

Act No. 24, 1908.

INDUSTRIAL
DISPUTES
AMENDMENT.

An Act to amend the Industrial Disputes Act, 1908; and for other purposes. [21st December, 1908.]

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:—

Short title.

1. This Act may be cited as the "Industrial Disputes Amendment Act, 1908," and shall be read with the Industrial Disputes Act, 1908, hereinafter called the Principal Act.

Definition.

2. In amendments inserted by this Act in the Principal Act, the expression "this Act" means the Principal Act, as amended by this Act.

Amendments of
Principal Act.
Section 4.

3. Part I of the Principal Act is amended, as follows:—

(a) Section four: After the definition of "award or order of the Court of Arbitration" insert the following definition:—

"Award of a board or of the Industrial Court" includes a variation of such award.

(b) Section four:—The definition of "Industry": Insert before the words "any amendment" the word "in." Add at the end of the definition the words "or any section of any such occupation."

(c) Section four:—The definition of "Employer": After the word "a" occurring the second time in line twenty-four, insert the word "director."

Section 5.

(d) Section five: Insert after the words "Schedule One denote the" the words "general classes of industries in respect of which." Omit after the word "boards" the word "to," and insert in lieu thereof the word "may." Omit at end of section the words "the board is to be constituted and the employees in such industries"; insert in lieu thereof the words "or of any of which boards may be constituted under this Act."

Section 7.

(e) Section seven: Add to section the following subsection:—

"(3) Any such industrial agreement may be rescinded or varied in writing by the parties, and any such variation, if filed with the registrar, shall be binding, as part of the agreement, and such agreement as so varied may be enforced under the provisions of this Act."

Section 13.

(f) Section thirteen, subsection one: Omit "who shall be elected by the parties to the dispute in the manner prescribed."

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4. Part II of the Principal Act is amended as follows:— Section 14.

(a) Section fourteen, subsection one: Omit the latter part of the subsection, commencing with the words "the said court" down to and inclusive of the word "accordingly"; insert in lieu thereof the following:—"the said court, if satisfied either by oral evidence or affidavit that a board should be constituted, may, in its discretion, recommend to the Minister that a board be constituted for such industry or any section thereof or for any group of industries which includes such industry; and for that purpose may include in a group industries mentioned in the second column which are set opposite to different board names in the first column of Schedule One. Thereupon the Minister shall direct a board to be constituted accordingly." Section 14.

(b) Section fifteen: Omit "ten"; insert in lieu thereof "four." Section 15.

(c) Section sixteen: Omit the words after "Industrial Court" to and including the word "industries"; insert "in its discretion." Section 16.

(d) Section seventeen: Omit all words after the word "Court." Section 17.

(e) Section eighteen is repealed and the following is substituted:—

18. The Governor may appoint as chairman of a board a Supreme Court or District Court judge, or the judge of the Industrial Court, or some person nominated by the Industrial Court: Provided that if the parties agree upon a chairman such person shall be the chairman to be nominated by the court. Appointment of chairman.

On a chairman being appointed, the board shall be deemed to be constituted.

(f) Section nineteen: Omit paragraph (a) Section 19.

(g) Section twenty-one, subsection one: Omit "after it has made an award" Section 21.

(h) Section twenty-two: Omit the words after "board" where first occurring to and including the words "the vacancy has occurred"; omit "such" in the expression "any such election"; omit the words from the last-mentioned expression to the end of the section; insert in place thereof "to fill such vacancy for the residue of the period of two years" Section 22.

(i) Section twenty-three: repeal subsection one and omit "such" in subsection two. Section 23.

(j) Section twenty-four: Add at end of section the following:— Section 24.

"The validity of the constitution of a board shall not be challenged by prohibition, or otherwise. Every board purporting to have been constituted on the recommendation of the Industrial Court before the sixteenth day of December, one thousand nine hundred and eight, shall be deemed to have been and to be validly constituted under this Act."

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Section 27. (k) Section twenty-seven: Omit figure "1" within brackets; insert letter "a" in lieu thereof. Omit "(2)" and the words commencing "rescind or vary" down to and inclusive of "the said board may."

In paragraph (e) omit the words "grant or provide," insert in lieu thereof the words "appoint a tribunal other than the board itself." Add to end of same paragraph the words "If no such tribunal is provided by the board, the registrar shall have jurisdiction to grant such permits."

Add new paragraphs--

" (g) determine any industrial matter ;"

" (h) rescind or vary any of its awards."

Section 29. (l) Section twenty-nine: Add at end of section the following: "Every award of a board shall take effect on its publication in the Gazette, and not sooner or otherwise."

Section 30. (m) Section thirty: Omit "of a board" insert "order or decision of a board, or of a chairman of a board."

Section 33. (n) Section thirty-three: Omit the words "in any court of competent jurisdiction"; insert in lieu thereof the words "in the Industrial Court"

Section 35. (o) Paragraph (e) of section thirty-five of the Principal Act is repealed.

Section 37. (p) Section thirty-seven: Omit paragraphs (b), (c), and (d).

Section 38. (q) Section thirty-eight: Subsection one, after "board" insert "of which the chairman is not a judge"; subsection three, after "operate" insert "or as to the conditions and exemptions which the board has determined and directed"; subsection six, omit "modify" insert "vary"; omit "quash" insert "rescind": omit "any court of competent jurisdiction" insert "the Industrial Court."

Section 39. (r) Section thirty-nine: Add to section the following "or any award of a board where such board has been dissolved or is no longer in existence.

The Industrial Court may also cancel or vary any recommendation made by it: Where such recommendation has not yet been acted on, such cancellation or variance shall be treated as if it had been contained in the original recommendation. Where such recommendation has been acted on, it shall be in the discretion of the Minister or Governor to cancel the action taken by him or to vary it to accord with the varied recommendation.

The Industrial Court, in making any order under this section, may make such order as to costs as it thinks just."

Section 40. (s) Section forty, paragraph (b) : After "board" insert "of which the chairman is not a judge."

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5. Part III of the Principal Act is amended as follows:—

- (a) Section forty-seven: After “challenged” insert “before the ^{Section 47.} Industrial Court.”
- (b) Section fifty-one: Omit the last sentence, commencing “Any ^{Section 51.} costs” to end of section.
- (c) After section fifty-one insert new section:—

51A. Every order for the payment of costs made by ^{Recovery of costs.} the Industrial Court shall have the effect of and be deemed to be a judgment for such amount in the District Court of the Metropolitan District holden at Sydney; or where a district court is named in such order, then in the court so named, 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 by process of such court as in pursuance of such judgment.

- (d) Section fifty-two: After “Industrial Court” insert “or ^{Section 52.} of a judge purporting to act as the Industrial Court”; after “proceeding of the court” insert “or of a judge purporting to act as such court.”

6. Part IV of the Principal Act is amended as follows:—

- (a) Section fifty-seven: Insert after the words “Court of ^{Section 57.} Arbitration” the words “or of the Industrial Court.”
- (b) Section fifty-eight: After “Industrial Court” insert “or an ^{Section 58.} industrial agreement.” After “such award” insert “or agreement.”

7. The following section is inserted next after section eighteen of the Principal Act:—

18A. The chairman of a board may, whenever it appears to him ^{Appointment of assessors.} to be necessary, appoint two or more assessors, representing employers and employees respectively, to advise the board on technical matters. Such assessors shall not take part in the deliberations or in any decision of the board.

8. The following sections are inserted next after section fifty-five of the Principal Act:—

55A. Where, by reason of the death or absence of the judge of the Industrial Court at the time appointed for the hearing of any matter ^{Adjournment of court in absence of judge.} by such court, such court cannot be then held, the registrar shall adjourn the court to such day as he may deem convenient, and shall enter in a minute book the cause of such adjournment.

55B. In any proceeding before the Industrial Court such court ^{Court may reserve its decision.} may reserve its decision.

Where a decision has been so reserved it may be given at any continuation or adjournment of such court or at any subsequent holding thereof, or the judge of such court 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

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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 such court.

Repeal of Schedule
Two.
Amendment of
Schedule One.

9. The Principal Act is amended by omitting Schedule Two.

10. (1) Schedule One to the Principal Act is amended by adding the following:—

Board.	Industries and Employees in Industries.
Aerated waters	Persons employed in the manufacture of aerated waters, cordials, and non-intoxicating drinks and beverages.
Bag and sack making	Employees engaged in making bags, paper bags, and sacks.
Biscuit and cake making	Employees in biscuit and cake factories.
Boiling-down	The employees in tallow and fat refining establishments.
Bone-mills and manure works	Employees therein.
Cardboard-box making	Employees in cardboard-box factories.
Coke workers	Persons employed at coke works.
Dredging	Dredge employees, not in the service of the Government.
Engine-driving and firing ...	Engine-drivers, firemen, greasers, trimmers, cleaners, and pumpers employed on land.
Hat-making	Employees in hat factories.
Ice manufacturers ...	Persons engaged in the manufacture and distribution of ice and chilling chambers.
Laundry	Persons employed in laundries.
Milling	Persons employed in or about grain, starch, or condiment mills.
Packing	Persons employed in packing in factories, and in packing starch, pickles, tea, and condiments.
Paper mills	Employees in paper mills.
Rope-making	Employees in rope factories.
Smelting	Persons employed in ore-smelting and refining works.
Soap and candle making ...	Employees in soap and candle works.
Wine and spirit stores ...	Persons employed in wine and spirit stores.
Additional boards under the above headings.	Any such division, combination, or arrangement of the employees in the industries set opposite to each board name, whether according to occupation or locality as to the court may seem expedient.

(2) The said Schedule is further amended in the second column thereof as follows:—

- (a) By inserting after "underclothing" in the industry represented by the board of Dressmaking and millinery the words "and children's clothing."
- (b) By inserting after "Pastrycooks" in the industry represented by the board of Pastrycooks the words "and pastrycooks' assistants."
- (c) By inserting after "business" in the industry represented by the board of Undertakers the words "cab and omnibus drivers and employees in livery stables."