

## INDUSTRIAL ARBITRATION (AMENDMENT) ACT.

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Act No. 16, 1918.

An Act to amend the law for the regulation of the conditions of industries and industrial arbitration ; to provide for the establishment of a Board of Trade ; to provide for the better organisation of the labour market ; to modify the provisions for the repression of lock-outs and strikes ; to establish special and deputy Courts of Industrial Arbitration ; to provide for secret compulsory ballots in certain cases ; to enlarge the powers of trade unions, and to extend the rights and responsibilities of their members ; to amend the Industrial Arbitration Act, 1912, the Industrial Arbitration (Amendment) Act, 1916, the Trade Union Act, 1881, the Apprentices Act, 1901, and the Apprentices (Amendment) Act, 1915, and certain other Acts ; and for purposes consequent thereon or incidental thereto.

[Assented to, 22nd March, 1918.]

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**B**E 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 :—

**1.** This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1918," and shall be construed with the Industrial Arbitration Act, 1912, hereinafter referred to as the Principal Act, and the Industrial Arbitration (Amendment) Act, 1916.

**2.**

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Amendment  
of s. 5.  
Definitions.

**2.** Section five of the Principal Act is amended as follows:—

- (a) in the definitions of "Apprentice" and "Improver" omit the word "twenty-one" and insert the word "twenty-two";
- (b) in the definition of "Employer" after "includes" insert the words "the Crown (except as to any employees employed under the Public Service Act, 1902, and the Police Regulation Act, 1899, or any statute passed in substitution for or amendment of the same)".
- (c) insert at the end of paragraph (a) of the definition of "industrial matters" the words "and the question whether piece-work or contract work or any other system of 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".
- (d) insert after the definition of the word "Magistrate" a further definition to read as follows:—  
"Managerial position" means the position of an employee who is principally engaged in the direction and control of other employees.

Amendment  
of s. 8 (3).  
Registration.

**3.** (1) Subsection three of section eight of the Principal Act is amended by omitting the words "or if it appears that another trade union to which the members of the applicants' union might conveniently belong has already been registered as an industrial union," and by inserting the words "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 passing of the Industrial Arbitration (Amendment) Act, 1918, taken part in, aided, or abetted an illegal strike."

Reinstate-  
ment of  
industrial  
unions.

(2) Within six months after the passing of this Act the Minister may, with the concurrence of the senior judge of the court, direct that one or more or all of the unions which suffered cancellation of registration as industrial unions at the hands of the court for complicity in the general strike of the year one thousand nine

nine hundred and seventeen, shall be reinstated as **George V,**  
 industrial unions, and upon a notification by him to such **No. 16.**  
 effect being filed in the office of the registrar, any union  
 affected by such notification shall be deemed to be a  
 registered industrial union. The concurrence of the  
 senior judge shall be obtained by application in open  
 court, and any union registered in the same industry as  
 the union with respect to which the application is made  
 shall have notice of the application, and shall be entitled  
 to appear thereon.

(3) Section ten of the Principal Act is amended <sup>Amendment</sup> of s. 10.  
 by omitting the words "with the consent of all other  
 parties bound by such award or industrial agreement."

**4.** The following new sections are inserted next after <sup>New sections.</sup>  
 section thirteen of the Principal Act:—

13A. The court may elect to sit with assessors <sup>Court may</sup>  
 representing the interests of each of the parties <sup>sit with</sup>  
 before it. Such assessors shall be appointed by the <sup>assessors.</sup>  
 court from persons nominated as prescribed.

The court may commit to such assessors sitting  
 without a judge for determination or for considera-  
 tion 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.

13B. The court shall when sitting for the hearing <sup>Special court</sup>  
 and determination of applications, references, and <sup>for Crown</sup>  
 other matters exclusively affecting the Crown as <sup>matters.</sup>  
 employer or affecting persons exclusively employed  
 in any industry by the Crown or by any Minister,  
 trust, commission, or board exercising executive or  
 administrative functions on behalf of the Govern-  
 ment, including the Railway Commissioners for New  
 South Wales, Metropolitan Meat Industry Board,  
 Sydney Harbour Trust Commissioners, Board of  
 Water Supply and Sewerage, Water Conservation  
 and Irrigation Commission, The Board of Fire  
 Commissioners of New South Wales, and the  
 Hunter District Board of Water Supply and  
 Sewerage, or by the employees of any city, shire,  
 or municipal council, sit as a special court with  
 assessors appointed as prescribed in the last  
 preceding section.

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Special court:  
coal mining.

Deputy  
court.

Appeal from  
single judge.

Application  
of certain  
sections to  
assessors.

Amendment  
of s. 24.  
Jurisdiction  
of boards.

13C. The court shall, when sitting for the hearing and determination of applications, references, and other matter affecting employers and employees in the coal-mining industry, sit as a special court with assessors appointed in the same manner as prescribed in section 13A of this Act.

13D. The Governor may, from time to time, proclaim districts of the State in and in respect of which the powers and jurisdiction of the court may, subject to general or special orders of the court made in that regard, be exercised by a deputy court to be constituted by a judge or a chairman nominated by the court and appointed by the Governor with or without assessors appointed in the same manner as is prescribed in section 13A of this Act.

13E. The senior judge may grant to any party affected by an award of the court made by a single judge (with or without assessors) the right to appeal against such award to the court to be constituted by three judges, and the court, on the hearing of such appeal, may vary any such award as it thinks fit.

13F. The provisions of sections nineteen, twenty-two, and twenty-three of the Principal Act shall apply, mutatis mutandis, to assessors of the court and of a deputy court.

**5.** Section twenty-four of the Principal Act is amended as follows:—

(a) The following words are inserted at the end of subsection (1) (a) : “Provided that no award shall be made for the payment of wages or remuneration of persons occupying managerial positions except by the special court for Crown matters exercising jurisdiction under section 13B of this Act or of any wages or remuneration in excess of ten pounds per week.”

The following words are added to subsection (1) (b) : “Provided that after the first day of October, one thousand nine hundred and eighteen, the hours for cessation of employment of persons employed in shops coming under the provisions of the Early Closing Act, 1899, and the

the Acts amending the same shall be the hours fixed by such Acts for the closing of such shops." George V,  
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- (b) Strike out of subsection (1) (g) the words "to members of any industrial union of employees over other persons offering their labour at the same time, other things being equal" and substitute the words "to the members of any trade union or industrial union of employees upon such terms and conditions as the court may prescribe so long as the members thereof shall not after the passing of the Industrial Arbitration (Amendment) Act, 1918, have taken part in, aided or abetted any illegal strike."
- (c) The following words are added after the word "Industrial" in the proviso to subsection (1) (g) of section twenty-four of the Principal Act: "or trade".

**6.** Insert after section twenty-four of the Principal Act the following sections:—

**24A.** (1) The court or a board may in prescribing minimum wages fix the quantity of work or services to be done. Court or  
board may  
fix quantity  
of work to be  
done.

(2) Whenever an award relating to any skilled occupation fixes minimum wages higher than the living wage, the amount of the excess of such minimum wages above the living wage shall be the same in the case of males and females doing the same class of work.

(3) The court or a board 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, conciliation committees, industrial councils, or voluntary committees formed for the purpose of adjusting the industrial relationship of employer and employee. A judge or deputy judge of the court may act as the chairman of any industrial council.

**24B.** All employees engaged in rural industries shall be entitled to be paid the living wages declared in their regard by the Board of Trade, but with the exception Employees  
in rural  
industries.

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Amendment  
of s. 25.

Repeal of  
s. 26.

Wages of  
Government  
employees.

Amendment  
of s. 27.

Permits.

Amendment  
of s. 29.

Amendment  
of heading to  
Part V and  
s. 38.

exception of employees whose conditions of employment have been regulated by any award, shall not be otherwise subject to the provisions of this Act.

**7.** Section twenty-five of the Principal Act is amended by omitting the word "on" where first occurring therein and inserting in its place the words "fourteen days after," and by adding at the end of subsection one thereof the words "and after such period until varied or rescinded by the board."

**8.** Section twenty-six of the Principal Act is repealed, and the following section is inserted in its place:—

**26.** The court or an industrial board shall not fix rates of wages for persons employed by the Crown, the Railway Commissioners for New South Wales, the Sydney Harbour Trust Commissioners, the Board of Water Supply and Sewerage, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, the Metropolitan Meat Industry Board, and the Hunter District Board of Water Supply and Sewerage, less than those paid to other employees not employed by the Government or its departments doing substantially the same class of work, but the fact that employment is permanent or that additional privileges are allowed in the service of the Government or its departments shall not of itself be regarded as a substantial difference in the nature of the work.

**9.** Section twenty-seven of the Principal Act is amended by adding thereto the following subclause:—

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

**10.** Section twenty-nine of the Principal Act is amended by adding at the end thereof the words "and after such period until varied or rescinded by the board."

**11.** The heading to Part V of the Principal Act is amended by substituting the word "industrial" for the word "colliery" therein, and section thirty-eight of the Principal Act is amended by substituting the word "industrial" for the word "colliery" wherever therein occurring;

occurring; section thirty-nine is amended by the omission of subsection two, and section forty is amended by omitting the words "in connection with coal-mining or metalliferous mining as the case may be."

**12.** Section forty-two of the Principal Act is amended by omitting the word "five" and inserting "one."

**13.** Section forty-three of the Principal Act is amended by inserting after the word "strike" the words "or where a strike has occurred" and by omitting the words "and either no board has been constituted which would have jurisdiction in the matter or he is of opinion that a preliminary or temporary agreement should be made before the matter is submitted to a board".

**14.** Section forty-four of the Principal Act is amended by inserting after the word "acts" the words "unless the employees working in the industry concerned are taking part in an illegal strike."

**15.** Sections forty-five to forty-eight inclusive of the Principal Act are repealed, and the following sections are inserted in place of them:—

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

- (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 Railway Commissioners for New South Wales, the Sydney Harbour Trust, the Board of Water Supply and Sewerage, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, the Metropolitan Meat Industry Board, the Hunter District Board of Water Supply and Sewerage) 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)

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- (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.

Penalty for  
illegal strike.

46. In the event of an illegal strike occurring in any industry, the court 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.

Defence to  
proceedings  
for illegal  
strike.

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

Secret  
ballot when  
strike con-  
templated.

48. (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. (2)

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

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- (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.

48A. The court shall for the purpose of this Act have all the powers of a Royal Commission under the Royal Commissioners Evidence Act, 1901, or any Act passed in substitution for or amendment of that Act.

Additional powers of court to take evidence.

48B. 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
- (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 court shall be liable to a penalty not exceeding fifty pounds or imprisonment for a period not exceeding six months.

Penalties for illegal strike or obstructing ballot.

48c. 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.

48D.

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Penalty for  
illegal  
picketing.

Penalty for  
declaring any  
commodity  
black.

Amendment  
of s. 49.

Recovery of  
wages.

New sections.

Repeal of s. 7 of  
Trade Union  
Act.

Powers of trade  
union with  
regard to its  
funds.

48D. 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.

48E. (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.

(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.

**16.** Section forty-nine of the Principal Act is amended by adding the following subsection:—

(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.

**17.** The following Part No. VIIA is inserted next after section fifty-two, and shall be deemed to be included as a separate Part of the Principal Act:—

#### PART VIIA.

##### TRADES UNIONS.

52A. (1) Section seven of the Trade Union Act of 1881 is repealed.

(2) A trade union shall have power to apply and use the moneys and other property of the union for

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—

- (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 subsection hereof apply to the court 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 any disability or at any disadvantage as compared with other members of the union by reason of his failure to so contribute.

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(3) 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 of 1881, or the maintenance and publication of a newspaper other than a non-political trade journal.

(4) 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.

52B. 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.

52C. 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 52A subsection (2) (b) of this Act, he may complain to the court, which court, after giving the complainant and any representative of the union the opportunity of being heard, may, if it considers that such a breach has been committed, make such an order for remedying the breach as it thinks just under the

Application  
of last preceding  
section to  
unions.

Right of  
appeal.

the circumstances, and any such order shall be **George V,** binding and conclusive on all parties without **No. 16.** appeal.

52D. 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.

52E. The court 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 :—

- (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 court.

52F. For the purpose of exercising the jurisdiction and powers conferred upon it by this part the court 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 court upon such questions shall have force and effect as judgments, orders, or decrees of the Supreme 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.

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Enforcement  
of order of  
court  
imposing  
penalty.

Penalty :  
stop-order.

Persons  
entitled to  
membership  
of union.

52G. Where any trade union fails within the time prescribed by the court to pay any penalty imposed by the court the trade union shall be wound up. The court 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.

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, 1899.

52H. 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 court ; 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 court 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 :

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.

52I. (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

remain members thereof and enjoy all advantages George V,  
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(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 court, 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.

52J. No trade union shall register any rule which Illegal rules. is contrary to any term or provision of an award.

52K. Every trade union shall within three months Returns by  
trade unions. of the passing of this Act and thereafter annually make returns to the Registrar of Trade Unions 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 court 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 court, or to admit to membership any person whom the court declares is entitled to such admission to pay a penalty not exceeding one hundred pounds.

**18.** Section sixty-eight of the Principal Act is Amendment  
of s. 68. amended—

- (a) by omitting from subsection one thereof the words “and at the place where his employees in such industry are working” and inserting in their place the words “at the workshop or factory where he carries on his business”;
- (b) by omitting from subsection two thereof the words “at the place where the industry is carried on” and inserting in their place the same words as inserted in the said subsection one.

**19.** Section sixty-nine of the Principal Act is Repeal of  
s. 69. repealed.

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Amendment  
of s. 72.

New sections.

**20.** Section seventy-two of the Principal Act is amended by the omission of the words "Act and the Clerical Workers Act, 1910," and the substitution therefor of the words "and the preceding Parts of this Act."

**21.** The following Parts are inserted next after section seventy-three, and shall be deemed to be included as separate Parts of the Principal Act:—

## PART IX.

### THE BOARD OF TRADE.

The Board of  
Trade.Constitution  
of Board.Appointment  
of Commiss-  
ioners.Period of  
appointment.

**74.** There is hereby constituted a body corporate to be known as "The New South Wales Board of Trade," which shall have perpetual succession and a common seal.

**75.** (1) The Board of Trade shall comprise a president, who shall be a judge of the court, a deputy president, and four commissioners.

(2) The Minister shall be an associate commissioner of the Board of Trade, and may take part in its deliberations, but shall not cast a vote in connection with the determinations of the board.

(3) The president shall have a casting as well as an original vote upon any proceedings of the board in connection with which the vote taken is otherwise equally divided.

(4) The president shall sit with the Board of Trade whenever it is exercising the powers and functions conferred upon it by sections seventy-nine and eighty of this Act.

**76.** The Governor shall, as soon as practicable after the passing of this Act, make all necessary appointments to the Board of Trade; the members of such Board of Trade, other than the president and the Minister, shall be paid such fees or salaries and allowances as may be prescribed; and such fees or salaries and allowances shall become a charge upon the Consolidated Revenue.

**77.** (1) The members of the Board of Trade shall be appointed for a period of five years, provided that any member may be suspended from office for misbehaviour or incapacity.

(2) The Minister shall, within seven days after the suspension of any member of the Board of

of Trade, if Parliament is then sitting, or if Parliament is not then sitting, within seven days after the next meeting of Parliament, cause to be laid before both Houses of Parliament a full statement of the grounds of suspension. A member who has been suspended shall be restored to office unless

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each House of Parliament, within forty days after the statement has been laid before it in the same session, pass an address praying for his removal on the grounds of proved misbehaviour or incapacity.

78. On the happening of any vacancy in the office <sup>Casual</sup> of Commissioner of the Board of Trade the Governor <sup>Vacancies</sup> shall appoint a person to fill the vacant office.

In the case of illness, absence, or suspension of any Commissioner of the Board of Trade the Governor may appoint a person to act as a deputy-commissioner during such illness, absence, or suspension, and the deputy so appointed shall have all the powers and perform all the duties of the position.

79. (1) The Board of Trade shall from year to year after public inquiry as to the increase or decrease in the average cost of living declare what shall be the living wages to be paid to adult male employees and to adult female employees in the State or any defined area thereof. In declaring such living wages the Board of Trade shall make a separate public inquiry into the cost of living of employees engaged in rural occupations, and shall make a separate declaration as to the living wages to be paid to such employees and shall declare what deductions may be made from such wages for board or residence or board and residence—and for any customary privileges or payments in kind conceded to or made to such employees.

(2) No industrial agreement shall be entered into and no award made for wages lower than such living wages.

(3) Any aged, infirm, or slow worker engaged in any rural occupation who may deem himself unable to earn the living wages declared by the Board of Trade may apply to the registrar or to any person appointed by such board for a permit in writing

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Functions of  
Board of  
Trade.

writing to work for less than the living wage. Copies of all such permits shall be forwarded to the registrar, who may at any time cancel or amend the same.

80. 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 Board of Trade shall—

- (a) determine in what occupations and industries apprenticeship shall be a condition of employment of minors;
- (b) prescribe the hours of employment, wages, and conditions 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) establish and maintain an apprenticeship register and record therein all indentures or other contracts of apprenticeship, and protect the contracts and interests of apprentices and all workers of minor age who are learners, and ensure the attendance of apprentices and learners at technical or trade schools;
- (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 any industry.

Powers of  
Board of  
Trade.

81. (1) Upon the exercise by the Board of Trade of the powers and functions specified in the two preceding

preceding sections the Governor may make regulations incorporating the determinations and directions of such board and any matters necessary or convenient to be prescribed for carrying such determinations and directions into effect.

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(2) Upon the publication of any such regulations the provisions of awards relating to the matters dealt with by the Board of Trade shall cease to have effect.

82. The Board of Trade 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.
- (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 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)

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- (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 cooperation 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.

83. The Board of Trade shall, in investigating any matter for the purposes of this Act, have all the powers of a Royal Commission under the Royal Commissioners Evidence Act, 1901, or any Act passed in substitution for or any amendment of that Act.

84. 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 Board of Trade 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.

85. Every person shall to the best of his knowledge and belief answer all questions asked him by the Board of Trade, 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.

86.

Board to have  
powers of  
Royal Com-  
mission.

Collection of  
statistics.

Information  
to be  
supplied.

86. The Board of Trade is authorised to appoint **George V,**  
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 any one or more of its members to conduct inquiries  
 into specified matters.

87. Each member of the Board of Trade shall **Power of one or  
 more members.**  
**Secrecy of  
 board.**  
 upon his appointment take an oath not to disclose  
 (except so far as may be necessary in the execution  
 of his duties as such member) any matter or evidence  
 before the board relating to trade secrets, or the  
 financial position of any person, or the contents of  
 any books or documents produced before the board,  
 and if he violates his oath he shall be liable to a  
 penalty not exceeding five hundred pounds, and on  
 conviction for such offence he shall cease to be a  
 member.

88. The Governor may, subject to this Act, make **General rules.**  
 general rules—

- (a) regulating the practice, procedure, and forms  
 under this Part of this Act ;
- (b) prescribing the powers, duties, and rights of  
 any officer of the Board of Trade ;
- (c) for the making and enforcement of any orders  
 made under this Part of this Act ;
- (d) regulating the distribution of business be-  
 tween the members of the Board ;
- (e) providing for the payment of witnesses ex-  
 penses ; and
- (f) generally for giving effect to the provisions  
 of this part of the Act and the rules made  
 thereunder, and may by such regulations  
 impose penalties not exceeding fifty pounds  
 for any breach thereof.

89. Any person who hinders or obstructs the **Penalty.**  
 board or any member or officer thereof in the exer-  
 cise of any power conferred by this Act shall for  
 every such offence be liable to a penalty not  
 exceeding fifty pounds.

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Establish-  
ment of  
State Labour  
Exchanges.

Duties of such  
exchanges.

Advances to  
meet  
expenses of  
travelling  
to work.

## PART X.

### THE ORGANISATION OF THE LABOUR MARKET.

#### DIVISION 1.—*State Labour Exchanges.*

90. 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.

91. 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.

92. (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 in localities distant from those in which they find themselves.

(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 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.

(3)

(3) Such order may be for the repayment **George V.** of the amount of such advance in one sum or by **No. 16.** such instalments as the Minister may direct.

(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.

93. (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.

(2) If any person makes any wilfully false statement or false representation to any officer in superintendence 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 in preference to others, or harass or molest others, he shall be guilty of a misdemeanour. Penalty, ten pounds, or imprisonment not exceeding six months.

(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.*

94. A person shall not, after the passing of this Act 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

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persons seeking employment, unless he is the holder of a license under this Part of this Act. Every such license shall be in 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 to which it relates is carried on.

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

(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 under this Part of this Act. A license shall not be issued or renewed unless the Minister or such magistrate determines that the applicant is a fit person to hold the license.

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 applicant and all persons who in the manner prescribed notify their objection to the issue or renewal of the license 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 court.

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

(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)

Licensee to  
keep  
registers.

- (b) a separate register in which shall be entered George V,  
the name and address of every person who No. 16.  
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 engage-  
ments 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.

97. The scale of fees chargeable by and payable scale of fees.  
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.

98. (1) A licensee shall not, directly or in-  
directly—  
No fees to be received except those prescribed.

- (a) demand or receive for or in respect of the registration or engagement of any person any greater or other fees than those prescribed;
- (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 keep as lodgers any persons seeking employment.

(2)

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(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.

99. 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 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.

100. 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.

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

Registration  
fee to be  
repaid if  
employment  
or labour not  
found.

False state-  
ments or  
entries by  
licensees.

101. 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.

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.

102. 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.

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

104. 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.

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

105. Any person 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 conviction to a penalty not exceeding five pounds, or imprisonment not exceeding three months.

106. 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.

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

- (a) prescribing the form of registers and generally the forms to be used ;
- (b)

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(b) prescribing the form of licenses which may be issued, and the form of renewals of such licenses ;  
 (c) regulating the exhibition of licenses and other documents required to be exhibited ;  
 (d) prescribing the scale of fees chargeable by and payable to licensees ;  
 (e) 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.

Insurance  
against unem-  
ployment.

## PART XI.

### INSURANCE AGAINST UNEMPLOYMENT.

108. The Minister may, on the recommendation of the Board of Trade, 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 :

Provided that no such payment shall be made unless the Board of Trade 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.

TRADE