

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1923.

A BILL

To amend the law relating to apprentices and to provide for the better regulation of apprenticeship in trades and industries ; to establish an Apprenticeship Council ; to provide for vocational guidance ; to amend the Apprentices Act, 1901, the Apprentices (Amendment) Act, 1915, the Industrial Arbitration Act, 1912, and certain other Acts ; and for purposes consequent thereon or incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of 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 "Regulation of Apprenticeship Act, 1923." Short title.

2. This Act is divided as follows :—

Divisions.

PART I.—PRELIMINARY—ss. 1-5.

PART II.—CONSTITUTION OF COUNCIL—ss. 6-12.

PART III.—POWERS OF COUNCIL—ss. 13-19.

PART IV.—GENERAL AND SUPPLEMENTAL—ss. 20-27.

3. (1) Sections eighty and eighty-one of the Industrial Arbitration Act, 1912, as amended by subsequent Acts, are repealed. Repeal and savings.

Section eighty-two of the said Act is amended by omitting paragraph (a).

(2) All regulations made or purporting to have been made under section eighty-one of the Industrial Arbitration Act, 1912, as amended, all instruments or contracts of apprenticeship or of assignment duly made or executed in pursuance of such regulations, and all orders duly made by the New South Wales Board of Trade under the said regulation shall be valid and binding, and until rescinded or superseded under this Act shall continue in force, and shall be deemed to have been made or executed under this Act.

(3) In construing any such regulation or order or any such instrument or contract of apprenticeship or of assignment, all references to the New South Wales Board of Trade shall be read as references to the Apprenticeship Council constituted by this Act.

4.

4. All documents, records, reports, publications, and papers relating to apprenticeship in the possession of the New South Wales Board of Trade shall be handed over to the said Council.

Records, &c.,
of Board of
Trade.

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

Interpreta-
tion.

“Apprentice” means any person who is bound for a definite period by legal agreement to serve an employer for the purpose of learning some handicraft, art or trade carried on by the employer, and in which the employer is reciprocally bound to instruct, and includes a person serving a probationary period, with a view to apprenticeship.

“Apprenticeship” means the relationship existing between an employer and his apprentice.

“Chairman” means the chairman of the Apprenticeship Council constituted by this Act.

“Committee” means a trade committee appointed in pursuance of this Act.

“Council” or “Apprenticeship Council” means the Apprenticeship Council of New South Wales constituted by this Act.

“Employee” means person engaged to do any kind of work in a trade or industry, whether on wages or piecework rates or as a member of a butty gang: the term includes any person who is usually employed in a trade or industry.

“Employer” means person employing persons in any trade or industry whether on behalf of himself or any other person or on behalf of the Government of the State and includes the Crown.

“Industrial union” means industrial union registered as an industrial union under the Industrial Arbitration Act, 1912.

“Industry” means any combination or group of trades in which persons are employed for hire, reward or other valuable consideration.

“Minister” means the Minister for Labour and Industry.

“Prescribed”

Regulation of Apprenticeship.

“Prescribed” means prescribed by this Act or by regulation made thereunder.

“Trade” means handicraft, occupation or calling.

(2) Nothing in this Act shall extend to any solicitor, architect or surveyor, or to any person engaged in the tuition of any professional or scientific branch of learning or pursuit or to any articled clerk of such solicitor, architect or surveyor, or to any clerk or apprentice of such person.

PART II.

CONSTITUTION OF COUNCIL.

6. (1) There is hereby constituted a body corporate to be known as the Apprenticeship Council of New South Wales, which shall have perpetual succession and a common seal. The Apprenticeship Council.

(2) All courts, judges, and persons acting judicially shall take judicial notice of the common seal of the council affixed to any deed, instrument or writing, and shall presume that such seal was properly affixed thereto. Judicial notice of seal.

7. (1) The Apprenticeship Council shall comprise,— Constitution of Council.

- (a) a chairman ;
- (b) three members representative of employers ;
- (c) three members representative of employees ;
- (d) two members representative of the Department of Education ; and
- (e) two members representative of the Department of Labour and Industry.

(2) (a) The chairman shall be appointed by the Governor and shall hold office for a term of seven years from the date of his appointment, but may be reappointed. Appointment of chairman.

(b)

Regulation of Apprenticeship.

(b) The chairman may be removed from his office by the Governor— Removal of chairman.

- (i) for misbehaviour or incapacity; or
- (ii) if he is declared a bankrupt; or
- (iii) if he applies to take the benefit of any Act for the relief of insolvent debtors; or
- (iv) upon resolutions passed by both Houses of Parliament.

(c) The chairman shall be paid such fees or salary and allowances as may be prescribed, and such fees or salary and allowances shall be a charge upon the Consolidated Revenue. Salary of chairman.

(3) The members referred to in paragraphs (b) and (c) of subsection one of this section shall be appointed by the Governor upon the nomination of employers and employees respectively concerned in trades set out under the three divisions of the Schedule hereto or the said Schedule as amended or added to in pursuance of this Act, and shall be entitled to hold office for a period of two years from the date of appointment: Appointment of members representing employers and employees.

Provided that—

- (a) employers respectively concerned in trades set out in each such division shall be entitled to nominate in the prescribed manner one member to represent employers;
- (b) employees respectively concerned in trades set out in each such division shall be entitled to nominate in the prescribed manner one member to represent employees; and
- (c) failing such nomination by employers or employees concerned in the trades set out in any division, the Minister shall nominate a person whom the Governor shall appoint as representative of the interest in respect of which there has been such failure to nominate;

Provided further that alternate members may be nominated in the prescribed manner and appointed to act during the absence of members primarily nominated or to vacancies caused by their death or resignation.

Regulation of Apprenticeship.

(4) The said Schedule may be amended or added to from time to time by proclamation in the Gazette. Amendment of Schedule.

(5) The members referred to in paragraphs (d) and (e) of subsection one of this section shall be appointed by the Governor upon the nomination of the Ministers of Education and of Labour and Industry respectively. Appointment of official members.

(6) No member of the Council, except the chairman, nor any member of the trade committees appointed in pursuance of this Act shall receive any salary, fee, or other emolument: Members salaries.

Provided that—

- (a) every member of the Council or of a trade committee shall be entitled to reimbursement of all necessary expenditure actually incurred in the performance of his duties; and
- (b) every member of the Council or of a trade committee who is a representative of employees shall be entitled to receive such an amount as will indemnify him against loss of wages actually suffered while in attendance at sittings of the Council or of a trade committee, or in the performance of such duties as may be specially assigned to him in pursuance of this Act.

8. The chairman shall have a casting vote as well as a deliberative vote in all proceedings of the Apprenticeship Council, and shall act as chairman of trade committees appointed in pursuance of this Act unless the Council appoints some other person to be chairman of such committees or any of them, but when so acting he shall have a casting vote only. Voting power of chairman.

9. At all sittings of the Apprenticeship Council five members, including the chairman, shall constitute a quorum. Quorum.

10. In the event of the absence from duty of the chairman or any member of the Apprenticeship Council from illness or any other cause, the Governor may appoint a person to act in his place, and such person shall have all the powers and perform all the duties of the position: In case of absence from duty.
Provided

Regulation of Apprenticeship.

Provided that, during the absence of any member representing employers or employees on the Council, the alternate to the absent member, if there be any such alternate able and willing to act, shall take the place of the member so absent.

11. On the happening of a vacancy in the Apprenticeship Council the Governor shall appoint a person to fill such vacancy: Casual vacancies.

Provided that where any such vacancy affects the representation of either employers or employees concerned in the trades set out in any of the divisions of the Schedule hereto, or the said Schedule as amended or added to—

- (a) the alternate, if any, to the member in respect of which the vacancy occurs shall be appointed to the vacancy, but if there be no alternate member able and willing to act the Minister shall nominate a person whom the Governor shall appoint as representative of such employers or employees concerned in trades set out in the division which has lost its representation; and
- (b) the alternate member or such person appointed as aforesaid shall hold office only for the unexpired term of his predecessor.

12. The Apprenticeship Council may appoint the chairman or one or more of its members to inquire into and report upon specified matters for subsequent consideration. Appointment for specific purposes.

PART III.

POWERS OF COUNCIL.

13. The Apprenticeship Council shall have power to establish and maintain a system of vocational guidance for the purpose of assisting children about to leave school as well as unapprenticed unskilled employees to find skilled or semi-skilled occupations for which they are educationally, temperamentally, and physically fitted. Vocational guidance.

14.

14. Notwithstanding the provisions of the Apprentices Act, 1901, the Apprentices (Amendment) Act, 1915, the Industrial Arbitration Act, 1912, as amended, and notwithstanding the effect of any rule of common law or any custom or trade usage affecting apprenticeship, the Apprenticeship Council—

Powers and functions of Council.

- (1) shall have power to control and direct the conditions in all respects of apprenticeship in any trade or industry whether included or not for the time being in the schedule hereto or the Schedule as amended or added to in pursuance of this Act; and
- (2) without limiting the generality of the foregoing power may—
 - (a) determine in what trades or industries, if any, apprenticeship shall be a condition of the employment of minors and in what cases it may be optional;
 - (b) determine periodically the number of apprentices which each trade or industry is capable of admitting having regard to the prospects of particular trades or industries;
 - (c) determine in relation to any particular trade or industry whether there should or should not be any limitation of apprentices therein;
 - (d) fix the proportion of apprentices to journeymen in any trade or industry, and, if deemed expedient establish such proportion in relation to the number of journeymen employed in the trade or industry as a whole.
 - (e) determine whether in any trade or industry there is a shortage of apprentices and in respect of any such trade or industry—
 - (i) assess the number of apprentices which any employer should take having regard to the number of journeymen employed by him, the extent

extent of his business, and the facilities for training which he possesses ;

- (ii) order and require any employer to engage and employ, within a specified time, apprentices to the number so assessed or such smaller number as may be ordered ;
- (f) determine, for such causes as may be deemed sufficient, that any employer shall be deprived, for all time or for any specified period, of the right to take apprentices ;
- (g) determine the form of contract or of assignment applicable to apprenticeship in the different trades or industries ;
- (h) provide for apprenticeship to an industrial union or association of employers, or a trade union or industrial union of employees concerned in any trade or industry in which the Council is of opinion that the needs of the trade or industry, or the more efficient training of apprentices therein, can be best served or secured by that course ;
- (i) fix, in relation to any trade or industry, the age of entry, the period of probation and the duration of apprenticeship ;
- (j) regulate or prohibit in relation to any trade or industry the payment or receipt of premiums upon apprenticeship ;
- (k) fix for each trade the rates of wages of apprentices or the relation which such wages shall bear to those of journeymen in the same trade ;
- (l) determine the hours of employment, the amount and conditions of overtime (if any) which may be worked in each trade, and the rates which shall be paid for such overtime ;

(m)

- (m) provide for the registration of contracts of apprenticeship or of assignments thereof;
- (n) for good cause, assign either permanently or temporarily or cancel any indenture or other contract of apprenticeship.

15. The Apprenticeship Council is further empowered— Further powers of Council.

- (i) in co-operation with the Education Department to fix a standard of education for apprentices in any trade or industry and through the trade committees, or otherwise, to supervise the technical and manual training of apprentices both in the school and in the workshop;
- (ii) to establish or encourage a system of bursaries, scholarships, or rewards in connection with technical instruction or workshop training and provide for the payment of bonuses or increased wages to apprentices displaying exceptional merit;
- (iii) to issue certificates of competency to all apprentices who satisfactorily complete their apprenticeship;

16. (1) For the purpose of more effectively exercising and performing its powers and functions, the Apprenticeship Council may, in respect of any trade or industry,— Appointment of trade committees.

- (a) appoint committees to be known as trade committees; and
- (b) by order or resolution from time to time determine the duties, functions and procedure of such committees.

(2) A committee—

- (a) may be appointed for the whole State or for any defined area of the State; and
- (b) shall comprise as many members as the Council may determine having regard to the size, importance or nature of the particular trade or industry and to the extent of the area for which it is appointed:

Provided

Provided that—

- (i) there shall be an equal representation of interests as between employers and employees in the trade or industry ;
- (ii) the number of members shall not in any case be less than three, including the chairman ; and
- (iii) at all sittings of a committee a majority of the members appointed shall constitute a quorum.

17. The Apprenticeship Council may authorise in writing any of its members or officers or any trade committee, or any of the members thereof,—

Power to enter and inspect.

- (1) to enter any premises upon which a trade or industry is carried on, or upon which an apprentice is employed or could be employed ;
- (2) to inspect the premises, plant, machinery or work ;
- (3) to examine any books or documents of the business relating to the wages and conditions of apprentices ; and
- (4) to interrogate the employer or any employee or apprentice in regard to any of the above-mentioned matters, and generally in regard to any matter covered by this Act or any regulation, order, determination or direction made in pursuance thereof.

18. For any of the purposes of this Act the Apprenticeship Council may—

Collection of statistics.

- (a) collect statistical or other information in relation to—
 - (i) children attending any primary or secondary school ;
 - (ii) apprentices, unapprenticed unskilled employees or journeymen in any trade or industry ;
 - (iii) employment and unemployment in any industry and industrial conditions generally ;
 - (iv) the productivity of and prospects in any trade or industry and the conditions of markets ; and

(b)

- (b) require any person to the best of his knowledge and belief—
 - (i) to fill up and return forms supplying information upon any of the matters aforesaid in accordance with instructions contained in or accompanying such forms ; and
 - (ii) to answer such questions in regard to the matters aforesaid as he may be asked by the Council or by its duly authorised officers.

19. (1) The Apprenticeship Council may make such orders, determinations or directions as may be necessary or expedient to fully exercise the powers and functions conferred upon it by this Act, and may impose thereby, for any breach thereof, a penalty not exceeding *twenty* pounds.

Power to regulate by orders, &c.

(2) Such orders, determinations or directions may, with the approval of the Minister, be published either in the Gazette or the New South Wales Industrial Gazette, and shall, unless some other day be specified, come into force from the date of publication.

(3) The Council may at all times, by order published as aforesaid, suspend the operation of any order, determination or direction, either wholly or in part as regards any locality or any employer, apprentice, class of employers or of apprentices, or as regards any trade or industry, or to make such exemptions as in the circumstances of any particular case may be deemed advisable.

(4) Upon the publication of an order, determination or direction the provision of awards of the Court of Industrial Arbitration, so far as they relate to matters dealt with by the council in such order, determination or direction shall cease to have effect.

PART IV.

GENERAL AND SUPPLEMENTAL.

20. Any dispute between an employer and his apprentice in respect of any matter arising under a contract of apprenticeship or assignment thereof, or under any regulation, order, determination or direction made under this Act, may, if the parties so agree, be referred to the chairman of the Council, who shall thereupon determine the same, and such determination shall be final and conclusive. Determination of disputes.

21. (1) Any person—

- (a) failing to comply with an order made under subsection (e) of section fourteen of this Act, or Penalty in special cases.
- (b) failing to faithfully carry out the terms and conditions of any contract of apprenticeship entered into in compliance with such order

shall be liable to pay for every person in respect of whom his compliance with the order or the contract is respectively deficient or unsatisfactory, a sum which the Council is hereby authorised to specify in the said order not exceeding one-half of the first year's wages of an apprentice in the trade or industry to which the order applies, and also a like sum for every subsequent period of six months or part thereof during which such compliance continues to be deficient or unsatisfactory.

(2. Amounts payable under the preceding subsection shall be recoverable in a summary manner before a stipendiary or police or industrial magistrate or any two justices in petty sessions.

(3) It shall be a defence to any proceedings under paragraph (a) of subsection one of this section that there are no persons suitable to be apprenticed to the trade or industry and willing to enter into a contract of apprenticeship.

22. Every employer of an apprentice shall at his workshop or other place at or from which he plies, carries on or controls his trade or business,— Employers to keep records.

- (1) in relation to all his apprentices keep, from day to day, in the manner and to the effect prescribed, time sheets and pay sheets correctly written up in ink; and
- (2)

- (2) exhibit and keep exhibited a copy of any orders, determinations, directions and regulations made in pursuance of this Act in respect of any trade or industry in which any such apprentice is employed.

23. Any person who—

Penalty.

- (1) neglects or refuses to furnish statistical or other information or to fill up and return any form or to answer any question which the Apprenticeship Council or any person authorised by it is empowered to require or ask; or
- (2) hinders or obstructs the Council or any of its members or duly authorised officers or any committee or member thereof in the exercise of any power conferred by or under this Act; or
- (3) commits any breach or neglects to observe any of the provisions of this Act or any regulation, order, determination or direction made and published in pursuance of this Act shall, upon conviction, if no other penalty be provided, be liable to a penalty not exceeding *twenty* pounds.

24. (1) Proceedings may be taken in a summary manner before a stipendiary or police or industrial magistrate or any two justices in petty sessions—

Summary proceedings.

- (a) by any party to a contract of apprenticeship or assignment thereof who considers himself aggrieved by the breach of any of the terms, covenants or conditions therein contained; or
- (b) subject to the consent in writing of the Council being first obtained, by any person alleging a breach of any order, determination or direction made in pursuance of this Act.
- (2) (a) The court may—
- (i) order the payment of compensation; or
- (ii) order the cancellation of the contract of apprenticeship or assignment thereof and the discharge of the apprentice from the services of his employer; or
- (iii) impose any fine not exceeding *twenty* pounds;
- (b)

(b) In any proceedings under paragraph (a) of subsection one of this section, the penalties or remedies mentioned in paragraph (a) of this subsection may be cumulative as to the whole or any two of them at the discretion of the court ;

(c) where any such cancellation or discharge has been ordered the court shall issue a certificate to that effect which shall be a bar to any action upon the contract and shall cause a copy of such certificate to be transmitted to the Council.

25. Proceedings in respect of a breach of this Act, or any regulation made and published in pursuance of this Act, may be taken in a summary manner before a stipendiary or police or industrial magistrate or any two justices in petty sessions. Breaches of Act, regulations, &c.

26. (1) All fines or penalties collected or received in respect of a breach of any of the provisions of this Act or the regulations, orders, determinations or directions made and published in pursuance of this Act, including any moneys payable under section twenty-one of this Act, shall be paid into the Consolidated Revenue Fund. Appropriation of penalties.

(2) All amounts so received or collected shall be carried to a special account in the Treasury and shall be set apart for the provision by the Council of scholarships, bursaries, bonuses or rewards to apprentices in such manner and subject to such conditions as the Council may from time to time determine.

27. (1) The Governor may make regulations not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular and without limiting the generality of the foregoing power, the Governor may make regulations— Regulations made by Governor.

- (a) prescribing the method of nomination of the representatives of employers and employees to the Council ;
- (b) regulating the Council and the chairman in the exercise and discharge of its or his powers and duties under this Act ;
- (c) prescribing the powers, duties, and rights of any officer of the Council ; and
- (d)

- (d) regulating the distribution of business between members of the Council.
- (2) Such regulations shall—
- (i) be published in the Gazette ;
- (ii) take effect from the date of publication or from a later date to be specified in such regulations ; and
- (iii) be laid before both Houses of Parliament within fourteen days after publication, if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, such regulation shall thereupon cease to have effect.
- (3) The regulations may—
- (a) impose a penalty for any breach thereof, and also distinct penalties in case of successive breaches thereof, but no penalty shall exceed *twenty pounds* ;
- (b) impose also a daily penalty for any continuing breach thereof not exceeding *one pound* per day ;
- (c) fix a minimum as well as a maximum penalty.

SCHEDULE.

DIVISION I.

THE trades of—

Boatbuilders.	Plasterers.
Bricklayers.	Plumbers.
Carpenters (house and ship).	Sawmillers and other wood
Fibrous plaster fixers.	machinists.
Granite polishers.	Shipwrights.
Joiners (mill, house and ship).	Slaters, tilers and shinglers.
Marble and slate workers.	Stonemasons.
Metal ceiling fixers.	Tile-layers.
Painters and decorators (house	Tuckpointers.
and ship).	

DIVISION

Regulation of Apprenticeship.

17

DIVISION II.

The trades of—

Blacksmiths.	Moulders.
Boilermakers.	Oxy-acetylene welders.
Brassfinishers.	Patternmakers.
Coppersmiths.	Stovemakers.
Electrical fitters.	Structural steel and iron
Electrical mechanics.	workers.
Farriers.	Tinsmiths.
Fitters.	Turners.
Gasmeter makers.	Wire makers.
Machinists.	Wire workers.
Motor mechanics.	

DIVISION III.

The trades of—

Agricultural implement makers.	Hairdressers.
Bakers (hand and machine).	Jewellers (manufacturing).
Bookbinders.	Leather dressers.
Bootmakers (bespoke).	Letterpress machinists.
Boot, shoe, and slipper manufacturers.	Lithographers.
Broom-makers.	Machine belt makers.
Brushmakers.	Metal badge workers.
Butchers.	Opticians (mechanical).
Cabinet makers.	Pastrycooks.
Carpet and furniture cover workers.	Pharmacists.
Cigar makers.	Pianoforte and other musical instrument makers.
Coachmakers (rail and road).	Picture framers.
Coal-mining mechanics.	Pith cane and bamboo workers.
Compositors (hand and machine).	Portmanteau and leather bag makers.
Confectioners.	Pottery workers.
Cooks.	Pressers.
Coopers.	Process engravers.
Costume makers.	Saddle and harness makers.
Carriers.	Sail, tent and tarpaulin makers.
Cutters and trimmers.	Shirt cutters.
Cutters (women's garments).	Slaughtermen.
Cycle and motor cycle makers.	Stereotypers and electrotypers.
Dyers and cleaners.	Straw hat makers.
Electroplaters.	Tanners.
Fellmongers.	Tailors (chart).
Flour-millers.	Tailors (order).
Glass bottle makers.	Tailors (readymade).
Glass workers.	Textile workers.
	Watchmakers.
	Wickerworkers.