of his actual appointment to the office of conciliation commissioner.

(7) Where an officer of the Public Service is appointed a conciliation commissioner, he shall, while he holds such office, be deemed to be an employee within the meaning of the Superannuation Act, 1916-1935, and shall be entitled to have his services as conciliation commissioner reckoned as service for the purposes of the Public Service Act, 1902, and regulations made thereunder. Upon the termination of his appointment as conciliation commissioner, if he has not attained the age of sixty-five years, he shall be entitled to be appointed to some position in the Public Service corresponding in classification and salary to that which he held at the date of his appointment as conciliation commissioner.

Act No. 39,
1932, s. 11.

16. The Governor may from time to time appoint such number of additional conciliation commissioners as he thinks fit, who shall receive such fees or remuneration as may be prescribed.

Additional
conciliation
commis-
sioners.
Ibid. s. 4.

Every such appointment shall be for a specified period not exceeding twelve months.

Subject to this section, the provisions of section fifteen, except subsection seven, of this Act shall apply to any person appointed an additional conciliation commissioner.

An additional conciliation commissioner shall have the powers, duties and functions of the conciliation commissioner in such cases as the commission directs, and subject to this section a reference in this Act to the conciliation commissioner shall be deemed to be a reference also to an additional conciliation commissioner.

17.

17. A person appointed conciliation commissioner shall take the oath of allegiance and the judicial oath. Oath of office. Act No. 39, 1932, s. 5.

DIVISION 3.—*Establishment of committees.*

18. (1) The Minister may upon the recommendation of the commission and in the manner prescribed establish conciliation committees for any industry or calling or for any combination, arrangement or grouping of industries or callings. Conciliation committees. Act No. 14, 1926, s. 8.

Upon the recommendation of the commission the Minister may assign to a committee established for one industry or calling any other industry or calling, and may on the like recommendation alter the assignment of industries or callings previously made to any committee.

(2) Each committee shall consist of such an equal number of representatives of employers and employees respectively as are recommended by the commission and appointed by the Minister upon the recommendation of the commission and upon nomination as prescribed, together with the conciliation commissioner. Such representatives shall be persons who are or who have been engaged in the industry or calling, or who are acquainted with the working of the industry or calling. Deputy or alternate members shall be nominated and appointed as prescribed in the same manner as the representatives aforesaid, and shall be competent to discharge the duties of the regular members. Act No. 14, 1936, s. 3 (1) (b) (i).

(3) Where no nomination has been made of a representative who is willing to act on the committee on behalf of the employers or employees as the case may be, the Minister may appoint any person whom he considers to be acquainted with the working of the industry to represent the employers or employees on the committee. Ibid. s. 3 (1) (b) (ii).

(4) The members of a committee shall not receive remuneration by way of salaries or fees, but all members may be reimbursed such fares and out-of-pocket expenses as are approved by the Minister.

(5)

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(5) Upon appointment each member of a committee shall take the oath prescribed.

(6) The Minister may at any time upon the recommendation of the commission dissolve a committee, and subject thereto a member of a committee shall hold office until the expiration of three years from the date of his appointment, unless he sooner resigns his office.

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

(8) Where from any cause a member of a committee ceases to hold office, the Minister may, upon the recommendation of the commission, appoint a duly qualified person to his office for the residue of the period for which such member was appointed.

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

(10) Every appointment of a member of a committee shall be published in the Gazette, and 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 for any cause.

Gazetted of appointments.

Act No. 14, 1926, s. 8 (13).

Act No. 17, 1912, s. 22.

DIVISION 4.—*Apprenticeship Councils.*

19. (1) The Governor may appoint an apprenticeship commissioner.

Apprenticeship commissioner.

(2) The apprenticeship commissioner shall be appointed for such period not exceeding seven years and at such salary as the Governor may fix, and shall be eligible for reappointment.

Act No. 39, 1932, s. 10 (1)-(5).

Act No. 14, 1936, s. 2 (a).

(3) The apprenticeship commissioner, together with the members of the conciliation committee established for an industry, shall constitute the apprenticeship council for that industry.

(4)

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(4) The apprenticeship commissioner shall be the chairman of each apprenticeship council.

(5) The Governor may from time to time appoint an additional apprenticeship commissioner who shall receive such fees or remuneration as the Governor may fix.

Additional apprenticeship commissioner.

Act No. 14, 1936, s. 8 (b).

Such appointment shall be for a period specified in the instrument of appointment but not exceeding twelve months.

The apprenticeship commissioner may, by writing under his hand, delegate to the additional apprenticeship commissioner such of the powers, authorities, duties and functions conferred and imposed on the apprenticeship commissioner by this or any other Act as the apprenticeship commissioner may in and by such writing specify.

The additional apprenticeship commissioner when acting within the scope of such delegation shall be deemed to be the apprenticeship commissioner.

The apprenticeship commissioner may, by writing under his hand revoke any delegation made under this section.

During the temporary absence of the apprenticeship commissioner or during any vacancy in the position of apprenticeship commissioner the additional apprenticeship commissioner shall have and may exercise and perform all the powers, authorities, duties and functions of the apprenticeship commissioner.

(6) The members of the council other than the chairman shall not receive remuneration by way of salaries or fees, but may be reimbursed such fares and out-of-pocket expenses as are approved by the Minister.

(7) Where an officer of the Public Service is appointed an apprenticeship commissioner, he shall, while he holds such office, be deemed to be an employee within the meaning of the Superannuation Act, 1916-1935, and shall be entitled to have his services as apprenticeship commissioner reckoned as service for the purposes of

Act No. 20, 1932, s. 11.

of

of the Public Service Act, 1902, and regulations made thereunder. Upon the termination of his appointment as apprenticeship commissioner, if he has not attained the age of sixty-five years, he shall be entitled to be appointed to some position in the Public Service corresponding in classification and salary to that which he held at the date of his appointment as apprenticeship commissioner.

(8) The person holding office as apprenticeship commissioner at the commencement of this Act shall be deemed to have been validly appointed as such for a term of seven years, and shall continue to hold office as if this Act had been in force at the date of his appointment:

Act No. 14,
1936, s. 9.

Provided that failing re-appointment he shall not hold the office of apprenticeship commissioner for a period extending beyond seven years from the date of his actual appointment to the office of apprenticeship commissioner.

PART III.

**JURISDICTION OF COMMITTEES, CONCILIATION COMMISSIONER,
APPRENTICESHIP COUNCILS, AND COMMISSION.**

DIVISION 1.—Committees.

20. (1) Subject to this Act, a committee shall have cognisance of and power to inquire into any industrial matter in the industry or calling for which it is established, and in respect of such industry or calling may on any reference or application to it make an order or award—

Original
jurisdiction
Act No. 17,
1912, s. 24.

- (a) fixing the lowest prices for work done by employees, and the lowest rates of wages payable to employees, other than aged, infirm, or slow workers:

Provided that no award shall be made for the payment of wages or remuneration in excess of fifteen pounds per week, or (where salaries are paid on an annual basis) any salary in excess of seven hundred and fifty pounds per annum:

Provided

Provided further that no award shall be made for the payment of wages or remuneration of persons occupying managerial positions unless such persons are exclusively employed by the Commissioner for Railways, the Commissioner for Road Transport and Tramways, the Metropolitan Meat Industry Commissioner, The Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, or the Hunter District Water Supply and Sewerage Board, or are employees of any city, shire, or municipal council;

- (b) fixing the number of hours and the times to be worked in order to entitle employees to the wages so fixed;
- (c) fixing the lowest rates for overtime and holidays and other special work, including allowances as compensation for overtime, holidays, or other special work;
- (d) fixing the number or proportionate number of apprentices and improvers and the lowest prices and rates payable to them;
- (e) determining any industrial matter;
- (f) rescinding or varying any award made in respect of any of the industries or callings for which it has been established;
- (g) prescribing that as between members of any industrial union or unions of employees specified in the award and other persons offering or desiring service or employment at the same time, preference shall be given to such members other things being equal;
- (h) declaring what deduction may be made from the wages of employees for board or residence or board and residence, and for any customary privileges or payments in kind conceded to such employees:

Provided

Provided that an award affecting employees employed under the Public Service Act, 1902, or any Act amending the same shall, so far as such employees are concerned, be made only for the purposes specified in paragraphs (a), (c), (f), (g), and (h):

Provided also that nothing contained in this Act shall in any way alter any provisions of the Public Service Acts or of any regulations thereunder—

- (a) prescribing or authorising the Public Service Board to prescribe the passing of an examination or other test as a necessary condition for promotion of an officer or employee to a higher class, grade, or division; or
- (b) providing that payment of increments of salary to an officer as distinguished from adjustments of basic wages shall be subject to the giving of a certificate by the said Board that the conduct of the officer and his discharge of his duties warrant an increase of his salary. In the event of the said Board refusing to give such certificate, the officer shall be supplied with a written statement showing the reason why such certificate was refused.

(2) Notwithstanding anything elsewhere contained in this Act a committee shall not have power to prescribe—

- (a) any form of preference of employment in excess of that set out in paragraph (g) of subsection one of this section; nor
- (b) that any employee shall join any industrial or trade union whether as a condition of his employment or of the continuance of his employment in any industry or not; nor
- (c) that any engagement of labour shall be made only at the office of a union or through an official of a union.

(3) Where an institution carried on wholly or partly for charitable purposes provides for the food, clothing, lodging, or maintenance of any of its employees

Charitable
institutions.

or

or any of its inmates who are deemed to be employees, the committee in its award as to the wages of such employees or inmates, shall make due allowance therefor. The committee may exempt such institution from all or any terms of the award, where the food, clothing, lodging, and maintenance provided by the institution, together with the money (if any) paid by the institution to such employees or inmates as wages, are at least equal in value to the value of the labour of such employees or inmates.

21. A committee shall upon an application for a new award, or the renewal of an award, and notwithstanding any previous inquiry under this Act or any Act hereby repealed, review the conditions of the industry or calling, together with the wages payable in such industry or calling if either party so apply.

Power to review previous inquiries. Act No. 14, 1926, s. 11.

22. A committee may in prescribing minimum wages fix the quantity of work or services to be done.

Committee may fix quantity of work to be done. Act No. 17, 1912, s. 24A.

23. A committee shall, as far as is consistent with the maintenance of industrial peace, deal only with wages and hours of employment, leaving all other matters to shop committees, industrial councils, or voluntary committees formed for the purpose of adjusting the industrial relationship of employer and employee. A member of the commission may act as the chairman of any industrial council.

DIVISION 2.—*Conciliation commissioner.*

24. (1) The conciliation commissioner shall be the chairman of every conciliation committee.

Powers of conciliation commissioner.

(2) The conciliation commissioner, when exercising the jurisdiction, powers and functions of the chairman of a conciliation committee, shall endeavour to bring the parties to an agreement with respect to the matters contained in any application or reference to a committee, but witnesses shall not be called or evidence taken unless the commission shall so direct.

Act No. 39, 1932, s. 8.

(3) The conciliation commissioner, when exercising the jurisdiction and powers and functions of the chairman of a conciliation committee, may elect to sit with or without the members of the committee. (4)

(4) Where an agreement is reached in respect of the matters contained in any such application or reference—

- (a) by the parties attending before the conciliation commissioner where he is sitting without the members of the committee; or
- (b) by the members of the committee other than the conciliation commissioner where he is sitting with the members of the committee,

the agreement shall be reduced into writing and forwarded to the registrar for settlement as an award, and after settlement it shall be signed by the conciliation commissioner.

(5) The registrar shall publish the award, when signed, in the Gazette and shall notify the parties in the prescribed manner.

(6) Upon any settlement the registrar may refer any provision of the award or submit any question of law to the commission, and the commission may give such direction as it deems proper, or it may refer the matter back to the conciliation commissioner for report.

Act No. 14,
1926, s. 9
(2).

(7) The Crown may, where in the opinion of the Minister, the public interests are or would be likely to be affected by an award of a committee under this section, apply to the commission at any time for a suspension of the award, or may, within the prescribed time appeal to the commission from the award.

(8) Any party, employer or industrial union affected by an award of a committee under this section may, within the prescribed time and in the prescribed manner, either—

- (a) appeal to the commission from the award; or
- (b) apply to the commission for a suspension of the award.

(9) An appeal under this section shall be by way of rehearing and on any such appeal or on any such application for suspension the commission may—

- (a) require the members of the committee other than the conciliation commissioner to sit with the commission, but as assessors only and without a vote;

(b)

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- (b) direct that its determination, order, or award shall take effect as from any date subsequent to the lodging of the application or reference with the registrar;
- (c) call for or receive further information or evidence.

(10) Where no agreement has been reached or where agreement has only been reached in respect of some of the matters contained in any such application or reference the conciliation commissioner shall—

- (a) certify that the parties or the members of the committee have made a genuine attempt to arrive at an agreement, and set out the matters on which agreement has been reached, or
- (b) refuse to so certify;

and in either such case shall refer the application or reference to the commission, together with the certificate, or where no certificate is made, a statement setting out his reasons for refusing to so certify. The commission may either hear and determine the application or reference or refer the application or reference back to the conciliation commissioner with such directions as it deems proper.

(11) The validity of any proceeding or decision of a committee or of the conciliation commissioner shall not be challenged except as provided by this Act.

Act No. 14,
1926, s. 8
(14).

25. (1) The conciliation commissioner may summon any person to a compulsory conference—

Compulsory
conferences.
Act No. 39,
1932, s. 9.

- (a) where any question has arisen which, in his opinion, might lead to a lockout or strike, or where a lockout or strike has commenced;
- (b) where there exists any shop, factory, craft, or industry dispute, or any matter which may be a contributory cause of such a dispute;
- (c) where there is an actual, threatened, probable, or contemplated cessation of work or employment;

in

in an endeavour to bring the interested parties to an agreement which will settle the question, dispute, or difficulty which has arisen or might arise.

(2) Any person summoned to attend the conference shall attend and continue to attend as directed by the conciliation commissioner, and in default shall be liable, on summary conviction, to a penalty not exceeding fifty pounds.

(3) The conciliation commissioner may summon the members of the conciliation committee established for the particular industry concerned to sit with him at the conference.

(4) If the parties are unable to come to an agreement the conciliation commissioner shall refer the question, dispute, or difficulty to the commission which, in its discretion, may hear and determine the matter.

26. The conciliation commissioner shall have and exercise the jurisdiction and powers of the commission in all matters referred to him by the commission, provided that at the request of any party he shall, or, of his own motion, he may remit any question arising in any such matter to the commission for its opinion and direction.

Act No. 39,
1932, s. 7
(1).

Act No. 14,
1926, s. 6
(4).

Upon the hearing of any matter so referred the members of the conciliation committee for the industry or calling shall, if the commission or the conciliation commissioner so direct, sit with the conciliation commissioner but as assessors only and without vote.

An appeal shall lie to the commission against any order or award made by the conciliation commissioner and in such appeal the commission may vary any such order or award in such manner as it thinks just.

27. Except as provided in sections twenty-four, twenty-six and sixty-three of this Act any decision of the conciliation commissioner in the exercise of the jurisdiction, powers and functions conferred and imposed upon him shall be final.

Act No. 14,
1936, s. 7.

Except

Except as provided in sections twenty-four, twenty-six and sixty-three of this Act no award, order or proceeding of the conciliation commissioner shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever.

No writ of prohibition or certiorari shall lie in respect of any award, order, proceeding or direction of the conciliation commissioner in the exercise of the jurisdiction, powers and functions conferred and imposed by sections twenty-four, twenty-six and sixty-three.

DIVISION 3.—*Apprenticeship councils.*

28. (1) Notwithstanding the provisions of the Apprentices Act, 1901, the Apprentices (Amendment) Act, 1915, and this Act, and notwithstanding the effect of any custom of or against apprenticeship, the apprenticeship council for each industry shall—

Jurisdiction of apprenticeship council.

Act No. 39, 1932, s. 10 (6).

Act No. 17, 1912, s. 80.

- (a) determine in what occupations apprenticeship shall be a condition of employment of minors;
- (b) prescribe either generally or in any particular case the hours of employment, wages, and conditions of apprenticeship, including the age at which persons may be apprenticed and the term of apprenticeship;
- (c) determine whether and to what extent there shall be a limitation of the number of apprentices indentured in any trade or calling;
- (d) determine to what extent technical education if procurable shall be obligatory upon apprentices and their masters;
- (e) co-operate with the Department of Education in encouraging young persons to attend technical, trade, and continuation schools;
- (f) protect the contracts and interests of apprentices and all workers of the minor age who are learners, and ensure the attendance of apprentices and learners at technical or trade schools;

(g)

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- (g) prescribe standard forms of apprenticeship for different trades and callings, and the manner in which and the persons by whom the making, carrying out, and transfer of indentures or other contracts of apprenticeship shall be supervised;
- (h) control and direct the conditions in all respects of apprenticeship in such industry.

(2) Subsection one of this section shall apply to and in respect of trainee apprentices in the same manner and to the same extent as it applies to apprentices. Act No. 14,
1936, s. 2
(c).

In the application of subsection one of this section to and in respect of trainee apprentices—

- (a) a reference to the master of an apprentice shall be construed as a reference to the employer of a trainee apprentice;
- (b) a reference to apprenticeship shall be construed as a reference to the contract of employment of a trainee apprentice.

(3) A copy of all indentures or other contracts of apprenticeship shall be forwarded by the master of the apprentice to the registrar within one month of the date of the execution. Indentures.
Ibid. s. 8
(c).

No apprentice or trainee apprentice shall be employed by any person without the consent of the apprenticeship council.

Any person who contravenes or fails to carry out any provision of this subsection shall be liable to a penalty not exceeding ten pounds.

The penalty imposed by this subsection may be ordered to be paid by the registrar or an industrial magistrate subject to the provisions of section one hundred and five of this Act.

(4) Where it is proved to an apprenticeship council or the commission, upon application in the prescribed manner, that there exists in the establishment of any employer apprenticeship conditions of a special and proper character not unfavourable to apprentices, an apprenticeship council or the commission may exempt any. Act No. 39,
1932, s. 10
(6) (9).

any such employer in respect of any apprentices employed by such employer from any or all of the conditions of employment of apprentices prescribed by any award, order or regulation applicable to the trade or calling in which such apprentices are employed as the apprenticeship council or commission may deem proper, but not so as to relieve any such employer from any provision requiring the lodging or registration of indentures with the registrar.

(5) Sittings of the council shall be convened in the manner prescribed, and the procedure shall be as prescribed. Until regulations are made or in so far as the regulations do not prescribe such manner or procedure, it shall be as the apprenticeship commissioner directs.

(6) At sittings of the council the members other than the apprenticeship commissioner shall sit as assessors only and without a vote.

If any or all of the members, other than the apprenticeship commissioner, are absent from a duly convened sitting of the council, the apprenticeship commissioner may proceed to hear and determine any matter before the council. Such determination shall be deemed to be a decision of the council.

(7) An apprenticeship council or the apprenticeship commissioner may submit any question arising in any matter to the commission for its opinion and direction.

Act No. 14,
1936, s. 8
(f).

(8) Any decision of the council upon any matter shall be embodied in an award.

Act No. 39,
1932, s. (10) (9).

Any award of an apprenticeship council shall be settled by the registrar.

Act No. 14,
1936, s. 8 (d).

Upon any settlement the registrar may refer any provision of the award or submit any question of law to the commission and the commission may give such direction as it deems proper or it may refer the matter back to the apprenticeship commissioner for report.

Act No. 14,
1936, s. 8
(e).

After settlement the award shall be signed by the apprenticeship commissioner.

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The registrar shall when the award has been signed by the apprenticeship commissioner publish the same or such notification of the same as he thinks fit, in the Gazette, and shall notify the parties in the prescribed manner.

(9) An appeal in the manner prescribed shall lie to the commission from any order, determination or award of the council.

The appeal shall be by way of rehearing.

The commission may, on any such appeal, require the members of the council other than the apprenticeship commissioner to sit with the commission, but as assessors only and without a vote.

The commission may, on any such appeal, vary or reverse any such order, determination or award and may make such further or other order as ought to have been made by the council in the first instance.

(10) Any award of an apprenticeship council made before the commencement of this Act in relation to the employment of trainee apprentices shall have the same force and effect as if this Act had been in force at the time when such award was made.

Act No. 14,
1936, s. 10.

29. Except as provided in section twenty-eight of this Act, any decision of the apprenticeship council in the exercise of the powers and duties conferred and imposed upon it by that section shall be final.

Ibid. s. 7.

Except as provided in section twenty-eight of this Act, no award, order or proceeding of an apprenticeship council shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever.

No writ of prohibition or certiorari shall lie in respect of any award, order, proceeding or direction of an apprenticeship council in the exercise of the jurisdiction, powers and functions conferred and imposed by section twenty-eight.

DIVISION 4.—Commission.

30. The commission, in addition to the jurisdiction and powers conferred on it by this Act, shall have the powers and may exercise the jurisdiction hereby conferred on conciliation committees and the chairman of a conciliation committee and on the registrar and an industrial magistrate and may exercise the powers, jurisdiction and functions of a conciliation committee in respect of any industry or calling, notwithstanding that a committee may not have been established for such industry or calling.

Jurisdiction.
Act No. 17,
1912, s. 14
(1) (2).

31. (1) The commission shall have power—

- (a) to inquire into and determine any industrial matter referred to it by the Minister;
- (b) to confer with any persons or industrial unions as to anything affecting the settlement of an industrial matter;
- (c) to summon any persons before the commission for the purpose of conference or of giving evidence. Such summons shall be signed as prescribed.

Powers of
commission.
Act No. 14,
1926, s. 7
(1) (a) (d)
(e)

(2) The commission may, at any time, on its own initiative or on application made to it, prohibit any proceeding of a committee or vary or rescind any award made.

Act No. 17,
1912, s. 28
(1).

32. The commission shall upon an application for a new award, or the renewal of an award, and, notwithstanding any previous inquiry under this Act or any Act repealed by this Act, review the conditions of the industry or calling, together with the wages payable in such industry or calling if either party so apply.

Power to
review
previous
inquiries.
Act No. 14,
1926, s. 11.

33. Subject to this Act the commission may—

- (a) conduct its proceedings in public or private as it may think fit;
- (b) exercise in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as were by section one hundred and thirty-six of

Conduct of
proceedings.
Act No. 17,
1912, s. 34.

the

the Parliamentary Electorates and Elections Act, 1902, conferred on a committee of elections and qualifications, and the provisions of the said section shall apply in respect of the proceedings of the commission: Provided that unless a person raises the objection that the profits of an industry are not sufficient to enable him to pay the wages or grant the conditions claimed, no person shall be required without his consent to produce his books, or to give evidence with regard to the trade secrets, profits, losses, receipts, and outgoings of his business, or his financial position.

Where a person raises such objection he may be required, on the order of the commission, to produce the books used in connection with the carrying on of the industry in respect of which the claim is made, and to give evidence with regard to the profits, losses, receipts, and outgoings in connection with such industry, but he shall not be required to give evidence regarding any trade secret, or, saving as hereinbefore provided, his financial position. No such evidence shall be given without his consent except in the presence of the commission alone, and no person shall inspect such books except the commission or an accountant appointed by the commission, who may report to the commission whether or not his examination of such books supports the evidence so given, but shall not otherwise disclose the contents of such books. Such accountant shall, before acting under this paragraph, take an oath not to disclose any matter or evidence before the commission relating to—

- trade secrets;
- the profits or losses or the receipts and outgoing of any employer; or
- the books of any employer or witness produced before the commission; or
- the financial position of any employer or of any witness; and

and if he violates his oath he shall be liable to a penalty not exceeding five hundred pounds.

34. If it is proved to the commission—

- (a) by the production of books used in connection with the carrying on of an industry and by other evidence produced or tendered subject, *mutatis mutandis*, to the provisions and restrictions contained in section thirty-three (b) that serious unemployment in an industry has resulted or will result from the operation of an award or industrial agreement; or

(b) that the employees in an industry or the employees of any employer therein are or may become entitled to any benefit or payment under any profit-sharing or co-partnership scheme, the commission, upon being satisfied that it is in the best interests of the employees so to do, may, either absolutely or upon terms—

- (a) refrain from making any award; or
- (b) rescind or cancel any award or industrial agreement; or
- (c) exempt from the provisions of an award or industrial agreement any employees who are or may be entitled to any benefit or payment under any profit-sharing or co-partnership scheme and their employer.

35. (1) The commission is further empowered to exercise the following functions and perform the following duties:—

- (a) To encourage and create councils of employers and employees for the purpose of encouraging the proper apprenticeship of all minors and provide for the welfare of juvenile labour.
- (b) To acquire and disseminate knowledge on all matters connected with industrial occupations with a view to improving the industrial relationship between employers and workers and to combat the evils of unemployment.
- (c) To collect and publish information relating to or affecting industrial conditions.

Inability to pay award rates.

Act No. 17, 1912, s. 79.

Further powers.

Ibid. s. 82.

(d)

- (d) To propound schemes for welfare work, and report to the Governor on all matters relating to such work and to the insurance of employees against loss or injury caused by unemployment, sickness, or accident, or industrial diseases.
- (e) To report on any matter referred to it as to the prices of commodities, and as to whether or not monopolies or trade rings exist for the purpose of unfairly keeping up the prices of commodities.
- (f) To investigate and report on the existence of sweating in an industry.
- (g) To report upon the productivity of industries, the number of employees in any industry, and the effect or probable effect of the regulation of the conditions of any industry upon such productivity.
- (h) To consider and report upon the industrial efficiency of the community, the organisation of the labour market and opportunities of employment, and all questions relating to unemployment.
- (i) To collect and publish from time to time statistics of vital, social and industrial matters, and on labour employment and unemployment in specific industries, and on other prescribed matters.
- (j) To encourage and assist in the establishment in different industries of mutual welfare committees and industrial councils, and of subsidiary shop committees for individual enterprises.
- (k) To encourage and assist schemes for mutual co-operation and profit-sharing between employers and employees.
- (l) To encourage and assist in the establishment of hostels for women workers and workmen's clubs and libraries.
- (m) To report and advise on schemes for the better housing of the people.
- (n) To consider and report upon any other matter referred to it by the Minister.

(2) For the purpose of enabling the statistics referred to in this Act to be collected, all prescribed persons shall to the best of their knowledge and belief when required by the commission so to do fill up and supply in accordance with the instructions contained in or accompanying the prescribed form, the particulars specified in that form.

Collection of statistics. Act No. 17, 1912, ss. 84, 85.

(3) Every person shall to the best of his knowledge and belief answer all questions asked him by the commission, or by its duly authorised officers, necessary to obtain any information required for the purpose of any statistics authorised by this Act to be collected.

Information to be supplied.

36. The commission may, on the application of the Minister, or an employer, or an industrial union, determine any question as to the demarcation of the industrial interests of trade unions and industrial unions, and may also codify into one award, subject to such amendments as it may deem expedient to make, all awards binding or affecting any employer or class or section of employers in any industry or group of industries or the members of an industrial union employed by the same employer or class or section of employers.

Demarcation, jurisdiction and codification of awards. *Ibid.* s. 14 (5).

37. (1) Where it appears to the commission that a question has arisen as to the right of employees in specified callings to do certain work in an industry to the exclusion of the employees in other callings, the commission may, on application made by any such employees, determine the question or constitute a special board to determine such question.

Demarcation of callings. *Ibid.* ss. 14 (2), 16 (6).

Such board shall consist of a chairman and such number of other members as the commission fixes, but so that—

- (a) one-half in number of such other members shall be employers and the other half employees, each of whom has been or is actually and bona fide engaged in one of the said callings;
- (b) such of the callings as the commission considers to be directly interested in the question shall be represented on the board by an employer or employers, and by an employee or an equal number of employees.

The

The chairman and other members of any such board shall be appointed by the commission.

The determination shall have effect as an award.

(2) Within thirty days of publication of an award of a special board, any of the parties to the proceedings before the board, with the consent of the commission, and any other person, with the like consent, may in manner prescribed make application to the commission for variation or amendment of such award, or for rehearing in respect of any matter in or omission from the award.

Act No. 17,
1912, s. 25
(2), (3),
(4), (5).

If the board refuses to make any award, any of the said parties may, within fourteen days after such refusal, make application to the commission to make an award as to any matter included in a claim or reference made to the board.

On any such application the commission may confirm, or vary, or rescind the award thus appealed from, or may make a new award, and may make such order as to the costs of the appeal as it thinks just.

At such hearing the members of the board other than the chairman shall, if any person making the application so desires, sit with the commission as assessors.

The pendency of an appeal shall not suspend the operation of an award appealed from.

38. The commission, in the exercise of any of its powers under this Act, shall have the powers conferred by the Royal Commissions Act, 1923-1934, on a commissioner appointed under Division I of Part II of that Act and the said Act, section thirteen and Division 2 of Part II excepted, shall, *mutatis mutandis*, apply to any witness or person summoned by or appearing before the commission.

Additional
powers of
court to
take
evidence.
Ibid. s. 48A

PART IV.

BASIS OF ASSESSMENT OF RATES OF WAGES.

39. (1) In this Part, unless the context or subject matter otherwise indicates or requires—

Definitions.
Act No. 9,
1937, s. 2.

“Commonwealth Judgment” means the judgment delivered by the Commonwealth Court of Conciliation and Arbitration on the twenty-third day of June, one thousand nine hundred and thirty-seven, in the matter intituled “In the matter of applications by organisations of employees for an increase in the basic wage prescribed by awards of the Court.”

“Repealed Acts” means the Industrial Arbitration Act, 1912, the Industrial Arbitration (Amendment) Act, 1926, the Industrial Arbitration (Eight Hours) Amendment Act, 1930, the Industrial Arbitration (Amendment) Act, 1932, the Industrial Arbitration (Amendment) Act, 1936, and every Act amending any of those Acts.

“Needs basic wage” means needs basic wage assessed on the basis approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment, and applicable with respect to the wages of adult male employees.

“Retail Price Index Numbers” means the Court’s series of all items retail price index numbers published from time to time by or by the direction of the Commonwealth Court of Conciliation and Arbitration.

(2) Any document purporting to be a copy of the Retail Price Index Numbers and purporting either to be printed by the Commonwealth Government Printer or to be under the signature of the Industrial Registrar of the Commonwealth Court of Conciliation and Arbitration, or of some person acting in his place or on his behalf, shall be accepted by all persons and upon all occasions as a true copy of the Retail Price Index Numbers unless proof is adduced that such document is not a true copy as aforesaid.

40. (1) (a) This section shall apply to and in respect of all awards made and industrial agreements entered into under the repealed Acts which were in force immediately before the seventh day of October, one thousand nine hundred and thirty-seven, and which fix rates of wages for employees which have from time to time been varied by reference or in relation to fluctuations in the adult male living wage or the adult female living wage, as the case may be, declared or adjusted under the repealed Acts.

Existing awards and industrial agreements. Act No. 9, 1937, s. 4.

(b) This section shall not apply to or in respect of any award or industrial agreement (other than an award or industrial agreement which fixes rates of wages exclusively for employees of the Crown and for such employees only) which fixes rates of wages on an annual basis whether or not such rates of wages have from time to time been varied by reference or in relation to fluctuations in the adult male living wage or the adult female living wage, as the case may be, declared or adjusted under the repealed Acts.

(2) (a) Every award or industrial agreement to which this section applies shall, as from the seventh day of October, one thousand nine hundred and thirty-seven, but subject to this section, have and take effect as if—

- (i) the adult male living wage had, immediately before that day, been adjusted at an amount equivalent to that needs basic wage, with the appropriate fixed loading addition, which is applied to that award or industrial agreement by or under the provisions of this section; and
- (ii) the adult female living wage had, immediately before that day, been adjusted at an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises that needs basic wage, with the appropriate fixed loading addition which is applied to that award or industrial agreement by or under the provisions of this section.

(b) The amount of the needs basic wage with the appropriate fixed loading addition applied to any award

award or industrial agreement by or under the provisions of this section shall not be deemed or taken to be an amount ascertained or fixed by reference or in relation to those provisions of the repealed Acts (as in force immediately before the seventh day of October, one thousand nine hundred and thirty-seven) which prescribed the basis and requirements upon which a living wage was to be declared or adjusted.

(3) The needs basic wage and the fixed loading addition to be applied to an award or industrial agreement to which this section applies shall be as follows:—

(a) In the case of every award or industrial agreement to which this section applies, other than an award or industrial agreement referred to in paragraph (b) or paragraph (c) of this subsection—the needs basic wage assessed on the index number for Sydney for the June Quarter, one thousand nine hundred and thirty-seven, contained in the Retail Price Index Numbers but with the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment and the fixed loading addition determined in the Commonwealth Judgment as being applicable to the needs basic wage so assessed.

(b) In the case of every award or industrial agreement to which this section applies, which fixes rates of wages exclusively for employees of the Crown, and for such employees only whether or not such rates are fixed on an annual basis—the needs basic wage assessed on the index number for the weighted average of the five towns of New South Wales for the June Quarter, one thousand nine hundred and thirty-seven, contained in the Retail Price Index Numbers and the fixed loading addition determined in the Commonwealth Judgment as being applicable in relation to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways.

(c)

(c) In the case of every award or industrial agreement to which this section applies (not being an award or industrial agreement referred to in paragraph (b) of this subsection) which fixes rates of wages exclusively for employees within the County of Yancowinna and for such employees only—the needs basic wage assessed on the index number for Broken Hill for the June Quarter, one thousand nine hundred and thirty-seven, contained in the Retail Price Index Numbers and the fixed loading addition determined in the Commonwealth Judgment as being applicable to the needs basic wage so assessed.

(4) The terms of each award or industrial agreement to which this section applies, affecting rates of pay, shall be deemed to be varied to the extent necessary to give effect to the provisions of subsections two and three of this section as from the commencement of the first pay period in the month of October, one thousand nine hundred and thirty-seven, whether such pay period commenced before or commenced after the seventh day of October, one thousand nine hundred and thirty-seven.

Provided that no rate prescribed by any such award or industrial agreement shall be reduced merely by operation of this subsection.

(5) Where the fixed loading addition applied to any award or industrial agreement by or under the provisions of this section is altered in amount or is terminated by any judgment of the Commonwealth Court of Conciliation and Arbitration delivered after the seventh day of October, one thousand nine hundred and thirty-seven, the terms of such award or industrial agreement affecting rates of pay shall be deemed to be varied to the extent necessary to give effect to that alteration or termination as from the date upon which, by the terms of the judgment, the alteration or termination takes effect.

Provided that in the case of an industrial agreement where provision is made in the industrial agreement as to the manner in which effect shall be given to any such alteration or termination, the terms of the industrial agreement

agreement affecting rates of pay shall, in lieu of the variation referred to in the preceding provisions of this subsection, be deemed to be varied to the extent necessary to give effect to that provision.

(6) As soon as practicable after the seventh day of October, one thousand nine hundred and thirty-seven, the registrar shall (subject to appeal to the commission) vary the terms of each award and industrial agreement to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award or industrial agreement as he may think necessary or desirable to enable full effect to be given to the provisions of this Act.

The registrar may refer any matter arising under this subsection to the commission for directions.

(7) In this section—

“Employee of the Crown” means a person whose wages are provided for by or paid out of any annual or special or permanent appropriation of the Consolidated Revenue Fund, the Special Deposits Account, the General Loan Account, or any other trust or special fund or account constituted or established by any Act as payment for personal services rendered by a person employed in the service of the Government of New South Wales or by or in the service of any Crown corporation, whether the amount of such payment is or is not specified in any such Act, and whether such person is employed in or in connection with one Department or several Departments.

“Crown corporation” includes the Commissioner for Railways, the Commissioner for Main Roads, the Commissioner for Road Transport and Tramways, the Board of Fire Commissioners of New South Wales, the Board of Directors of the Prince Henry Hospital, the Metropolitan Water, Sewerage and Drainage Board, the
Water

Water Conservation and Irrigation Commission, the Hunter District Water Supply and Sewerage Board, the Maritime Services Board of New South Wales, the Metropolitan Meat Industry Commissioner, the Milk Board, and any person or corporation employing persons on behalf of the Government of New South Wales.

(8) Nothing in this section shall be construed so as to limit or in any way affect the powers conferred on the commission by section forty-one or section forty-two or section forty-four or section forty-seven of this Act.

41. (1) The commission shall, upon application made as prescribed, or may, of its own motion, make such orders or determinations as it thinks fit to ensure that—

- (a) the needs basic wage with the fixed loading addition and the periods of adjustment of such needs basic wage which have been applied or are applicable to any award for employees in any industry made under the Industrial Arbitration Acts are in accordance with the needs basic wage with the fixed loading addition and the periods of adjustment of such needs basic wage which have been applied by the Commonwealth Court of Conciliation and Arbitration in an award made by that Court for employees in New South Wales in that industry; or
- (b) the basic wage (not being a needs basic wage) and the periods of adjustment thereof which have been applied or are applicable to any award for employees in any industry made under the Industrial Arbitration Acts and in force immediately before the seventh day of October, one thousand nine hundred and thirty-seven, are in accordance with the basic wage (not being a needs basic wage) and the periods of adjustment thereof which have been applied by the Commonwealth Court of Conciliation and Arbitration in an award made by that Court for employees in New South Wales in that industry.

Uniformity
of basis of
awards with
basis of
Common-
wealth
awards in
same
industry.
Act No. 9,
1937, s. 5.

(2)

(2) Any such order or determination may be made—

(a) in respect of any award mentioned in paragraph (a) or paragraph (b) of subsection one of this section made before the seventh day of October, one thousand nine hundred and thirty-seven, whether or not such award is an award to which section forty of this Act applies or has been applied; or

(b) in respect of any award mentioned in paragraph (a) of subsection one of this section made after the seventh day of October, one thousand nine hundred and thirty-seven.

42. (1) Subject to section forty-one of this Act the commission may, upon application made as prescribed, order that the needs basic wage which shall apply to any award shall be—

Power to alter basis of awards. Act No. 9, 1937, s. 6.

(a) the needs basic wage assessed on the index number for such place within New South Wales or such combination of places (of which Sydney or some other town in New South Wales is one) contained in the Retail Price Index Numbers as may be specified in the order, and in such case the fixed loading addition to the needs basic wage shall be the fixed loading addition determined by the Commonwealth Court of Conciliation and Arbitration as being applicable to the needs basic wage assessed on the index number for such place or combination of places; or

(b) the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways, and in such case the fixed loading addition to the needs basic wage shall be the fixed loading addition determined in the Commonwealth Judgment or in any later judgment of the Commonwealth Court of Conciliation and Arbitration as being applicable for the time being in relation to such awards.

(2)

(2) The commission may, in and by any order made under this section, provide that, in respect of different parts of the area for which the award is made, the needs basic wage shall be assessed on the index number for different places within New South Wales or for different combinations of places (of which Sydney or some other town in New South Wales is one) and in such case the fixed loading addition to the needs basic wage assessed on any such index number shall be the fixed loading addition determined by the Commonwealth Court of Conciliation and Arbitration as being applicable in respect of the needs basic wage assessed on that index number.

Where the commission exercises the power conferred by this subsection it may, in and by the order, define the boundaries of the different parts of the area.

(3) Subject to section forty-one of this Act the commission may upon application made as prescribed vary any award by inserting therein—

- (a) a provision specifying the period of adjustment of the needs basic wage applied or applicable to that award; or
- (b) a provision excluding the application of section forty-four of this Act to or in respect of that award.

(4) The commission may exercise the powers conferred by this section in respect of any award made either before or after the seventh day of October, one thousand nine hundred and thirty-seven, and, in the case of an award made before that day, whether or not such award is an award to which section forty of this Act applies or has been applied.

43. (1) All awards made and industrial agreements entered into after the seventh day of October, one thousand nine hundred and thirty-seven, shall in so far as they fix rates of wages by reference or in relation to a needs basic wage with the appropriate fixed loading addition, be made by reference or in relation to—

- (a) the needs basic wage assessed on the index number for such place within New South Wales
or

Future
awards and
industrial
agreements.
Act No. 9,
1937, s. 7.

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or such combination of places (of which Sydney or some other town in New South Wales is one) contained in the Retail Price Index Numbers as may be specified in the award or industrial agreement with the appropriate fixed loading addition; or

- (b) the needs basic wage for the time being applicable to awards of the Commonwealth Court of Conciliation and Arbitration for employees of the New South Wales Railways, with the fixed loading addition determined in the Commonwealth Judgment or in any later judgment of the Commonwealth Court of Conciliation and Arbitration as being applicable for the time being in relation to such awards.

(2) No award made or industrial agreement entered into after the seventh day of October, one thousand nine hundred and thirty-seven, shall be made or entered into, in the case of adult male employees, for a wage lower than such needs basic wage as may be applicable having regard to the industry concerned or the area for which the award is made or the industrial agreement is entered into with the appropriate fixed loading addition, or, in the case of adult female employees for a wage lower than—

- (a) an amount equivalent to fifty-four per centum (calculated to the nearest sixpence) of the total sum which comprises such needs basic wage with the appropriate fixed loading addition; or
- (b) an amount equivalent to such percentage (whether greater or less than fifty-four per centum) of the total sum which comprises such needs basic wage with the appropriate fixed loading addition as has been applied by the Commonwealth Court of Conciliation and Arbitration in an award made by that Court for adult female employees in New South Wales in that industry in which the adult female employees affected by the award or industrial agreement, are engaged.

This

This subsection shall not apply to an award made or industrial agreement entered into for wages of apprentices or trainee apprentices.

44. (1) Unless some other period of adjustment is specifically provided in the award or industrial agreement concerned, the needs basic wage shall be adjusted for each calendar quarter in accordance with the fluctuations (if any) of the index numbers shown in the Retail Price Index Numbers for the then next preceding calendar quarter as applied to the table of amounts set out in the Commonwealth Judgment.

Automatic
adjustment
of awards
and
industrial
agreements.
Act No. 9,
1937, s. 8.

(2) The terms of each award made or industrial agreement entered into (whether before or after the seventh day of October, one thousand nine hundred and thirty-seven) under the repealed Acts or this Act affecting rates of pay shall be deemed so to be varied to accord with the fluctuations (if any) in the index number upon which the needs basic wage applicable to that award or industrial agreement is assessed—

- (a) in any case where a period of adjustment is specifically provided in the award or industrial agreement—as from the commencement of the first pay period in each such period of adjustment; or
- (b) in any other case—as from the commencement of the first pay period in the months of December, March, June and September in each year.

Provided that in the case of an industrial agreement where provision is made in the industrial agreement as to the manner in which effect shall be given to any such fluctuations in the index number upon which the needs basic wage is assessed, the terms of the industrial agreement affecting rates of pay shall, in lieu of the variation referred to in the preceding provisions of this subsection, be deemed to be varied to the extent necessary to give effect to that provision.

(3) Where the fixed loading addition determined by the Commonwealth Court of Conciliation and Arbitration as being appropriate to the needs basic wage applicable to any award made or industrial agreement entered into

into after the seventh day of October, one thousand nine hundred and thirty-seven, under the repealed Acts or this Act is altered in amount or is terminated by any judgment of that Court delivered after the date upon which such award was made or such industrial agreement was entered into, the terms of such award or industrial agreement affecting rates of pay shall be deemed to be varied to the extent necessary to give effect to that alteration or termination as from the date upon which, by the terms of the judgment, the alteration or termination takes effect.

Provided that in the case of an industrial agreement where provision is made in the industrial agreement as to the manner in which effect shall be given to any such alteration or termination, the terms of the industrial agreement affecting rates of pay shall, in lieu of the variation referred to in the preceding provisions of this subsection, be deemed to be varied to the extent necessary to give effect to that provision.

(4) The registrar may (subject to appeal to the commission), upon application made as prescribed or of his own motion, vary the terms of any award or industrial agreement affecting rates of pay to the extent necessary to give effect to subsection two or subsection three of this section.

The registrar may refer any such application or any matter arising out of any such application or arising under this subsection to the commission for directions.

(5) This section shall not apply to or in respect of any award or industrial agreement which contains a provision expressly excluding the application of this section.

45. (1) This section shall apply to and in respect of every award made or industrial agreement entered into under the repealed Acts and in force immediately before the seventh day of October, one thousand nine hundred and thirty-seven,

- (a) which fixes rates of wages for employees which have not, from time to time, been adjusted by reference or in relation to fluctuations in the adult

Application of section to certain awards and industrial agreements. Act No. 9, 1937, s. 9.

adult male living wage or the adult female living wage, as the case may be, declared or adjusted under the repealed Acts; or

(b) which is excepted from the operation of section forty of this Act, by paragraph (b) of subsection one of that section.

(2) (a) Application may be made to the commission as prescribed to apply the provisions of section forty of this Act (either with or without the modification referred to in subsection four of this section) to any award or industrial agreement to which this section applies.

(b) Where any such application is made in relation to an award or industrial agreement of the class referred to in paragraph (a) of subsection one of this section the commission may make an order applying the provisions of section forty of this Act (either with or without the modification referred to in subsection four of this section) to that award or industrial agreement.

(c) Where any such application is made in relation to an award or industrial agreement of the class referred to in paragraph (b) of subsection one of this section the commission shall make an order applying the provisions of section forty of this Act (either with or without the modification referred to in subsection four of this section) to that award or industrial agreement.

(3) Where the provisions of section forty of this Act are applied to an award or industrial agreement without the modification referred to in subsection four of this section the commission shall, in the order, specify which of the paragraphs of subsection three of that section is to apply to that award or industrial agreement.

(4) Where the application so requires the commission may make, in relation to the award or industrial agreement concerned, any order which it is authorised by section forty-two of this Act to make in relation to an award.

Any

Any such order shall be embodied in and shall form part of the order applying the provisions of section forty of this Act to the award or industrial agreement, and such provisions shall in their application to the award or industrial agreement have and take effect as if that section had been enacted as modified by the order.

(5) Where an application under this section is lodged within sixty days after the seventh day of October, one thousand nine hundred and thirty-seven, any order made on that application shall take effect as from the commencement of the first pay period in the month of October, one thousand nine hundred and thirty-seven, whether such pay period commenced before or commences after the seventh day of October, one thousand nine hundred and thirty-seven.

Where an application under this section is lodged after the expiration of sixty days from the seventh day of October, one thousand nine hundred and thirty-seven, any order made on that application shall take effect from such date, not being earlier than the date of lodgment of the application, as may be specified in the order, and in such case the provisions of subsection four of section forty of this Act shall, in their application to the award or industrial agreement to which the order relates, have and take effect as if the words "in the month of October, one thousand nine hundred and thirty-seven" had been omitted and the words "next after the date upon which the order made under section forty-five of this Act takes effect" had been inserted in lieu thereof.

(6) Nothing in this section shall be construed so as to limit or in any way affect the powers conferred on the commission by section forty-one or section forty-two or section forty-four or section forty-seven of this Act.

46. The commission, or any member thereof to whom the commission has delegated that function, may confer with the Chief Judge or any of the Judges of the Commonwealth Court of Conciliation and Arbitration with a view to securing co-ordination between any orders, awards, decisions or determinations made or given or to be made or given by the commission, and any orders

Conferences
with Judges
of the
Common-
wealth
Court of
Conciliation
and
Arbitration.
Act No. 9,
1937, s. 10.

or

or awards made or to be made by the Commonwealth Court of Conciliation and Arbitration with respect to the needs basic wage with the appropriate fixed loading addition to be applied in any particular case or class of cases.

47. (1) Where the Commonwealth Court of Conciliation and Arbitration alters the basis upon which the needs basic wage is calculated or alters the periods as at which the needs basic wage is to be adjusted or alters the basis upon which the fixed loading addition is to apply to the needs basic wage the commission shall, as soon as practicable after such alteration, issue a certificate specifying—

Action to be taken if basis altered.
Act No. 9, 1937, s. 11.

- (a) the basis upon which the needs basic wage is, from and after the date specified in the certificate to be assessed;
 - (b) the periods as at which the needs basic wage is to be adjusted;
 - (c) the basis upon which the appropriate fixed loading addition is, from and after the date specified in the certificate, to be applied;
 - (d) the date (whether before, at or after the date upon which the certificate is issued) as from which the needs basic wage is to be assessed or the appropriate fixed loading addition applied on that basis, or as from which the altered periods of adjustment are to take effect.
- (2) The commission shall cause a copy of such certificate to be published in the Gazette.

(3) As soon as practicable after the publication of the certificate in the Gazette, the registrar shall (subject to appeal to the commission) vary the terms of each award and industrial agreement made under the repealed Acts and this Act and then in force relating to rates of wages to the extent necessary to give effect to any change in such rates occasioned by the alteration of the basis of calculation of the needs basic wage or of the basis upon which the fixed loading addition is to apply to the needs basic wage, and may make such alterations in the form

form of any such award or industrial agreement as he may think necessary to enable full effect to be given to the matters referred to in the certificate.

The registrar may refer any matter arising under this subsection to the commission for directions.

48. (1) Nothing contained in this Part shall limit or in any way affect the powers, authorities, duties and functions conferred and imposed upon the commission or any member thereof, or any other person by or under the repealed Acts or this Act except to the extent to which the exercise or performance of any such power, authority, duty or function would be inconsistent with the provisions of this Part.

Saving as to powers, etc.
Act No. 9,
1937, s. 12.

(2) Nothing in this Part shall affect the practice of the commission with respect to, or the provisions of any award or industrial agreement prescribing, the method of calculation of hourly, daily, monthly or annual rates of pay.

PART V.

HOURS.

DIVISION 1—*Pending declaration.*

49. Subject to section fifty-one of this Act the ordinary working hours in all industries other than coal-mining to which this Act applies shall for the purposes of this Act be as prescribed in or under this section and the following directions shall be observed by the commission and the committees in making awards and by the parties in making agreements:—

Directions re hours.
Act No. 22,
1930, s. 4
(1).

(a) In all industries subject to the provisions of this section, the number of ordinary working hours of an employee shall not exceed—

(1) eight hours during any consecutive twenty-four hours; or

(2)

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- (2) forty-four hours per week; or
- (3) eighty-eight hours in fourteen consecutive days; or
- (4) one hundred and thirty-two hours in twenty-one consecutive days; or
- (5) one hundred and seventy-six hours in twenty-eight consecutive days.

Where in any industry or calling meal time or crib time was on the fifth day of January, one thousand nine hundred and thirty-one, included in the hours of labour by award or agreement, or by well-established practice in the industry, such meal time or crib time shall be counted as working time.

Where a working period has been fixed by an award or agreement before or after the fifth day of January, one thousand nine hundred and thirty-one, the working period shall not be altered to any of the longer working periods referred to in this section except by agreement or award made by consent.

- (b) The working time of an employee in a shift in underground occupations or occupations in which the conditions as to temperature, ventilation, and lighting are similar to those obtaining in underground occupations, shall not exceed six hours if for four hours of the working time of the shift the temperature of the place where the employee is occupied shall have exceeded eighty-one degrees Fahrenheit thermometer using a wet bulb.

For the purposes of this paragraph any number of employees whose regular time for beginning work is approximately the same and whose regular time of terminating work is approximately the same are to be deemed a shift of employees.

(c)

- (c) Where by an award or agreement the ordinary working hours on any day or days in any week are fixed at less than eight, such hours on the other days of the week may exceed eight per day; and where under an award or agreement the working hours are or may be worked in less than six days per week, such hours may exceed eight per day.

No employee shall be required to work without payment of overtime on more than six out of seven consecutive days except in an industry which is subject to an award or agreement providing for shift work, and in which the employee is not required to work more than eleven shifts in twelve consecutive days, or except in cases of emergency not under the control of the employer.

- (d) The commission or a committee may increase the ordinary working hours or the number of days on which they may be worked or both such hours and days beyond those specified in this section in the public interest.
- (e) The commission or a committee may reduce the ordinary working hours below the number of hours specified in this section of any employees engaged upon work which in the opinion of the commission or committee is prejudicial to health.
- (f) Where in any industry the ordinary time of work was on the fifth day of January, one thousand nine hundred and thirty-one, fixed by award or agreement or by well established practice in the industry, such time shall not be exceeded thereafter in respect of such industry.

50. Any person making a contract or agreement express or implied, and whether verbally or in writing, which provides for the working of hours in excess of those prescribed by or under this Part, or who is guilty of a contravention of this Part, shall be liable to a penalty not exceeding fifty pounds, recoverable before an industrial magistrate.

Penalties.
Act No. 22,
1930, s. 9.

DIVISION

DIVISION 2.—*Declaration of hours.*

51. (1) (a) The commission shall, as soon as conveniently possible after the commencement of this Act, determine after a public inquiry and declare the standard hours for all industries to which this Act applies in so far as such standard hours have not been already determined and declared. The commission may from time to time thereafter determine after a public inquiry and declare the standard hours for all industries to which this Act applies.

Standard
hours.
Act No. 39,
1932, s. 2.

Where the commission deems it necessary to hold further inquiry or to postpone the inquiry it may exclude from the operation of any such declaration, for such period as it may from time to time determine, and either generally or upon such terms and conditions as it may impose—

- (i) any industry or class of employees in an industry which prima facie ought in the opinion of the commission to be dealt with under paragraph (b) or paragraph (c) of this subsection; or
- (ii) any industry or class of employees in an industry in respect of which the commission may, if it thinks fit, exercise the discretion conferred by paragraph (d) of this subsection.

For the purposes of this section, "standard hours" means the number of ordinary working hours applicable to industry generally to be worked daily, weekly, fortnightly or otherwise, as determined by the commission.

(b) The commission may in any industry or in respect of any employees or class of employees in any industry if in the public interest it shall deem it desirable so to do—

- (i) declare a greater number of ordinary working hours than the standard hours about to be declared; or
 - (ii) declare a greater number of ordinary working hours than the standard hours already declared;
- and in any event may increase the number of days on which the hours may be worked.

(c)

(c) The commission may in respect of any employees or class of employees who are engaged upon work which in its opinion is prejudicial to health—

- (i) declare a lesser number of ordinary working hours than the standard hours about to be declared; or
- (ii) declare a lesser number of ordinary working hours than the standard hours already declared.

(d) The commission may in any industry or in respect of any employees or class of employees in any industry where immediately prior to the fourth day of January, one thousand nine hundred and twenty-six, the ordinary working hours had been fixed for such industry, employees or class by award or industrial agreement or, where no award or industrial agreement existed by well-established practice at a number less than the standard hours declared or about to be declared—

- (i) declare a lesser number of ordinary working hours than the standard hours about to be declared; or
- (ii) declare a lesser number of ordinary working hours than the standard hours already declared.

Upon any inquiry under this subsection the commission shall give full consideration to all conditions existing at the time of the inquiry.

(2) Upon any declaration by the commission under subsection one of this section, any provision of section forty-nine of this Act shall to the extent to which it is inconsistent with such declaration or with the provisions of this section cease to have effect.

(3) Wages and salaries fixed upon a weekly or longer basis by any award or industrial agreement in force at the date of any declaration made under subsection one of this section, or any award made or agreement entered into after such declaration, shall not be increased or reduced by reason of any increase or reduction of the ordinary working hours made in accordance with such declaration.

(4)

(4) Where the ordinary working hours in any industry are increased or reduced by reason of any declaration made under subsection one of this section, the rate of wages specified in any award or industrial agreement as payable upon a daily or hourly basis shall, without any further award or variation or amendment of the award or agreement, be deemed to have been reduced or increased from the date of any such declaration to such rate as will provide each employee working full time with the same amount of wages as he would have received for working full time under the provisions of the award or the agreement prior to the declaration.

(5) Where the ordinary working hours in any industry are increased or reduced by reason of any declaration made under subsection one of this section, any piecework rate specified in any award or industrial agreement shall, without any further award or variation or amendment of the award or agreement, be deemed to have been reduced or increased from the date of any such declaration to such rate as will provide each employee working full time with the same remuneration as he would have received working full time at the same speed under the provisions of the award or agreement prior to the declaration.

(6) Notwithstanding anything contained in this section, the commission, having made a declaration in accordance with the provisions of subsection one of this section, and the wages having been adjusted in relation thereto, may at any time thereafter, upon application as prescribed, reduce the hours to be worked in any industry or by any employees or class of employees in any industry and provide—

- (a) in the case where wages and salaries are fixed on a daily, weekly or longer basis for proportionate reduction in the wages and salaries payable under any award or industrial agreement in force at the date of such reduction of hours;
- (b) in the case where the award or industrial agreement provides for payment hourly, or piecework basis

basis for payment of the same hourly, or piece-work rates payable under any award or industrial agreement in force at the date of such reduction of hours.

(7) Any award or industrial agreement in force at the date of any declaration under subsection one of this section to which the declaration applies shall be deemed to be varied by the substitution of the hours so declared for the ordinary working hours provided in any such award or industrial agreement as from the date of the declaration.

(8) Upon any declaration under subsection one of this section or any order under subsection six of this section during the currency of any award or industrial agreement the registrar may (subject to appeal to the commission), upon application to him in the prescribed manner by any party whose appearance is recorded on the making of the award and upon notice to the other parties whose names are so recorded, and in the case of an industrial agreement, by any party to the agreement and upon notice to the other parties thereto, make such variation or amendment in the terms of the award or agreement as will clearly express the effect of such declaration or order as the case may be, and make any necessary consequential amendment as to the starting or finishing time, overtime, or other matter as may be necessary.

Any such variation or amendment of the award or agreement made by the registrar shall be published in the *Gazette*.

The registrar may refer any such application or any matter arising out of any such application to the commission for directions.

(9) Where after the date of a declaration under subsection one of this section which is applicable to the industry concerned any award or industrial agreement is made which does not give effect to the declaration, such award or agreement shall not be enforceable until it has been varied or amended to give effect to the declaration.

(10)

(10) Nothing in this section shall affect sections fifty-five and fifty-six of this Act, or affect or apply to employees employed under the Public Service Act, 1902, or any Act amending the same.

DIVISION 3.—*Overtime.*

52. Overtime in any industry may be permitted by the terms of any award or agreement, and shall be paid at a rate to be fixed by award or by an agreement.

Overtime.
Act No. 22,
1930, s. 4
(1) (d).

For the purposes of this Part "overtime" means time worked in excess of the days or hours limited by or under this Act.

53. Notwithstanding the terms of any award or agreement from time to time current, the commission or a committee may, by award, or the parties may, by agreement, from time to time, for the purpose of distributing the work available in an industry so as to relieve unemployment or for any other purpose which appears to the commission or committee or to the parties in the case of an agreement, to be good and sufficient, prohibit or restrict to any extent the working of overtime.

Restriction
of overtime.
Ibid. s. 4
(1) (g).

54. Rates of pay for hours worked as overtime or in excess of ordinary working hours in any industry in respect of which overtime or work in excess of ordinary working hours is not prohibited by or under this Part shall not be fixed by an award or agreement at less than the rates which were paid in the industry on the fifth day of January, one thousand nine hundred and thirty-one, either under award or agreement or by well-established practice in the industry.

Overtime
rates.
Ibid. s. 7.

DIVISION 4.—*Rationing.*

55. (1) This section shall apply only to and in respect of employees of the Crown, including all salaried and all permanent officers, but shall not apply to such employees employed under the Police Regulation Act, 1899, or any Act passed in substitution for or amendment of the same.

Crown
employees.
Ibid. s. 8.

(2) Notwithstanding any conditions of employment, whether statutory or otherwise, or the terms of any regulation, award, or industrial agreement, the Crown
may

may for the purpose of enabling the retention in employment of employees of the Crown, or of a larger number of them than could or would otherwise be retained in employment, or for the purpose of extending the time any available work would or is estimated to last, or for any other purpose the Governor deems sufficient, require such employees or any number or proportion of them to remain away from work for such time per week or other period as will in the opinion of the Minister of the Department in which the employees concerned are employed or of the person or corporation employing such employees be desirable.

In respect of the time any such employee is or would be as the result of such requirement away from his work the Crown shall be under no obligation or liability to him in respect of salary or otherwise.

(3) This section shall remain in force until the sixteenth day of June, one thousand nine hundred and thirty-nine, and for such further period or periods as the Governor may from time to time determine and notify by proclamation published in the Gazette.

(4) In this section the Crown includes the Commissioner for Railways, Commissioner for Road Transport and Tramways, the Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Hunter District Water Supply and Sewerage Board, and any person or corporation employing persons on behalf of the Government of the State.

56. The Governor may by proclamation published in the Gazette extend the provisions of section fifty-five to such persons appointed under the provisions of any Act to any office under the Crown or to the members of any corporate body specifically mentioned in or included within the definition of "Crown" contained in subsection four of section fifty-five of this Act, and for the purposes of that section the Minister to whom for the time being the administration of the Act under which any such person is appointed is assigned shall be deemed to be the employer of such person.

Power to extend rationing provisions. Act No. 22, 1930, s. 8A.

DIVISION 5.—Works for Unemployed.

57. (1) The Governor may from time to time by proclamation published in the Gazette declare any work to be a work for the unemployed.

Works for the unemployed.
Act No. 11, 1937, s. 2.

Any such proclamation shall take effect from the date of publication of the proclamation in the Gazette or from a later date to be specified in the proclamation.

(2) The wages, hours and mode, terms and conditions of employment of any person employed on any such work shall be such as may from time to time be directed by the Minister.

(3) The provisions of this section shall take effect notwithstanding the terms and conditions of employment whether statutory or otherwise or of any award or industrial agreement.

(4) This section shall remain in force for a period of twelve months after the fifteenth day of October, one thousand nine hundred and thirty-seven, or for such further period or periods as the Governor may from time to time determine and notify by proclamation published in the Gazette.

DIVISION 6.—General.

58. Nothing in this Part shall be a defence to an employer or shall exempt him from any liability in any action or other proceeding brought against him by any person, whether an employee or not, for the recovery of compensation for injuries or recovery of wages or for any other purpose.

Act No. 53, 1930, s. 4 (c).

59. Nothing in this Part shall operate to extend the ordinary working hours of blind employees beyond those prescribed in paragraph (a) of subsection one of section six of the Forty-four Hours Week Act, 1925.

Act No. 22, 1930, s. 14.

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PART VI.

PROCEDURE.

DIVISION 1.—*Conciliation Committees.*

60. (1) Proceedings before a committee shall be commenced by—

Commencement of proceedings.
Act No. 17,
1912, s. 31.

- (a) reference to the committee by the commission or the Minister; or
- (b) application to the committee by employers or employees in the industries or callings for which the committee has been established.

(2) Any such application shall be in the form, and shall contain the particulars prescribed, and shall be signed by—

- (a) an employer or employers of not less than twenty employees in any such industry or calling; or
- (b) an industrial union whose members are employers or whose members are employees in any such industry or calling.

61. Sittings of a committee shall be convened by the conciliation commissioner whenever he thinks fit or within three days of a request by the Minister or by two members of the committee.

Act. No. 14,
1926, s. 9
(8).

62. Subject to the regulations as to matters of procedure a committee may make rules as to the order and conduct of its business and proceedings.

Ibid. s. 9
(9).

63. (1) Subject to section twenty-four of this Act the chairman of a conciliation committee shall require any person, including a member of the committee, to give his evidence on oath, and may on behalf of the committee issue any summons requiring the attendance of witnesses; if any person so summoned does not attend he shall be liable to a penalty not exceeding fifty pounds.

Evidence to be on oath.
Act No. 17,
1912, s. 35.

(2) Any question as to the admissibility of evidence shall be decided by the chairman alone, and his decision shall be final.

Admissibility of evidence.

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(3) Where during the hearing of any matter before a committee its jurisdiction is disputed, the chairman may decide the question of jurisdiction subject to appeal to the commission, or may submit it to the commission, in which case the commission shall decide such question and remit its decision to the committee.

Questions of jurisdiction.

DIVISION 2.—*General.*

64. The Crown may intervene in any proceedings before the commission, the conciliation commissioner, or a committee and make such representations as it thinks necessary in order to safeguard the public interests.

Intervention by Crown.

Act No. 14, 1926, s. 12.

65. The Crown may, where, in the opinion of the minister the public interests are or would be likely to be affected, intervene in any proceedings under Part III before a conciliation committee or the commission or appeal from an award of a special board and make such representations as it thinks necessary in order to safeguard the public interests.

Act No. 17, 1912, s. 30.

66. In proceedings before the commission or the conciliation commissioner, if the matter is an industrial matter, no party shall be represented by counsel or a solicitor except by the consent of the commission or conciliation commissioner as the case may be, and in proceedings before a committee, no party shall (except by consent of the committee, and all the parties) be represented by counsel or a solicitor.

Appearance by counsel.

Act No. 14, 1926, s. 13.

67. In any proceedings before the commission, the conciliation commissioner or a committee, no person, except with the consent of the commission or the conciliation commissioner, shall appear as an advocate or agent who is not or has not been actually and bona fide engaged in one of the industries or callings in respect of which such proceedings are taken.

Appearance of parties by advocates or agent.

Act No. 17, 1912, s. 37.

68. No evidence relating to any trade secret or to the profits or financial position of any witness or party shall be disclosed except to the commission or a committee, or published without the consent of the person entitled to the trade secret or of the witness or party as the case may be.

Trade secrets.

Act No. 14, 1926, s. 14.

Such

Such evidence shall, if the witness or party so requests, be taken in private.

69. The commission, conciliation commissioner or a committee exercising the jurisdiction conferred by this Act shall be governed in its procedure and in its decisions by equity and good conscience, and shall not be bound to observe the rules of law governing the admissibility of evidence.

Rules to govern the commission and committees.
Act No. 17, 1912, s. 56.

70. (1) (a) Except as provided in section fourteen of this Act any decision of the commission or of any member thereof in the exercise of any power or function delegated to him by the commission, shall be final; and no award and no order or proceeding of the commission or of any such member shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed or called in question by any court of judicature on any account whatsoever.

Decision of commission or member final.
Act No. 14, 1936, s. 4 (1).

(b) No writ of prohibition or certiorari shall lie in respect of any award, order, proceeding or direction of—

(i) the commission, or

(ii) any member thereof exercising any power or function delegated to him by the commission, relating to any industrial matter or any other matter which, on the face of the proceedings, appears to be or to relate to an industrial matter.

(2) Subsection one of this section shall be deemed to have commenced on the ninth day of December, one thousand nine hundred and twenty-seven.

Ibid.
s. 4 (2).

71. Where a member of the commission is unable to attend at the time and on the day appointed for the hearing of any matter by the commission, the registrar, or, in his absence from the court, the deputy-registrar shall adjourn the commission, and also adjourn the hearing of any cases set down for that day to such day as he may deem convenient.

Adjournments.
Act No. 17, 1912, s. 57.

72. In any proceedings before the commission it may reserve its decision.

Reserved decisions.
Ibid. s. 59.

Where

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Where a decision has been so reserved it may be given at any continuation or adjournment of the commission, or at any subsequent holding thereof, or the commission or a member thereof may draw up such decision in writing, and, having duly signed the same, forward it to the registrar. Whereupon the registrar shall notify the parties of his intention to proceed at some convenient time and place by him specified to read the same, and he shall read the same accordingly, and thereupon such decision shall be of the same force and effect as if given by the commission.

PART VII.

AWARDS.

73. Subject to the right of appeal under this Act, and to such conditions and exemptions as the commission and the committee may, and is hereby authorised to determine and direct, an award shall be binding on any or all employers and employees engaged in the industry or calling as the commission or the committee may direct, and within the locality and for the period not exceeding three years specified therein and after such period until varied or rescinded.

Binding force of awards.

Act No. 17, 1912, ss. 25 (1), 29.

Act No. 14, 1926, s. 9 (1).

74. The commission or a committee may in its discretion determine that an award shall take effect from such day subsequent to the lodging of the application therefor with the registrar as the committee may determine but the award shall not become operative or enforceable as an award until fourteen days after publication in the Gazette.

Act No. 14, 1926, s. 9 (4).

Act No. 39, 1932, s. 8 (3).

75. (1) Any aged, infirm, or slow worker who may deem himself unable to earn the minimum wage prescribed by any award, may apply to the registrar for a permit in writing to work for less than the wage so prescribed.

Permits for aged, infirm, or slow workers.

Act No. 17, 1912, s. 27.

(2)

(2) The registrar shall be the tribunal to determine whether and on what conditions such permit shall be granted, and shall have power to revoke or cancel any permit.

(3) The registrar shall forthwith notify the secretary of the industrial union of the trade or calling in which such applicant desires to be employed of the grant of such permit and of the conditions contained therein.

(4) The said union may at any time after such notice apply to the registrar in the manner prescribed for the cancellation of such permit.

(5) An appeal against any such determination shall not lie from the registrar to the commission except on the ground that the trade or calling concerned is one in which no such permit should be granted.

(6) Any such permit for a period not exceeding three months may be issued by any inspector or other person appointed by the Minister.

76. Evidence of any award, order, proclamation, notification, rule, or regulation made under the authority of this Act or any of the repealed Acts, may be given by the production of any document purporting to be a copy thereof and purporting to be printed by the Government Printer or by the authority of the Minister.

Copy of Gazette to be evidence. Act No. 17, 1912, s. 60.

77. All awards, orders, proclamations or other notifications, excepting rules or regulations required or directed by this Act to be published in the Gazette may be published in the Gazette or in the New South Wales Industrial Gazette.

Publication of awards, etc. *Ibid.* s. 60A.

PART VIII.

BREACHES OF AWARDS AND OTHER OFFENCES.

78. (1) Where an employer employs any person to do any work for which the price or rate has been fixed by an award, or by an industrial agreement, made under this Act, he shall be liable to pay in full in money to such person the price or rate so fixed without any deduction except such as may be authorised by any award or industrial agreement.

Recovery of wages.
Act No. 17,
1912, s. 49.

(2) Such person may, within six months after such money has become due, apply in the manner prescribed to the registrar or to an industrial magistrate for an order directing the employer to pay the full amount of any balance due in respect of such price or rate. Such order may be so made notwithstanding any smaller payment or any express or implied agreement to the contrary. The registrar or magistrate may make any order he thinks just, and may award costs to either party, and assess the amount of such costs.

Order for payment.

(3) Such person may, within the said period of six months, in lieu of applying for an order under subsection two of this section, sue for any balance due as aforesaid in any district court or court of petty sessions: Provided that any person feeling himself aggrieved by a judgment or order of such court given or made under this subsection may appeal therefrom to the commission as prescribed.

Alternative power to sue.

Upon such appeal the commission may affirm, vary, or rescind the judgment or order appealed from and may make such order as the court appealed from should have made, including an order as to costs of the judgment or order appealed from or of the appeal.

(4) Such person may take any such proceedings, and may recover any such balance due, and costs, notwithstanding that he may not be of full age either at the time of doing such work or at the time of taking such proceedings.

Recovery of balance due.

(5)

(5) Any person who enters into a contract with a contractor for the carrying out by the contractor of any work involving the payment of wages shall be liable for the payment of such wages unless upon final payment made by him to the contractor in relation to the contract he receives a statement in writing signed by the contractor that no wages are due and owing by the contractor in respect of the work at the time of such payment. Any person who knowingly makes or signs a false statement that no wages are due or owing by him in respect of any work shall be liable to a penalty of one hundred pounds or to imprisonment for not more than six months.

79. (1) If any person commits a breach of an award or a breach of an industrial agreement, whether by contravening or failing to observe the same, or otherwise, the registrar or an industrial magistrate may order him to pay a penalty not exceeding fifty pounds.

Penalty for breach of award.
Act No. 17, 1912, s. 50.

(2) Where on making such order it appears that the breach complained of relates to the failure of the defendant to pay in full any wages (including wages for overtime) due to an employee at the price or rate fixed by the award or agreement, the registrar or magistrate may also make such an order with respect to such wages as might have been made in proceedings taken under section seventy-eight. Such order may be made without motion, and shall be a bar to proceedings under the said section in respect of such wages.

Order for payment of wages.

(3) Where an order is made under subsection one of this section against any person, and the registrar or magistrate is of opinion that the breach was committed by the wilful act or default of such person, he may on motion or without motion, and in addition to any order made, grant a writ of injunction to restrain such person from committing further or other breaches of the award or industrial agreement.

Injunction where breach is wilful.

If any person disobeys such writ of injunction he shall be guilty of a misdemeanour and shall be liable to imprisonment for any period not exceeding six months.

Such

Such person may be committed for trial for such offence by any justice or justices acting under and in pursuance of the Justices Act, 1902, and any Acts amending the same, or by the commission. For the purposes of such committal the commission shall have the powers of a justice or justices under the said Acts.

(4) Proceedings for a breach of an award or an industrial agreement may be taken and prosecuted by the Minister, or an employer, or the secretary of an industrial union concerned in the industry covered by such award or industrial agreement.

Who may take proceedings for penalty.

The costs of any such proceedings shall be paid by the complainant if the order is not made, and by the defendant if the order is made. Such costs shall be according to a scale to be fixed by the commission.

80. If the secretary of an industrial union of employees or any person acting or purporting to act on behalf of any such industrial union receives any money paid in respect of any act constituting a breach of an award or industrial agreement otherwise than in pursuance of the order or with the previous approval of the registrar or an industrial magistrate, he shall be liable to a penalty not exceeding twenty pounds.

Secretary of union receiving money for breach of award.
Act No. 17, 1912, s. 51.

81. If an employer dismisses an employee or injures him in his employment or alters his position to his prejudice by reason of the fact that the employee—

Penalty for unlawful dismissal.
Ibid. s. 52.

- (a) is an officer, delegate, or member of a trade or industrial union or of a conciliation committee; or
- (b) claims some benefit of an industrial agreement or an award to which he is entitled; or
- (c) has appeared as a witness, or has given evidence in a proceeding in relation to an industrial matter; or
- (d) after applying to his employer for leave without pay for the purpose, and after the employer has unreasonably refused leave, has absented himself from work through being engaged in other duties as a member of an industrial union in respect

Industrial Arbitration.

respect of any matter affecting the industry in which he is working or as a member of such a conciliation committee,

the commission or an industrial magistrate may order him to pay a penalty not exceeding fifty pounds.

The commission or magistrate may further order that the employee be reimbursed the wages lost by him and the commission may also direct his reinstatement in his old or a similar position.

In any proceeding for an offence against this section, if all the facts and circumstances constituting the offence, other than the reason for the defendant's action, are proved, it shall lie upon the defendant to prove that he was not actuated by the reason alleged in the charge.

In a proceeding for an offence in respect of paragraph (d) of this section it shall not be necessary for the prosecution to prove among the facts and circumstances constituting the offence that the employer unreasonably refused leave.

A prosecution under this section may be taken before the commission or an industrial magistrate by the secretary of the industrial union concerned in the industry in which the employee alleged to have been so dismissed, injured, or prejudiced was employed: Provided always that if any party feels aggrieved by any decision of a magistrate he may appeal in the prescribed manner to the commission.

No prosecution for an offence under this section shall be commenced except by leave of the commission.

82. (1) Every employer in an industry in respect of which an award or an industrial agreement is in force shall keep, or cause to be kept, from day to day at the workshop or factory where he carries on his business, in the manner and to the effect prescribed, time-sheets and pay-sheets of such employees, correctly written up in ink.

Time-sheets and pay-sheets to be kept.
Act No. 17, 1912, s. 68.

If he fails to carry out any of the requirements of this section he shall be liable to a penalty not exceeding ten pounds.

(2)

(2) A copy of any award whether made under repealed Acts or this Act shall be exhibited and kept exhibited by every employer carrying on an industry to which it relates, at the workshop or factory where he carries on his business so as to be legible by his employees. If such employer fails to carry out the provisions of this subsection he shall be liable to a penalty not exceeding ten pounds.

Exhibition of award.

(3) The penalty imposed by each of the preceding subsections may in addition to being recoverable in terms of section one hundred and seven of this Act, be ordered to be paid by the registrar or an industrial magistrate subject to the provisions of section one hundred and five of this Act.

83. Any person who hinders or obstructs the commission or any member or officer thereof in the exercise of any power conferred by section thirty-five of this Act shall for every such offence be liable to a penalty not exceeding fifty pounds.

Penalty. Act No. 17, 1912, s. 89.

PART IX.

LOCK-OUTS AND STRIKES.

84. If any person, including an industrial union of employers, does any act or thing in the nature of a lock-out, or takes part in a lock-out, or instigates to or aids in any of the abovementioned acts, unless the employees working in the industry concerned are taking part in an illegal strike, the commission may order him to pay a penalty not exceeding one thousand pounds.

Penalty for lock-out. Ibid. s. 44.

85. The following strikes and no others shall be illegal:—

Illegal strikes. Ibid. s. 45.

- (a) Any strike by employees of the Crown or of any Minister, trust, commission, or board exercising executive or administrative functions on behalf of the Government of the State (including the Commissioner for Railways and the Commissioner for Road Transport and Tramways, the Maritime

Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, The Metropolitan Meat Industry Commissioner, the Hunter District Water Supply and Sewerage Board, or by the employees of any city, shire, or municipal council or of a statutory board or committee representing the interests in any combination of shires or municipalities, or by employees engaged in any contracts for military or naval purposes.

- (b) Any strike by the employees in an industry, the conditions of which are for the time being wholly or partially regulated by an award or by an industrial agreement: Provided that any union of employees may render an award which has been in operation for a period of at least twelve months no longer binding on its members by the vote of a majority of its members at a secret ballot taken in accordance with the provisions for ballots contained in this Act and the regulations thereunder in which not less than two-thirds of the members of such union take part.
- (c) Any strike which has been commenced prior to the expiry of fourteen clear days' notice in writing of intention to commence the same, or of the existence of such conditions as would be likely to lead to the same given to the Minister by or on behalf of the persons taking part in such strike.

86. In the event of an illegal strike occurring in any industry, the commission may order any trade union, whose executive or members are taking part in or aiding or abetting the strike, to pay a penalty not exceeding five hundred pounds.

Penalty for
illegal
strike.
Act No. 17,
1912, s. 46.

87. It shall be a defence in any proceedings for an order or direction under the last preceding section that the union by the enforcement of its rules and by other means reasonable under the circumstances endeavoured

Defence to
proceedings
for illegal
strike.
Ibid. s. 47.

to

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to prevent its members from taking part in or aiding or abetting or continuing to take part in, aid or abet the illegal strike.

88. (1) The Minister may at any time or from time to time during the progress of any strike, or whenever he has reason to believe that a strike is contemplated by the members of any industrial or trade union, or association of employees, direct that a secret ballot or secret ballots of such members or employees shall be taken in the manner prescribed for the purpose of determining whether a majority of such members or employees is or is not in favour of the institution or continuance respectively of the strike.

Secret ballot when strike contemplated.

Act No. 17, 1912, s. 48.

(2) Where the Minister has made a direction for the taking of a ballot he shall—

- (a) appoint a returning officer and all necessary deputy returning officers, who shall have power to supervise, direct, and control, subject to the provisions of this Act and the regulations thereunder, all arrangements for the taking of such ballot; and
- (b) appoint a sufficient number of scrutineers, who shall be officers or members of the union or association affected.

89. If any person—

- (i) aids or instigates an illegal strike; or
- (ii) obstructs the taking of a ballot under this Act; or
- (iii) counsels persons who are entitled to vote at such ballot to refrain from so voting; or
- (iv) being an officer of a union or association refuses to assist in the taking of such a ballot by acting as a scrutineer or providing for the use of the returning officer and his assistants such registers and other lists of the members of the union or association as the returning officer may require or otherwise; or

Penalties for illegal strike or obstructing ballot.

Ibid. s. 48B.

(v)

(v) directs or assists in the direction of an illegal strike or acts or purports to act upon or in connection with a strike committee in connection with an illegal strike;

he shall be deemed guilty of a default of public duty, and upon being so found by the commission shall be liable to a penalty not exceeding fifty pounds or imprisonment for a period not exceeding six months.

90. The proprietor and publisher of any newspaper which advises, instigates, aids or abets an illegal strike, shall for each offence be liable to a penalty not exceeding one hundred pounds.

Penalty for newspaper publishing matter encouraging strike.
Act No. 17, 1912, s. 48c.

91. Any person who induces or attempts to induce any person to take part in an illegal strike shall be liable to a penalty not exceeding ten pounds or to imprisonment, with or without hard labour, for a term not exceeding one month.

Penalty for illegal picketing.
Ibid. s. 48d.

92. (1) No person or trades union shall, during the currency of any strike, do any act or thing to induce or compel any person to refrain from handling or dealing with any article or commodity in the course of transit thereof or in the process of the manufacture, sale, supply, or use thereof.

Penalty for declaring any commodity black.
Ibid. s. 48e.

(2) The penalty for any breach of this section shall as against any trades union be a sum not exceeding one hundred pounds and as against any individual a sum not exceeding ten pounds, or imprisonment for a period not exceeding one month.

PART X.

TRADE UNIONS.

93. (1) A trade union shall have power to apply and use the moneys and other property of the union for or in connection with any lawful object or purpose for the time being authorised by its rules, and without limiting the generality of this provision may—

Powers of
trade union
with regard
to its funds.
Act No. 17,
1912, s. 52A.

- (a) acquire, purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with in the names of the trustees for the time being of such union any real or personal property (including shares in any registered company, whether registered in New South Wales or not), and no purchaser, assignee, mortgagee, or tenant shall be bound to inquire whether the trustees have authority for any sale, exchange, mortgage, or letting, and the receipt of the trustees shall be a discharge for the money arising therefrom;
- (b) subject to the provisions of the next succeeding paragraph hereof apply to the commission or to any district court or court of petty sessions having jurisdiction in the locality for and obtain an order directing the payment by any of its members of any fine, levy, penalty, call, or subscription in pursuance of the rules of the union;
- (c) provide for the application of its money and property to the furtherance of political objects so long as rules of the union are in force providing—
 - (i) that any payments in the furtherance of such objects are to be made out of a separate fund;
 - (ii) that contribution to such separate fund shall not be a condition of admission to or membership of the said union;
 - (iii) that a member who does not contribute to such separate fund shall not be excluded from any benefits of the union or placed under

under any disability or at any disadvantage as compared with other members of the union by reason of his failure to so contribute.

(2) The expression "political objects" in the last preceding subsection means the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election to Parliament or to any public office, before, during, or after the election in connection with his candidature or election; or the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or the maintenance of any person who is a member of Parliament or who holds a public office; or the registration of electors, or the selection of a candidate for Parliament or any public office; or the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind, unless the main purpose of the meeting or of the distribution of the literature or documents is the furtherance of the objects set out in the definition of "Trade Union" in section thirty-one of the Trade Union Act, 1881-1936, or the maintenance and publication of a newspaper other than a non-political trade journal.

(3) The expression "public office" in the last preceding subsection means the office of member of any shire or municipal council, or the Municipal Council of Sydney, or of any public body which has power to raise money, either directly or indirectly, by means of a rate.

94. The provisions of the last preceding section shall apply to a union which is in whole or in part an association or combination of other unions, as if the individual members of the component unions were the members of that union and not the unions.

Application of last preceding section to unions.

Act No. 17, 1912, s. 52B.

95. If any member of a trade union alleges that he is aggrieved by a breach of any rule relating to any of the matters mentioned in section ninety-three, subsection one paragraph (b) of this Act, he may complain to the commission, which commission, after giving the complainant and any representative of the union the opportunity of being heard, may, if it considers that such a breach

Right of appeal.

Ibid. s. 52c.

breach has been committed, make such an order for remedying the breach as it thinks just under the circumstances, and any such order shall be binding and conclusive on all parties without appeal.

96. No such separate fund established for political purposes or any property in which such fund may be invested shall be liable to attachment in the enforcement of any order for payment of any penalty made against the union.

Attachment of union funds.
Act No. 17, 1912, s. 52D.

97. The commission may entertain and adjudicate upon any legal proceedings instituted for the purpose of directly enforcing or recovering damages for a breach of any of the following agreements:—

Powers of Commission to enforce certain agreements.
Ibid. s. 52E.

- (a) The constitution or rules of the trade union.
- (b) Any agreement between members of a trade union as such concerning the conditions on which any members for the time being of the trade union shall or shall not sell their goods, transact business, employ or be employed.
- (c) Any agreement for the regulation of any business or industry as between employers and employees made by a trade union with an employer or employers.
- (d) Any agreement made between one trade union and another; or
- (e) Any bond to secure the performance of any of the above-mentioned agreements:

Provided that such agreements shall be in writing, and that copies of them, verified as prescribed, shall have been filed with the commission.

98. For the purpose of exercising the jurisdiction and powers conferred upon it by this Part the commission shall have all the powers of the Supreme Court and shall hear and determine according to equity and good conscience all questions arising for its determination hereunder and the judgment of the commission upon such questions shall have force and effect as judgments, orders, or decrees of the Supreme Court

Powers of Commission.
Ibid. s. 52F.

Court in its common law or equitable jurisdiction according to the substance thereof, and shall be so recorded by the Prothonotary of the Supreme Court or Master in Equity as the case may require.

99. Where any trade union fails within the time prescribed by the commission to pay any penalty imposed by the commission the trade union shall be wound up. The commission shall appoint a receiver of the assets of the trade union, who shall forthwith proceed to collect such assets and wind up the union's affairs, and shall, after paying the costs, charges, and expenses of the winding-up, pay the penalties due to the Crown and other debts of the trade union and thereafter shall distribute the residue of such proceeds amongst the persons including members of the union who appear to be entitled to the same.

Enforcement of order of commission imposing penalty.
Act No. 17,
1912, s. 52c.

Any receiver so appointed shall, in respect of the property and affairs of the union, have all the powers, rights and duties of a liquidator in the voluntary winding-up of a company under the Companies Act, 1936.

100. After service of an order for the payment of any penalty by any trade union it shall not be lawful for any bank, corporation, company, or person, whether as principal or agent, to account for or cash cheques, or orders on the funds or account of the union, or to deal in any way with its property, or to lend moneys to the union except at the direction of the receiver appointed by the commission; and any person who with knowledge or notice of any such order receives, expends, or otherwise deals with such funds or property, except in accordance with an order of the commission shall be liable to make good to the receiver any loss occasioned to the assets of the union by the receipt, expenditure, or dealing, and to a penalty not exceeding five hundred pounds:

Penalty: stop-order.
Ibid. s. 52h.

Provided that any person, bank, or corporation shall be relieved of all liability under this section on publication in the Government Gazette of a notice to that effect under the hand of the Minister.

101.

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101. (1) All persons who are, by the nature of their occupation or employment, of the class of which a trade union is constituted, and who are not of general bad character, shall be entitled to be admitted to membership of the union, and to remain members thereof and enjoy all advantages of membership so long as they shall comply with the rules of the union.

Persons entitled to membership of union.
Act No. 17, 1912, s. 52i.

(2) Any question or dispute as to the character of any applicant or the reasonableness of any admission fee, subscription, fine or levy or other requirements of the rules of any trade union, shall be determined by the commission, which shall also have power to direct that the rules of a trade union shall be altered or annulled in any particular in order to bring them into conformity with what it declares to be reasonable in the circumstances, and upon any such direction being given the rules affected shall be deemed to have been altered or annulled accordingly.

102. No trade union shall register any rule which is contrary to any term or provision of an award.

Illegal rules.
Ibid. s. 52j.

103. Every trade union shall make annually returns to the industrial registrar with respect to its rules, the names and the addresses recorded in the books of such trade union of its members and the persons occupying executive and other offices in the union in the manner and at the times prescribed; and the commission may order any union which fails to make full and proper returns as aforesaid, or to amend its rules in accordance with any order made by the commission, or to admit to membership any person whom the commission declares is entitled to such admission to pay a penalty not exceeding one hundred pounds.

Returns by trade unions.
Ibid. s. 52k.

PART XI.

GENERAL AND SUPPLEMENTAL.

Fines and subscriptions payable to unions.

104. The registrar or an industrial magistrate may order the payment by any member of an industrial union of any fine, levy, penalty, or subscription payable in pursuance of the rules of the union.

Fines and subscriptions payable to unions.
Act No. 17, 1912, s. 53.

Enforcement of orders.

105. (1) Where an order is made under sections seventy-eight, seventy-nine, eighty-one, eighty-four or one hundred and four of this Act, that any person or union shall pay the amount of any money due or any penalty, such order shall have the effect of a judgment for the amount of such money or of such penalty in the district court or court of petty sessions named in such order, or if no such court is so named, in the metropolitan district court at the suit of the Crown or person or union respectively, against the person or union against whom such order has been made; and such amount may be recovered and such recovery may be enforced by process of such court as in pursuance of such judgment.

Enforcement of certain orders.
Ibid. s. 54.

(2) Any property of a union, whether in the hands of trustees or not, shall be available to answer any order made as aforesaid.

Property of a union.

Appeal to Commission.

106. (1) From any order of the registrar, or any industrial or other magistrate or justices under this Act, imposing a penalty or ordering the payment of any sum of money or any penalty, an appeal shall lie to the commission.

Appeal from registrar or magistrate.
Ibid. s. 55.

On any such appeal the commission may either affirm the order appealed from or reverse the said order or reduce the amount so ordered to be paid or the amount of the penalty; and, in any case, the commission may make such order as to the costs of the appeal, and of the proceedings before the registrar, magistrate, or justices, as it thinks just.

(2)

(2) The registrar, or any industrial or other magistrate, or justices, may on the application made by any party to any proceedings for the payment of money or a penalty under this Act state a case for the opinion of the commission, setting forth the facts and the grounds for any order or conviction made by him or them.

Case may be stated.

(3) The provisions of the Justices Act, 1902, and any Act amending the same, which relate to appeals to a court of quarter sessions and to the stating of cases by justices for the opinion of the Supreme Court, and the decision of any such court thereon, and the carrying out of such decision shall, mutatis mutandis, and subject to any regulations made under this Act, apply to and in relation to appeals to and cases stated for the opinion of the commission under this section.

Application of provisions of Justices Act.

(4) No other proceedings in the nature of an appeal from any such order or by prohibition shall be allowed.

No other appeals allowed.

Penalties and costs.

107. Any penalty imposed by or under this Act or the regulations may, except where otherwise provided, be recovered upon summary conviction before a stipendiary, police, or industrial magistrate, or any two justices in petty sessions.

Recovery of penalties. Act No. 17, 1912, s. 61.

108. The amount of any penalty recovered under this Act shall be paid into the Treasury and carried to the Consolidated Revenue Fund.

Penalties to be paid to Consolidated Revenue. Ibid. s. 62.

109. (1) Except where otherwise in this Act provided, the commission or the registrar, or any industrial or other magistrate or justices, may in any proceedings for a penalty or prosecution under this Act, and in any proceedings under section one hundred and four or for a writ of injunction, make such order as to the payment of costs as may be thought just, and may assess the amount of such costs.

Orders for costs. Ibid. s. 63.

(2) Every order for the payment of costs made by the commission or the registrar or the industrial magistrate shall have the effect of and be deemed to be a judgment

Enforcement of order.

judgment for such amount in the district court or court of petty sessions named in the order, or if no such court is so named, then in the metropolitan district court, at the suit of the person in whose favour such order is made, against the person so ordered to pay costs.

Such amount may be recovered, and such recovery may be enforced by process of such court as in pursuance of such judgment.

110. Whosoever, before a committee or the commission, wilfully makes on oath any false statement knowing the same to be false shall be guilty of perjury.

Penalty for wilfully false statement.
Act No. 17, 1912, s. 64.

The registrar, industrial magistrates and inspectors.

111. (1) The Governor may, subject to the Public Service Act, 1902, appoint an industrial registrar who shall have the prescribed powers and duties.

Registrar.
Ibid. s. 65.

(2) The Governor may appoint any person to be a deputy industrial registrar.

The deputy industrial registrar shall exercise such powers and perform such duties of the registrar as the registrar shall from time to time direct, and whilst exercising such powers or performing such duties and during the temporary absence of the registrar, or during any vacancy in the position of registrar, the deputy industrial registrar shall have the same jurisdiction and powers as if he were registrar.

(3) For the purpose of hearing and determining any proceedings for a penalty or for the recovery of money under this Act, the registrar shall have the powers of two justices of the peace within any police district.

(4) The registrar shall maintain the apprenticeship register established under the Acts hereby repealed and record therein all indentures or other contracts of apprenticeship.

112. (1) The Governor may appoint industrial magistrates, who shall have the qualifications of a police magistrate, and who shall throughout the State have the jurisdiction and powers conferred by this Act on an industrial magistrate, and in the exercise of such jurisdiction may do alone whatever might be done by two or more justices sitting in petty sessions.

Industrial magistrate.
Ibid. s. 66.

(2)

(2) The Governor may appoint any person duly qualified as aforesaid to act as a deputy for any industrial magistrate appointed under this Act for a time not exceeding in any case thirty days while such magistrate is absent from his duties for any cause, and every such deputy shall while acting as such have the same jurisdiction and power and perform the same duties as if he were an industrial magistrate.

113. (1) The Governor may, subject to the Public Service Act, 1902, appoint inspectors who shall have the powers and duties prescribed.

Appoint-
ment and
powers of
inspectors.

Any such inspector may exercise the following powers and perform the following duties in respect of an industry as to which an award or an industrial agreement is in force:—

Act No. 17,
1912, s. 67.

- (a) He may at any reasonable times inspect any premises of any employer upon which any such industry as aforesaid is carried on, and any work being done therein.
- (b) He may at any reasonable times require the employer in such industry to produce for his examination, and may examine any time-sheets and pay-sheets of the employees in such industry.
- (c) He may at any reasonable times examine any employee in such industry as to the prices for piece-work and the rate of wages paid to him, and as to his hours of work as such employee.
- (d) He may, on obtaining the authority of the Minister, institute proceedings for a penalty under section seventy-nine.

An inspector shall report to the Minister all breaches of this Act, or of an award or industrial agreement, which have come to his knowledge.

(2) No inspector shall have any authority under this Act to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

(3) If any person obstructs any inspector in the exercise of his powers under this Act, or fails when duly required

Obstructing
inspector.

required as aforesaid to produce any time-sheets or pay-sheets, he shall be liable to a penalty not exceeding ten pounds.

114. A committee, or any two or more members thereof authorised by the committee under the hand of the conciliation commissioner, may enter and inspect any premises used in any industry to which a reference or application to the committee relates, and any work being carried on there.

Power of entry and inspection.

Act No. 17, 1912, s. 33.

If any person hinders or obstructs a committee or any member thereof in the exercise of the powers conferred by this section, or hinders or obstructs the commission or any member thereof in the exercise of like powers, he shall be liable to a penalty not exceeding ten pounds.

115. Any officer of an industrial union of employees authorised in writing by the commission or a committee shall have the right to enter any place or premises or any ship or vessel of any kind whatsoever, wherein members of such union or persons in the same calling as such members are engaged, for the purpose of conversing with or interviewing the employees in such place, premises, ship or vessel:

Right of entry by union officials.

Ibid. s. 67.

Provided that such officers shall not wilfully hamper or hinder the employees during their working time and may interview any employees or converse with them during any lunch hour or non-working time.

Every person who hinders or obstructs any such officer in the exercise of any power conferred by this section, or who refuses entrance to such officer or unduly delays such officer in entrance during any time as aforesaid to any such place, premises, ship or vessel, shall be liable to a penalty not exceeding fifty pounds.

Regulations.

116. (1) The Governor may make regulations for carrying out the provisions of this and the preceding Parts of this Act, and in particular, but without derogating from the generality of such powers—

Regulations made by Governor.

Ibid. s. 72.

- (a) prescribing the forms of references and applications to the commission or a committee and generally the forms to be used in carrying out this Act;
- (b)

- (b) prescribing the form of oath to be taken by members of a committee;
- (c) regulating the exhibition by an employer of an award;
- (d) prescribing the form and mode of service of notices of meetings of a committee;
- (e) prescribing the giving of notice of inspection by a committee or its members of premises used in any industry, and prescribing the form and regulating the service of such notice;
- (f) regulating the procedure at meetings of a committee;
- (g) providing for the payment of expenses of witnesses and persons summoned by the registrar;
- (h) regulating the procedure to be followed in proceedings before the commission and before the registrar and an industrial magistrate, and in enforcing judgments, convictions, and orders given and made under this Act;
- (i) for the enforcement of orders for penalties and orders for attachments made under this Act;
- (j) prescribing the powers and duties of the registrar, and regulating the registration under this Act of industrial unions;
- (k) imposing any penalty not exceeding ten pounds for any breach of such regulations;
- (l) as to matters which by this Act may be prescribed;
- (m) prescribing for the purpose of section thirty-five the powers, duties and rights of any officer of the commission and imposing any penalty not exceeding fifty pounds for any breach thereof.

Act No. 17, 1912, s. 88.

(2) The regulations shall be published in the Gazette, and shall take effect from the date of publication or from some later date to be specified in the regulations.

Publication of regulations. Ibid. s. 73.

(3) All such regulations on being gazetted shall be laid before both Houses of Parliament within fourteen days if Parliament is then sitting, and if not sitting, then within fourteen days after the next meeting of Parliament. But if either House of Parliament passes a resolution of which notice has been given at any time within fifteen

fifteen sitting days after such regulations have been laid before such House disallowing any regulation such regulation shall thereupon cease to have effect.

PART XII.

RURAL INDUSTRIES.

117. (1) Employees who are employed in rural industries, that is to say—

Employees
in rural
industries.
Act No. 17,
1912, s. 24B.

- (a) upon farms, orchards, vineyards, or agricultural or pastoral holdings in connection with dairying, poultry farming, or bee farming, or the sowing, raising, harvesting, or treating of grain, fodder, fruit, or other farm produce, or the management, rearing, or grazing of horses, cattle, sheep, or other live stock, or the shearing or crutching of sheep, or the classing, scouring, sorting, or pressing of wool, upon any farm or station, or at other farm or station work; or
- (b) in or in connection with the formation, tending, protection, or regeneration of forests; or
- (c) in flower or vegetable market gardens or nurseries; or
- (d) at clearing, fencing, trenching, draining, or otherwise preparing land for any of the above-mentioned purposes,

shall not be subject to the provisions of this Act other than Parts XIII and XIV.

(2) Nothing in subsection one of this section shall be construed to affect any craftsman or any award or agreement regulating the conditions of employment of craftsmen generally or to affect any employee employed under the Public Service Act, 1902, or any award or agreement regulating the conditions of such employment.

Act No. 41,
1929, s. 3.

PART XIII.

THE ORGANIZATION OF THE LABOUR MARKET.

DIVISION 1.—*State Labour Exchanges.*

118. The Minister shall establish, maintain, and conduct in the manner prescribed, in Sydney, and in such other places as he thinks fit, free employment agencies, which agencies shall be known as State Labour Exchanges.

Establishment
of State Labour
Exchanges.
Act No. 17,
1912, s. 90.

119. The functions of the State Labour Exchanges shall be to bring together intending employers and persons seeking employment; to make known the opportunities for employment and self-employment in the State; to encourage minors and others to undertake training in skilled employments; to provide industrial or agricultural training for vagrants and other persons unsuited for ordinary employments; and to carry out any other duties prescribed. For any of the above purposes a State Labour Exchange may co-operate with and assist any other labour exchange or licensed private employment agency.

Duties of
such
exchanges.
Ibid. s. 91.

120. (1) The Minister may authorise a State Labour Exchange to make advances by way of loan towards meeting the expenses of persons seeking to avail themselves of opportunities of employment.

Advances
to meet
expenses of
travelling
to work.

(2) When any such advance has been made, the Minister may order that the amount of such advance shall be a charge on any moneys which are then, or which may thereafter be due to the person to whom such advance is made from his past then or future employer, for wages or in respect of work done. On the making of any such order, the employer for the time being of such person, or any employer who shall not have discharged his indebtedness to such person, shall on being notified of such order pay such moneys to the Minister, when and as they become due and payable, in satisfaction of the charge imposed by the order.

Ibid. s. 92.

(3) Such order may be for the repayment of the amount of such advance, in one sum or by such instalments as the Minister may direct.

(4)

(4) No charge upon, or assignment of his wages, or moneys in respect of work done, or to be done, whenever or however made by any such person shall have any force whatever to defeat or affect any such order, and such order shall have effect as if no such charge or assignment existed.

121. (1) Any person obtaining or attempting to obtain under false pretences, or by means of any other fraud or deceit, an advance by way of loan, under the last preceding section, shall be guilty of a misdemeanour. Penalty, ten pounds, or imprisonment not exceeding six months.

Penalty for obtaining loan by fraud. Act. No. 17, 1912, s. 93.

(2) Any person who makes any wilfully false statement or false representation to any officer of a State Labour Exchange, or to any person acting for or for the purposes of any such labour exchange, with intent to obtain employment or to procure labour or who harasses or molests others proceeding to, from or in employment shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a penalty not exceeding ten pounds.

Penalty for false statement.

(3) If any person knowingly—

(a) sends, delivers, or causes to be sent or delivered to any officer any writing which purports to be signed or sent by any other person without such person's authority or in the name of any fictitious person; or

(b) makes, sends, or delivers any written communication which purports to be a communication from any Government Department or any officer thereof, and which is not so in fact,

he shall be guilty of a misdemeanour. Penalty, ten pounds, or imprisonment not exceeding six months.

DIVISION 2.—Private employment agencies, theatrical agencies and employers.

122. In this Part of this Act unless the context otherwise indicates—

“Theatrical agency” means any agency carried on or represented as being intended to be carried on (whether for the purpose of gain or not) for

Definitions. Act No. 3, 1935, s. 2 (a).

or

or in connection with the employment or engagement of theatrical performers, and includes any person who on any one occasion or as an isolated act engages any theatrical performer for a theatrical employer.

“Theatrical employer” means any person, firm, company, syndicate, society or association, who or which employs any theatrical performer for the purpose of a theatrical enterprise, and includes any agent of such person, firm, company, syndicate, society, or association and the parties to any partnership or other agreement for the purpose of a theatrical enterprise, whether persons other than the parties are employed or not.

“Theatrical enterprise” means an enterprise or venture which is undertaken or proposed to be undertaken for the purpose of giving a performance or performances in any theatre, music hall, or other place of public entertainment, the main purpose of which is the financial benefit of a theatrical employer and/or a theatrical performer.

“Theatrical performer” means any actor, singer, dancer, acrobat, or performer of any kind employed by a theatrical employer to act, sing, dance, play or perform in any theatre, music hall or other place of public entertainment.

123. (1) A person shall not—

- (a) open or carry on for profit any agency for procuring or assisting to procure employment or labour, or any business having as one of its purposes the bringing together of intending employers and persons seeking employment, or open or carry on, whether for profit or otherwise, any theatrical agency, unless he is the holder of a license under this Part of this Act;
- (b) carry on business as a theatrical employer unless he is the holder of a permit under this Part of this Act.

Persons carrying on private employment agencies and theatrical agencies to be licensed and theatrical employers to hold permits. Act No. 3, 1935, s. 2 (c).

(2)

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(2) Every such license shall be in or to the effect of the form prescribed, and shall, subject to the provisions of this Act, remain in force for one year from the date thereof, but may be renewed.

Such license, together with a copy of this section, shall be posted in a conspicuous position in the place in which the agency or business or theatrical agency to which it relates is carried on.

(3) A permit shall be in the form prescribed, and may be issued in respect of an individual theatrical enterprise or several theatrical enterprises, and shall only apply to the particular matter therein specified, and shall continue in force until the completion of the same and no longer.

(4) The Minister may from time to time, by notification in writing, exempt from all or any of the foregoing provisions of this section any theatrical employer for the period specified in the notification, on being satisfied that the agency or business of the theatrical employer is in all respects being properly carried on, and may by a like notification revoke any such exemption.

124. (1) Application for the issue or renewal of a license or for the issue of a permit shall be made to the Minister in the form and in the manner prescribed, and shall be accompanied by the prescribed fee.

Application for license. Act No. 17, 1912, s. 95; Act No. 3, 1935, s. 2 (d) (e).

(2) The Minister may refer the application to a magistrate for inquiry as to whether the applicant is from his character or previous conduct a fit person to hold a license or permit under this Part of this Act. A license shall not be issued or renewed and a permit shall not be issued unless the Minister or such magistrate determines that the applicant is a fit person to hold the license or permit.

Reference for inquiry.

The magistrate shall for the purposes of any such inquiry and determination have the same powers as if he were sitting in a court of petty sessions, and the inquiry were a matter for hearing and determination therein.

The

The applicant and all persons who in the manner prescribed notify their objection to the issue or renewal of the license or to the issue of a permit shall have notice of such inquiry and shall be entitled to be heard thereat, personally or by counsel, attorney, or agent. There shall be an appeal as prescribed by way of rehearing from the decision of a magistrate to the commission.

(3) The issue or renewal of a theatrical agent's license or the issue of a theatrical employer's permit may be refused—

- (a) to any person under the age of twenty-one years; or
- (b) in respect of any premises which are not in the opinion of the Minister in all respects suitable for a theatrical agency or business of a theatrical employer; or
- (c) in respect of any theatrical agency or business of a theatrical employer which in the opinion of the Minister has been or is being improperly conducted; or
- (d) to any person who has not satisfactorily complied with the conditions (if any) imposed by the license or any previous license or permit.

(4) (a) A theatrical agent's license may be issued or renewed, and a theatrical employer's permit may be issued subject to the performance by the licensee or holder of the permit of such conditions as are thereby imposed.

(b) Conditions approved by the Minister may be imposed for the protection of theatrical performers and employees and, inter alia, for requiring the deposit of security approved by the Minister to secure the payment of salaries or wages to the theatrical performers or employees connected with any theatrical enterprise, and, in addition, where theatrical performers or employees are to be employed outside the metropolitan area, to secure payment of return fares of the theatrical performers or employees on termination from whatever cause of the employment.

(c)

(c) Any other condition may be imposed which, in the opinion of the Minister, is necessary or desirable to safeguard the interests of the theatrical performers or employees concerned, or for the prevention of immorality.

125. It shall be the duty of every holder of a license under this Part of this Act to keep as prescribed—

Licensee
to keep
registers.

Act No. 17,
1912, s. 96.

- (a) a register in which shall be entered the age, sex, trade or occupation, name and address of every person who applies to such licensee for employment, and pays a fee in respect of his application, and the name and nature of the employment required by him; and
- (b) a separate register in which shall be entered the name and address of every person who so applies for labour, and pays a fee in respect of his application, and the name and nature of the employment which he offers;
- (c) a further separate register of all engagements made by or through such licensee; and
- (d) the originals of all letters received by such licensee, or by his agents or servants in connection with his agency or business during the next preceding two years.

Such registers and letters shall, at all reasonable hours, be open to the inspection and examination of any officer appointed by the Minister for the purpose.

126. The scale of fees chargeable by and payable to licensees in respect of agencies or businesses to which their licenses relate shall be as prescribed, and the said scale of fees shall be posted, and kept posted, in some conspicuous place in the premises in which such agencies or businesses are carried on so as to be seen by all persons entering such premises.

Scale of
fees.

Ibid. s. 97.

127. (1) A licensee shall not, directly or indirectly—

- (a) demand or receive for or in respect of the registration or engagement of any person any greater or other fees than those prescribed;

No fees to
be received
except those
prescribed.

Ibid. s. 98.

(b)

- (b) take or accept any goods or chattels in payment, or as security for the payment of the prescribed fees, or receive or accept any reward or other consideration in addition to the said fees;
- (c) give or pay to any employer, or to the foreman or agent of any employer, for or in respect of the hiring of any employee any share or part of the prescribed fees, nor shall any employer, foreman, or agent, directly or indirectly take or receive from a licensee any share or part of such fees;
- (d) keep as lodgers any persons seeking employment, or have any share or interest in the keeping of a lodging-house for such persons.

Licensee not to share fees with employer.

Licensee not to keep as lodgers any persons seeking employment.

(2) Any sum of money or any goods or chattels received, taken, accepted, given or paid in contravention of the provisions of the preceding subsection, may, notwithstanding that a penalty for such contravention may be enforced, be ordered by a magistrate to be forfeited to the Crown, or if such money, goods, or chattels shall have been exacted under duress exercised by the person receiving or taking the same to be repaid or redelivered to the person from whom the exaction has been made.

(3) The fact that any member of the licensee's household keeps any such persons as lodgers, or keeps any lodging-house for such persons, shall be prima facie evidence that the licensee so keeps such persons or has an interest in the keeping of such lodging-house as aforesaid.

(4) Every contract or agreement made between any licensee or member of his household and any other person relating to the keeping as lodgers of persons seeking employment, or to the keeping of a lodging-house for such persons, shall be illegal and void for all purposes.

128. Where any person who applies for employment or for labour has paid to any licensee a registration fee and such person does not obtain employment or labour through such licensee within fourteen days after registration as aforesaid, then the licensee shall upon demand

Registration fee to be repaid if employment or labour not found. Act No. 17, 1912, s. 99.

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demand repay and return to such person the fee so paid, less any out-of-pocket expenses incurred by the licensee in respect of such person: Provided that such demand shall be made within thirty days after the expiration of the period aforesaid, and that the amount of out-of-pocket expenses to be charged shall in case of dispute be fixed by the Minister or any officer appointed by him for the purpose.

129. A licensee shall not publish or cause to be published any false information or make any false promise concerning or relating to work or employment to anyone who registers for employment.

False statements or entries by licensees.

Act No. 17, 1912, s. 100.

A licensee shall not make or cause to be made any false entries in the registers to be kept as in this Act provided.

130. Every conviction against a licensee shall be endorsed on his license by the court before or by whom such conviction is had, and, upon failure to deliver up his license for such endorsement or upon a third conviction within three years from the first conviction, the license shall be cancelled, and the clerk of the court shall notify the Minister for that purpose.

Conviction to be endorsed on license. Cancellation of license. *Ibid.* 101.

For the purpose of carrying out the provisions of this section the judge, magistrate, or justice may order the defendant to produce and deliver up his license.

131. Any license or permit under this Part may be cancelled by the Minister in the prescribed manner at any time, on any one or more of the following grounds:—

Cancellation of license or permit.

Act No. 3, 1935, s. 2 (f).

Act No. 14, 1936, s. 2 (d).

- (a) that the issue or renewal of the license or the issue of the permit was obtained by some false or misleading statement, whether on the part of the holder of the license or permit or of some other person;
- (b) that the holder of the license or permit is not in all respects a fit person to hold the same;
- (c) that the premises in or upon which the agency or business is being carried on are not in all respects suitable for such agency or business;

(d)

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- (d) that the agency or business has been or is being improperly conducted;
- (e) that the conditions (if any) imposed by the license or permit have not been complied with.

132. A person whose license has been cancelled shall not be entitled to hold a license until the expiration of one year from the date of such cancellation.

Where license cancelled holder not qualified to obtain license.
Act No. 17, 1912, s. 102.

133. A licensee shall not be entitled to maintain an action for the recovery of fees unless at the trial he produces his license.

Production of license.
Ibid. s. 103.

134. On satisfactory proof of loss or destruction of a license, and on the payment of one shilling, the Minister may, at the request of the licensee, issue a duplicate license bearing all endorsements, and such duplicate shall avail for all purposes as if it were the original license.

Loss or destruction of license.
Ibid. s. 104.

DIVISION 3.—General provisions and penalties for the purposes of this Part.

135. Any person who, not being the holder of a theatrical agent's license or theatrical employer's permit under this Part of this Act, opens or carries on a theatrical agency or carries on business as a theatrical employer shall be liable on summary conviction to a penalty not exceeding fifty pounds, and if the offence continues after such conviction to a further penalty not exceeding ten pounds for each day during which the offence continues.

Offences.
Act No. 3, 1935, s. 2 (g).

Where in any prosecution for an offence it is proved that the defendant has carried on a theatrical agency or has carried on business as a theatrical employer, and that in connection with the carrying on of such agency or business there has been fraud, extortion, or immorality on the part of the defendant, or by any other person with his connivance or collusion, he shall be liable to a penalty not exceeding two hundred and fifty pounds, or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

136. Any person who commits an offence against this Part of this Act or who contravenes or fails to carry out any provision of this Part of this Act shall, where no other penalty or punishment is provided, be liable on summary conviction to a penalty not exceeding five pounds, or imprisonment not exceeding three months.

Penalty for
contraven-
tion of Act.
Act No. 17,
1912, s. 105.

137. Proceedings for an offence against this Part of this Act or the regulations thereunder may be taken by any person acting with the authority of the Minister.

Who may take
proceedings.
Act No. 8,
1935, s. 2 (1).

138. A copy of any entry in any of the registers prescribed, which copy purports to be signed by the Minister or any officer of the department making the same, shall be prima facie evidence of the truth of the matters stated in such copy.

Copy of
entries in
registers to
be evidence.
Act No. 17,
1912, s. 106.

139. The Governor may make regulations for the purposes of this Part of this Act—

Regulations.
Ibid. s. 107;
Act No. 3,
1935, s. 2
(j).

- (a) prescribing the form of registers and generally the forms to be used;
- (b) prescribing the form of licenses and permits which may be issued, and the form of renewals of such licenses;
- (c) regulating the exhibition of licenses and permits and other documents required to be exhibited;
- (d) prescribing the scale of fees chargeable by and payable to licensees and holders of permits;
- (e) regulating any premises used for the purposes of or in connection with any theatrical agency or theatrical employer's business;
- (f) prescribing measures for the prevention of fraud, extortion or immorality in connection with the carrying on of any theatrical agency or theatrical employer's business;
- (g) restricting or regulating contracts for the employment abroad in any capacity of female persons;

(h)

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-
- (h) prescribing the manner in which, and the conditions on which, securities deposited under this Act may be applied by the Minister;
 - (i) prescribing any matter or thing which by this Part of this Act is required or permitted to be prescribed;
 - (j) generally giving effect to the purposes of this Part of this Act;

and may by such regulations impose a penalty not exceeding twenty pounds for any breach thereof.

PART XIV.

INSURANCE AGAINST UNEMPLOYMENT.

140. The Minister may, on the recommendation of the commission, and on conditions prescribed, for the purpose of creating funds for insurance against unemployment or loss of work due to adverse weather or sickness or the casual nature of the employment offering in any industry, authorise the payment out of the Consolidated Revenue Fund, which is hereby appropriated for that purpose, to any unemployment insurance committee formed in manner prescribed for a period of not less than one year, of bonuses or subsidies which shall not exceed five per centum of the total amount of wages paid to any employees represented by such committee in the said period:

Insurance
against un-
employment.
Act No. 17,
1912, s. 108.

Provided

Provided that no such payment shall be made unless the commission certifies that the fund is contributed to in proper proportions by the employers and employees engaged in the industry, and is administered by a suitable committee representative of employers and employees.

PART XV.

CONSEQUENTIAL AMENDMENTS.

141. (1) The Monopolies Act, 1923, is amended as follows:—

- (a) by omitting section three;
- (b) (i) by omitting from section four the definition "Board of Trade and Board";
(ii) by inserting in section four immediately after the definition of "Indictable Offence" the following definition: "Industrial Commission" and "commission" means the Industrial Commission of New South Wales;
- (c) (i) by omitting from subsection one of section eight the words "Board of Trade" and by inserting in lieu thereof the words "Industrial Commission";
(ii) by omitting from subsection two of section eight the word "Board" and by inserting in lieu thereof the word "commission";
- (d) by omitting from section nine the word "board" and by inserting in lieu thereof the word "commission";
- (e) (i) by omitting from subsection one of section ten the words "president of the board" and by inserting in lieu thereof the words "commission or any member thereof";
(ii) by omitting from the same subsection the words "and a member of the board shall have the powers, rights and privileges of a commissioner within the meaning of that Division."

Amendment
of Act No.
54, 1923.

Sec. 3.
(Repeal.)

Sec. 4.
(Interpreta-
tion.)

Sec. 8.
(Board of
Trade.)

Sec. 9.
(Report.)

Sec. 10.
(Powers,
etc.)

(2) Any reference to the Board of Trade or to the Board in any regulation made under the Monopolies Act, 1923, shall be read and construed as a reference to the Industrial Commission of New South Wales.

SCHEDULE.

No. of Act.	Name of Act.	Extent of Repeal.
No. 17, 1912 ...	Industrial Arbitration	The whole.
No. 81, 1916 ...	Industrial Arbitration (Amendment)...	The whole.
No. 16, 1918 ...	Industrial Arbitration (Amendment)...	The whole.
No. 39, 1918 ...	Industrial Arbitration (Further Amendment).	The whole.
No. 50, 1919 ...	Industrial Arbitration (Amendment)...	The whole.
No. 19, 1920 ...	Industrial Arbitration (Amendment)...	The whole.
No. 30, 1922 ...	Industrial Arbitration (Amendment)...	The whole.
No. 14, 1926 ...	Industrial Arbitration (Amendment)...	The whole.
No. 45, 1927 ...	Industrial Arbitration (Amendment)...	The whole.
No. 40, 1929 ...	Industrial Arbitration (Living Wage)...	The whole.
No. 41, 1929 ...	Industrial Arbitration (Amendment)...	The whole.
No. 22, 1930 ...	Industrial Arbitration (Eight Hours) Amendment.	The whole.
(53, 1930 ...	Industrial Arbitration (Eight Hours) Further Amendment.	The whole.
No. 64, 1931 ...	Industrial Arbitration (Amendment)...	The whole.
No. 17, 1932 ...	Industrial Arbitration (Eight Hours) Amendment.	The whole.
No. 39, 1932 ...	Industrial Arbitration (Amendment)...	The whole.
No. 3, 1935 ...	Industrial Arbitration (Theatrical Agencies and Employers Licensing) Act, 1935.	The whole.
No. 14, 1936 ...	Industrial Arbitration (Amendment) Act, 1936.	The whole.
No. 9, 1937 ...	Industrial Arbitration (Amendment) Act, 1937.	The whole, except secs. 1, 3 (9) and sec. 13.
No. 11, 1937 ...	Industrial Arbitration (Eight Hours) Amendment Act, 1937.	The whole.

TABLE

TABLE.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION ACT, 1912.				
1	Short title	Repealed .....	...	.....
2	Commencement	Repealed .....	...	.....
3	Divisions	Repealed .....	...	.....
4 (1)	Repeals	Repealed .....	...	.....
4 (2)	Savings	Repealed and consolidated	4	.....
4 (3)	Savings	Repealed and consolidated	4	.....
4 (4)	Savings	Repealed and consolidated	4	.....
4 (5)	Savings	Repealed and consolidated	4	.....
5	Definitions.....	.....	5	.....
5	Apprentice	Repealed and consolidated	...	.....
5	Award	Repealed and consolidated	...	.....
5	Board	Repealed .....	...	Unnecessary.
5	Boarding-house	Repealed .....	...	Unnecessary. Schedule One already re- pealed.
5	Calling	Repealed and consolidated	...	.....
5	Court	Repealed .....	...	Unnecessary.
5	Employee	Repealed and consolidated	...	.....
5	Employer	Repealed and consolidated	...	.....
5	Improver	Repealed and consolidated	...	.....
5	Industrial Agreement	Repealed and consolidated	...	.....
5	Industrial Court	Repealed .....	...	Unnecessary.
5	Industrial Magistrate	Repealed and consolidated	...	.....
5	Industrial Union	Repealed and consolidated	...	.....
5	Industrial matters	Repealed and consolidated	...	.....
5	Industry	Repealed and consolidated	...	.....
5	Judge	Repealed .....	...	Unnecessary.
5	Justice	Repealed and consolidated	...	.....
5	Lock-out	Repealed and consolidated	...	.....
5	Magistrate	Repealed and consolidated	...	.....
5	Members of a Board	Repealed .....	...	Unnecessary.
5	Metropolitan District Court	Repealed and consolidated	...	.....
5	Minister	Repealed and consolidated	...	.....
5	Necessary commodity	Already repealed .....	...	.....
5	Prescribed	Repealed and consolidated	...	.....
5	Registrar	Repealed and consolidated	...	.....
5	Repealed Acts	Repealed and consolidated	5	.....
5	Schedule	Already repealed .....	...	.....
5	Strike	Repealed and consolidated	...	.....
5	Trade Union	Repealed and consolidated	...	.....
6	Industrial Unions of Em- ployers.	Repealed and consolidated	6	.....
7	Registration under repealed Acts.	Repealed and consolidated	7	Also continues registrations granted by Trade Union Re-registration Act, 1920.

TABLE

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TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION ACT, 1912—continued.				
8 (1)	Registration Unions of Em- ployees.	Repealed and consolidated	8 (1)	.....
8 (2)	.....	Repealed and consolidated	8 (2)	.....
8 (3)	.....	Repealed and consolidated	8 (3)	.....
8 (4)	.....	Repealed and consolidated	8 (4)	.....
8 (5)	.....	Repealed and consolidated	8 (5)	.....
8 (5a)	.....	Repealed and consolidated	8 (6)	.....
8 (6)	.....	Repealed and consolidated	8 (7)	.....
8 (7)	.....	Repealed and consolidated	8 (8)	.....
8 (8)	.....	Repealed and consolidated	8 (9)	.....
9 (1)	Cancellation registration ...	Repealed and consolidated	9 (1)	.....
9 (2)	.....	.....	9 (2)	.....
10	Cancellation registration ...	Repealed and consolidated	10	.....
11	Industrial Agreements	Repealed and consolidated	11	.....
12	Industrial Agreements	Repealed and consolidated	12	.....
12A	.....	Already repealed .....	.....	.....
12B	Industrial Agreements	Already repealed .....	.....	(Living Wage).
12C	Industrial Agreements	Repealed and consolidated	13	.....
13	Constitution of Court	Repealed .....	.....	.....
13A	Assessors	Repealed and consolidated	14 (11)	First two para- graphs.
13B	.....	Already repealed .....	.....	.....
13C	.....	Already repealed .....	.....	.....
13D	Deputy Court	Repealed .....	.....	.....
13E	Appeal from single Judge ...	Repealed .....	.....	.....
13F	Assessors	Repealed and consolidated	14 (11)	Last three para- graphs.
14 (1)	Jurisdiction	Repealed and consolidated	30	.....
14 (2)	.....	Repealed and consolidated	30, 37 (1)	.....
14 (3)	.....	Repealed .....	.....	.....
14 (4)	.....	Repealed .....	.....	.....
14 (5)	.....	Repealed and consolidated	36	.....
15	Constitution of Boards	Repealed .....	.....	.....
16 (1)	Constitution of Boards	Repealed .....	.....	.....
16 (2)	Constitution of Boards	Repealed .....	.....	.....
16 (3)	Constitution of Boards	Repealed .....	.....	.....
16 (4)	Constitution of Boards	Repealed .....	.....	.....
16 (5)	Constitution of Boards	Repealed .....	.....	.....
16 (6)	Demarcation Board	Repealed and consolidated	37 (1)	.....
17	.....	Already repealed .....	.....	.....
18	Absence of Board Member ...	Repealed .....	.....	.....
19	Oath	Repealed .....	.....	.....
20	Dissolution of Boards	Repealed .....	.....	.....
21	Vacancies	Repealed .....	.....	.....
22	Gazettal of appointments ...	Repealed .....	.....	.....
23	Fees	Repealed .....	.....	.....
24 (1)	Jurisdiction	Repealed and consolidated	20 (1)	.....
24 (2)	Jurisdiction	Repealed and consolidated	20 (3)	.....
24 (3)	Jurisdiction	Repealed and consolidated	20 (2)	.....
24A (1)	Jurisdiction	Repealed and consolidated	22	.....

TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION ACT, 1912—continued.				
24A (2)	.....	Already repealed .....	.....	.....
24A (3)	Jurisdiction	Repealed and consolidated	23	.....
24B	Rural employees	Repealed and consolidated	117	.....
24C	.....	Already repealed .....	.....	.....
25 (1)	Awards	Repealed and consolidated	73	.....
25 (2)	Awards	Repealed and consolidated	37 (2)	} Operation now limited to demarcation boards.
25 (3)	Awards	Repealed and consolidated	37 (2)	
25 (4)	Awards	Repealed and consolidated	37 (2)	
25 (5)	Awards	Repealed and consolidated	37 (2)	See also 74 (4).
26	.....	Already repealed .....	.....	.....
26A	.....	Already repealed .....	.....	.....
27	Slow workers	Repealed and consolidated	75	.....
28 (1)	Awards .....	.....	31 (2)	.....
28 (2)	.....	Already repealed .....	.....	.....
29	Awards	Repealed and consolidated	73	.....
30	Crown intervention	Repealed and consolidated	65	.....
31 (1)	Procedure	Repealed and consolidated	60 (1)	.....
31 (2)	Procedure	Repealed and consolidated	60 (2)	.....
31 (3)	Procedure	Repealed .....	.....	Cf. 61.
32	Procedure	Repealed .....	.....
33	Power of entry	Repealed and consolidated	114	.....
34	Procedure	Repealed and consolidated	33	.....
35 (1)	Procedure	Repealed and consolidated	63 (1) 64	.....
35 (2)	Procedure	Repealed and consolidated	63 (2)	.....
35 (3)	Procedure	Repealed and consolidated	63 (3)	.....
36	Board meetings	Repealed .....	.....	.....
37	Advocates	Repealed and consolidated	67	.....
33-43	.....	Already repealed .....	.....	.....
44	Lock-outs	Repealed and consolidated	84	.....
45	Strikes	Repealed and consolidated	85	.....
46	Strikes	Repealed and consolidated	86	.....
47	Strikes	Repealed and consolidated	87	.....
48	Strikes	Repealed and consolidated	88	.....
48A	Powers of Commission	Repealed and consolidated	38	.....
48B	Strikes	Repealed and consolidated	89	.....
48C	Strikes	Repealed and consolidated	90	.....
48D	Strikes	Repealed and consolidated	91	.....
48E	Strikes	Repealed and consolidated	92	.....
49	Recovery of wages	Repealed and consolidated	78	.....
50	Breaches of awards	Repealed and consolidated	79	.....
51	Secretary receiving money	Repealed and consolidated	80	.....
52	Unlawful dismissal	Repealed and consolidated	81	.....
52A (1)	Repeals	Repealed .....	.....	.....
52A (2)	Trade Unions	Repealed and consolidated	93 (1)	.....
52A (3)	Trade Unions	Repealed and consolidated	93 (2)	.....
52A (4)	Trade Unions	Repealed and consolidated	93 (3)	.....
52B	Trade Unions	Repealed and consolidated	94	.....
52C	Trade Unions	Repealed and consolidated	95	.....
52D	Trade Unions	Repealed and consolidated	96	.....

TABLE

TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION ACT, 1912—continued.				
52E	Trade Unions	Repealed and consolidated	97	.....
52F	Trade Unions	Repealed and consolidated	98	.....
52G	Trade Unions	Repealed and consolidated	99	.....
52H	Trade Unions	Repealed and consolidated	100	.....
52I	Trade Unions	Repealed and consolidated	101	.....
52J	Trade Unions	Repealed and consolidated	102	.....
52K	Trade Unions	Repealed and consolidated	103	.....
53	Union dues	Repealed and consolidated	104	.....
54	Enforcement of orders	Repealed and consolidated	105	.....
55	Appeals	Repealed and consolidated	106	.....
56	Procedure	Repealed and consolidated	69	.....
57	Procedure	Repealed and consolidated	71	.....
58	Jurisdiction	Repealed .....	.....	Cf. Act No. 14, 1926, s. 6A. Now s. 70 (1) of Bill.
59	Jurisdiction	Repealed and consolidated	72	.....
60	Proof of awards	Repealed and consolidated	76	.....
60A	Publication of awards	Repealed and consolidated	77	.....
61	Penalties	Repealed and consolidated	107	.....
62	Penalties	Repealed and consolidated	108	.....
63	Costs	Repealed and consolidated	109	.....
64	Penalties	Repealed and consolidated	110	.....
65 (1)	Registrar	Repealed and consolidated	111 (1)	.....
65 (2)	Registrar	Repealed and consolidated	111 (2)	.....
65 (3)	Registrar	Repealed .....	.....	Cf. Act No. 14, 1926, s. 6 (6). Now s. 14 (7) of Bill.
65 (4)	Registrar	Repealed and consolidated	111 (3)	.....
66	Industrial Magistrates	Repealed and consolidated	112	.....
67 (1)	Inspectors	Repealed and consolidated	113 (1)	First three para- graphs.
67 (1)	Inspectors	Repealed and consolidated	115	Last three para- graphs.
67 (2)	Inspectors	Repealed and consolidated	113 (2)	.....
67 (3)	Inspectors	Repealed and consolidated	113 (3)	.....
68	Time and pay sheets	Repealed and consolidated	82	.....
69-71	.....	Already repealed	.....	.....
72	Regulations	Repealed and consolidated	116 (1)	.....
73 (1)	Regulations	Repealed and consolidated	116 (2)	.....
73 (2)	Regulations	Repealed and consolidated	116 (3)	.....
74	Board of Trade.....	Repealed .....	.....	.....
75	Board of Trade.....	Repealed .....	.....	.....
76	Board of Trade.....	Repealed .....	.....	.....
77	Board of Trade.....	Repealed .....	.....	.....
78	Board of Trade.....	Repealed .....	.....	.....
79 (1)(2)	.....	Already repealed	.....	.....
79 (3)	Jurisdiction	Repealed and consolidated	34	.....
80 (1)	Apprentices	Repealed and consolidated	28 (1)	.....

TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

S section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION ACT, 1912—continued.				
80 (2)	Apprentices	Repealed and consolidated	28 (2)	.....
81	.....	Already repealed .....	...	.....
82	Jurisdiction	Repealed and consolidated	35 (1)	.....
83	.....	Already repealed .....	...	.....
84	Statistics	Repealed and consolidated	35 (2)	.....
85	Statistics	Repealed and consolidated	35 (3)	.....
86	Board of Trade.....	Repealed .....	...	.....
87	Board of Trade.....	Repealed .....	...	.....
88	Regulations	Repealed and consolidated	116 (1)	.....
			(m)	
89	Penalty	Repealed and consolidated	83	.....
90	Labour Exchanges	Repealed and consolidated	118	.....
91	Labour Exchanges	Repealed and consolidated	119	.....
92	Labour Exchanges	Repealed and consolidated	120	.....
93	Labour Exchanges	Repealed and consolidated	121	.....
93A	Definition	Repealed and consolidated	122	.....
94	Employment Agreement.....	Repealed and consolidated	123	.....
95	Employment Agreement.....	Repealed and consolidated	124	.....
96	Employment Agreement.....	Repealed and consolidated	125	.....
97	Employment Agencies	Repealed and consolidated	126	.....
98	Employment Agencies	Repealed and consolidated	127	.....
99	Employment Agencies	Repealed and consolidated	128	.....
100	Employment Agencies	Repealed and consolidated	129	.....
101	Employment Agencies	Repealed and consolidated	130	.....
101A	Employment Agencies	Repealed and consolidated	131	.....
102	Employment Agencies	Repealed and consolidated	132	.....
103	Employment Agencies	Repealed and consolidated	133	.....
104	Employment Agencies	Repealed and consolidated	134	.....
104A	Employment Agencies	Repealed and consolidated	135	.....
105	Employment Agencies	Repealed and consolidated	136	.....
105A	Employment Agencies	Repealed and consolidated	137	.....
106	Employment Agencies	Repealed and consolidated	138	.....
107	Employment Agencies	Repealed and consolidated	139	.....
108	Unemployment Insurance ...	Repealed and consolidated	140	.....
Schedules	.....	Already repealed .....	...	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1916.				
1	Short title	Repealed .....	...	.....
2	Amending section .....	.....	...	.....
3	Amending section .....	.....	...	.....
4	Amending section .....	.....	...	.....
5	Amending section .....	.....	...	.....
6	Repeals .....	.....	...	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1918.				
1	Short title	Repealed .....	...	.....
2	Amending section .....	.....	...	.....
3 (1)	Amending sections .....	.....	...	.....

TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1918—continued.				
3 (2)	Reinstatement of Industrial Unions.	Repealed .....	...	Operation spent.
3 (3)	Amending sections .....	.....	.....	.....
4	Amending section .....	.....	.....	.....
5	Amending section .....	.....	.....	.....
6	Amending section .....	.....	.....	.....
7	Amending section .....	.....	.....	.....
8	Amending section .....	.....	.....	.....
9	Amending section .....	.....	.....	.....
10	Amending section .....	.....	.....	.....
11	Amending section .....	.....	.....	.....
12	Amending section .....	.....	.....	.....
13	Amending section .....	.....	.....	.....
14	Amending section .....	.....	.....	.....
15	Amending section .....	.....	.....	.....
16	Amending section .....	.....	.....	.....
17	Amending section .....	.....	.....	.....
18	Amending section .....	.....	.....	.....
19	Repeals .....	.....	.....	.....
20	Amending section .....	.....	.....	.....
21	Amending section .....	.....	.....	.....
INDUSTRIAL ARBITRATION (FURTHER AMENDMENT) ACT, 1918.				
1	Short title	Repealed .....	.....	.....
2	Amending section .....	.....	.....	.....
3	Amending section .....	.....	.....	.....
4	Amending section .....	.....	.....	.....
5	Amending section .....	.....	.....	.....
6	Amending section .....	.....	.....	.....
7	Amending section .....	.....	.....	.....
8	Amending section .....	.....	.....	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1919.				
1	Short title	Repealed .....	.....	.....
2	Amending section .....	.....	.....	.....
3	Amending section .....	.....	.....	.....
4	Amending section .....	.....	.....	.....
5	Amending section .....	.....	.....	.....
6	Amending section .....	.....	.....	.....
7	Amending section .....	.....	.....	.....
8	Amending section .....	.....	.....	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1920.				
1	Short title	Repealed .....	.....	.....
2	Amending section
3	Amending section
4	Amending section
5	Amending section

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TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1922.				
1	Short title	Repealed .....	...	.....
2	Amending section .....	.....	...	.....
3	Repeals .....	.....	...	.....
4	Amending section .....	.....	...	.....
5	Amending section .....	.....	...	.....
6	Amending section .....	.....	...	.....
7	Amending section .....	.....	...	.....
8	Amending section .....	.....	...	.....
9	Amending section .....	.....	...	.....
10	Amending section .....	.....	...	.....
11	Amending section .....	.....	...	.....
12	Amending section .....	.....	...	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1926.				
1	Short title	Repealed .....	...	.....
2	Definitions..... Commission. Committee. Prescribed.	Repealed and consolidated	5	.....
3 (1)	Jurisdiction	Repealed and consolidated	30, 34, and others.	.....
3 (2)	Judge and additional Judge	Repealed .....	...	Is it necessary to protect any rights of Curlewis J. ?
4 (1)	Board of Trade.....	Repealed and consolidated	35	.....
4 (2)	Records	Repealed	28	Operation spent.
4 (3)	Apprenticeship	Repealed and consolidated	28, 111 (4).	.....
5	Matters pending	Repealed .....	...	Operation spent.
6 (1)	Industrial Commission	Repealed and consolidated	14 (1)	.....
6 (2)	Industrial Commission	Repealed and consolidated	14 (2)	First five para- graphs.
6 (3)	Industrial Commission	Repealed and consolidated	14 (3)	.....
6 (3A)	Industrial Commission	Repealed and consolidated	14 (4)	.....
6 (4)	Deputy Commissioner	Repealed and consolidated	26	.....
6 (5)	Industrial Commission	Repealed and consolidated	14 (5)	.....
6 (5A)	Industrial Commission	Repealed and consolidated	14 (6)	.....
6 (6)	Industrial Commission	Repealed and consolidated	14 (7)	.....
6 (7)	Industrial Commission	Repealed and consolidated	14 (8)	.....
6 (7A)	Industrial Commission	Repealed and consolidated	14 (9)	.....
6 (8)	Already repealed .....	.....	...	.....
6 (9)	Already repealed .....	.....	...	.....
6 (10)	Registry.....	Repealed and consolidated	14 (10)	.....
6A	Jurisdiction	Repealed and consolidated	70 (1)	.....
7 (1) (a)	Jurisdiction	Repealed and consolidated	31 (1) (a)	.....
7 (1) (b)	Jurisdiction	Already repealed .....	...	.....

TABLE

TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1926—continued.				
7 (1) (c)	Jurisdiction	Repealed .....	...	Cf. Act No. 39, 1932, s. 8 (6). Now s. 24 (9) of Bill.
7 (1) (d)	Jurisdiction	Repealed and consolidated	31 (1) (b)	.....
7 (1) (e)	Jurisdiction	Repealed and consolidated	31 (1) (c)	.....
7 (2)	.....	Already repealed .....	.....	.....
8 (1) & (2).	Committees	Repealed and consolidated	18 (1)	.....
8 (3)	Committees	Repealed and consolidated	18 (2)	.....
8 (4)	Committees	Repealed and consolidated	18 (3)	.....
8 (5)	Chairman	Repealed .....	.....	Conciliation Commissioner as Chairman.
8 (6)	Committees	Repealed and consolidated	18 (4)	.....
8 (7)	Chairman	Repealed .....	.....	.....
8 (8)	Committees	Repealed and consolidated	18 (5)	.....
8 (9)	Committees	Repealed and consolidated	18 (6)	.....
8 (10)	Committees	Repealed and consolidated	18 (7)	.....
8 (11)	Committees	Repealed and consolidated	18 (8)	.....
8 (12)	Committees	Repealed and consolidated	19 (9)	.....
8 (13)	Committees	Repealed and consolidated	18 (10), 69, 110	.....
8 (14)	Committees	Repealed and consolidated	24 (11)	.....
9 (1)	Jurisdiction	Repealed and consolidated	20, 73	.....
9 (2)	Settlement of award	Repealed and consolidated	24 (5) (6)	.....
9 (3)	Award	Repealed and consolidated	73	.....
9 (4)	Date of award	Repealed and consolidated	74	.....
9 (5)	Appeal	Repealed .....	.....	.....
9 (6)	Committees	Repealed .....	.....	.....
9 (7)	Assessors .....	.....	.....	.....
9 (8)	Meetings	Repealed and consolidated	61	.....
9 (9)	Procedure	Repealed and consolidated	62	.....
9A	.....	Already repealed .....	.....	.....
10	.....	Already repealed .....	.....	.....
11	Review	Repealed and consolidated	21, 32	.....
12	Intervention	Repealed and consolidated	64	.....
13	Appearances	Repealed and consolidated	66	.....
14	Trade secrets	Repealed and consolidated	68	.....
15	Amending .....	.....	.....	.....
16	Amending .....	.....	.....	.....
17	Amending .....	.....	.....	.....
18	.....	Already repealed .....	.....	.....
19	.....	Already repealed .....	.....	.....
20	.....	Already repealed .....	.....	.....
21	Amending .....	.....	.....	.....
22	Amending .....	.....	.....	.....
23	Amending .....	.....	.....	.....
24	Amending .....	.....	.....	.....

TABLE

TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1926—continued.				
25	Amending .....	.....	...	.....
26 (1)	Repeal .....	.....	...	.....
26 (2)	Apprenticeship regulations ..	Repealed and consolidated	4 (1)	Provision to be made in savings section.
27	Repeal .....	.....	...	.....
28	Amending .....	.....	...	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1927.				
1	Short title	Repealed .....	...	.....
2	Amending .....	.....	...	.....
3	Amending .....	.....	...	.....
4	Amending .....	.....	...	.....
5	Amending .....	.....	...	.....
6	Industrial Commission	Repealed .....	...	Operation spent.
INDUSTRIAL ARBITRATION (LIVING WAGE) AMENDMENT ACT, 1929.				
1	Short title	Repealed .....	...	.....
2	.....	Already repealed .....	...	.....
3	.....	Repealed .....	...	Operation spent.
4	Repeals .....	.....	...	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1929.				
1	Short title	Repealed .....	...	.....
2	Amending .....	.....	...	.....
3	Rural industries	Repealed and consolidated	117 (2)	.....
INDUSTRIAL ARBITRATION (EIGHT HOURS) AMENDMENT ACT, 1930.				
1	Short title	Repealed .....	...	.....
2	Repeals .....	.....	...	.....
3	Definitions—			
	Agreement	Repealed and consolidated	5	.....
	Overtime	Repealed and consolidated	52	Second para-graph.
4(1)	Hours	Repealed and consolidated	49	.....
4(1)(a)	Hours	Repealed and consolidated	49 (a)	.....
4(1)(b)	Hours	Repealed and consolidated	49 (b)	.....
4(1)(c)	Hours	Repealed and consolidated	49 (c)	.....
4(1)(d)	Overtime	Repealed and consolidated	52	First paragraph.
4(1)(e)	Hours	Repealed and consolidated	49 (d)	.....
4(1)(f)	Hours	Repealed and consolidated	49 (e)	.....
4(1)(g)	Overtime	Repealed and consolidated	53	.....
4(1)(h)	Hours	Repealed and consolidated	49 (f)	.....
4 (2)	Early closing.....	Repealed .....	...	See Judgment of Industrial Commission in Shop Assistants' case.

TABLE—continued.

SHOWING Repealed Acts and sections of Acts and now the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION (EIGHT HOURS) AMENDMENT ACT, 1930—continued.				
5	.....	Repealed	4 (2)	.....
6	.....	Repealed	4 (2)	.....
7	Overtime	Repealed and consolidated	54	.....
8	Rationing	Repealed and consolidated	55	.....
8a	Rationing	Repealed and consolidated	56	.....
9	Penalties	Repealed and consolidated	50	.....
10	Repealing .....	.....	.....	.....
11	Amending .....	.....	.....	.....
12	.....	Already repealed .....	.....	.....
13 (1)	.....	Already repealed .....	.....	.....
13 (2)	Amending .....	.....	.....	.....
14	Blind employees	Repealed and consolidated	59	.....
15	.....	Already repealed .....	.....	.....
INDUSTRIAL ARBITRATION (EIGHT HOURS) FURTHER AMENDMENT ACT, 1930.				
1	Short title	Repealed .....	.....	.....
2	Amending .....	.....	.....	.....
3	Amending .....	.....	.....	.....
4(a), (b), (d), (e), (f), (g), (h).	.....	.....	.....	.....
4 (c)	.....	Repealed and consolidated	50, 58	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1931.				
1	Short title	Repealed .....	.....	.....
2	Boards	Repealed .....	.....	Operation spent.
INDUSTRIAL ARBITRATION (EIGHT HOURS) AMENDMENT ACT, 1932.				
1	Short title	Repealed .....	.....	.....
2	Amending .....	.....	.....	.....
3	Validation	Repealed .....	.....	Operation spent.
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1932.				
1	Short title	Repealed .....	.....	.....
2	Standard hours.....	Repealed and consolidated	51	.....
3 (1)	Conciliation Commissioner ...	Repealed and consolidated	15 (1)	.....
3 (2)	Conciliation Commissioner ...	Repealed and consolidated	15 (2)	.....
3 (3)	Conciliation Commissioner ...	Repealed and consolidated	15 (3)	.....
3 (4)	Conciliation Commissioner ...	Repealed and consolidated	15 (4)	.....
3 (5)	Conciliation Commissioner ...	Repealed and consolidated	15 (5)	.....
4	Additional Conciliation Com- missioner.	Repealed and consolidated	16	.....
5	Oath	Repealed and consolidated	17	.....
6	Abolition of certain offices...	Repealed .....	.....	.....
7 (1)	Jurisdiction	Repealed and consolidated	26 and other sections.	.....
7 (2)	Savings	Repealed and consolidated	4 (1)	.....

TABLE

TABLE—*continued.*

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—*continued.*

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1932— <i>continued.</i>				
7 (3)	Pending matters	Repealed and consolidated	4 (3)	Second para- graph.
8 (1) & (2).	Conciliation Commissioner ...	Repealed and consolidated	24 (1) (2) & (3), (26)	.....
8 (3)	Conciliation Commissioner ...	Repealed and consolidated	24 (4) & (5), 74.	.....
8 (4)	Conciliation Commissioner ...	Repealed and consolidated	24 (7)	.....
8 (5)	Conciliation Commissioner ...	Repealed and consolidated	24 (8)	.....
8 (6)	Conciliation Commissioner ...	Repealed and consolidated	24 (9)	.....
8 (7)	Conciliation Commissioner ...	Repealed and consolidated	24 (10)	.....
9	Conciliation Commissioner ...	Repealed and consolidated	25	.....
10 (1)	Apprenticeship Commissioner	Repealed and consolidated	19 (1)	.....
10 (2)	Apprenticeship Commissioner	Repealed and consolidated	19 (2)	.....
10 (3)	Apprenticeship Commissioner	Repealed and consolidated	19 (3)	.....
10 (4)	Apprenticeship Commissioner	Repealed and consolidated	19 (4)	.....
10 (4A)	Apprenticeship Commissioner	Repealed and consolidated	19 (5)	.....
10 (5)	Apprenticeship Commissioner	Repealed and consolidated	19 (6)	.....
10 (6)	Apprenticeship Commissioner	Repealed and consolidated	28 (1) (4)	.....
10 (6A)	Apprenticeship Commissioner	Repealed and consolidated	28 (3)	.....
10 (7)	Apprenticeship Commissioner	Repealed and consolidated	28 (5)	.....
10 (8)	Apprenticeship Commissioner	Repealed and consolidated	28 (6)	.....
10 (9), (9A).	Apprenticeship Commissioner	Repealed and consolidated	28 (8)	.....
10 (10) (11) (12) (13).	Apprenticeship Commissioner	Repealed and consolidated	28 (9)	.....
10 (14)	Apprenticeship Commissioner	Repealed and consolidated	28 (7)	.....
10A (1)	Conciliation Commissioner and Apprenticeship Com- missioner.	Repealed and consolidated	27	.....
10A (2)	Conciliation Commissioner and Apprenticeship Com- missioner.	Repealed and consolidated	29	.....
10A (3)	Conciliation Commissioner and Apprenticeship Com- missioner.	Repealed and consolidated	27, 29	.....
10A (4)	Conciliation Commissioner and Apprenticeship Com- missioner.	Repealed and consolidated	27, 29	.....
11	Conciliation Commissioner and Apprenticeship Com- missioner.	Repealed and consolidated	15 (7), 19 (7).	.....
12	.....	Already repealed	.....	.....
13 (1)	.....	Already repealed	.....	.....
13 (2)	Repealing	.....	.....	.....
14	Amending	.....	.....	.....
15	Amending	.....	.....	.....

TABLE—continued.

SHOWING Repealed Acts and sections of Acts and how the same have been dealt with by the Industrial Arbitration Bill, 1938—continued.

Section.	Subject.	How dealt with.	Bill.	Remarks.
INDUSTRIAL ARBITRATION (THEATRICAL AGENCIES, &C.) ACT, 1935.				
1	Short title	Repealed .....	...	.....
2	Amending .....	.....	...	.....
3	Amending .....	.....	...	.....
4	Amending .....	.....	...	.....
5	.....	Already repealed .....	...	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1936.				
1	Short title	Repealed .....	...	.....
2	Amending .....	.....	...	.....
3 (1)	Amending .....	.....	...	.....
3 (2)	Savings	Repealed and consolidated	14 (2)	Last paragraph.
4 (1)	Amending .....	.....	...	.....
4 (2)	Decisions, final	Repealed and consolidated	70 (2)	.....
5	.....	Already repealed.....	...	.....
6	.....	Already repealed .....	...	.....
7	Amending .....	.....	...	.....
8	Amending .....	.....	...	.....
9	Apprenticeship Commissioner	.....	19 (8)	.....
10	Savings .....	.....	28 (10)	.....
INDUSTRIAL ARBITRATION (AMENDMENT) ACT, 1937.				
2	Definitions.....	Repealed and consolidated	39	.....
3 (1) to (8).	Repealing .....	.....	...	.....
4	Basic wage .....	.....	40	.....
5	Basic wage .....	.....	41	.....
6	.....	.....	42	.....
7	.....	.....	43	.....
8	.....	.....	44	.....
9	.....	.....	45	.....
10	.....	.....	46	.....
11	.....	.....	47	.....
12	.....	.....	48	.....
INDUSTRIAL ARBITRATION (EIGHT HOURS) AMENDMENT ACT, 1937.				
1	Short title	Repealed .....	...	.....
2	Unemployment.....	Repealed and consolidated	57	.....