

EIGHT HOURS (AMENDMENT) ACT.

Act No. 28, 1920.

An Act to provide for inquiry into and regulation of the working hours of employees; to amend the Eight Hours Act, 1916, and the Acts relating to Industrial Arbitration; and for purposes consequent thereon or incidental thereto. [Assented to, 29th December, 1920.]

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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:—

1. This Act may be cited as the "Eight Hours short title. (Amendment) Act, 1920," and shall be construed with the Eight Hours Act, 1916.

2. Paragraphs (d), (e), (f), and (g) of subsection one Repeal of s. 4(1),
(d), (e), (f), (g),
s. 4(2), and
ss. 5, 6 of Eight
Hours Act, 1916. of section four, subsection two of section four, and sections five and six of the Eight Hours Act, 1916, are hereby repealed.

3. The following new sections are inserted next after section four of the said Act:—

5. Applications may be made to the court by any industrial union of employees or by any trade union or association of employees for an inquiry into the working hours of employees engaged in any industry subject to the jurisdiction of the court.

6. The court may inquire specially into the working hours of employees engaged in any industry within its jurisdiction and may consider any application for a reduction of the working hours fixed by this Act.

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 Constitution
 of special
 court.

Employees to
 be deemed,
prima facie,
 to have made
 application.

Power to hold
 inquiry in
 respect of
 any industry
 or group of
 industries,
 &c.

Special court
 to report and
 recommend,
 as to certain
 matters.

7. (1) The court shall, when sitting for the purpose aforesaid, be constituted by one of the judges of the Court of Industrial Arbitration to be appointed by the Governor for that purpose. Such judge shall sit as a special court, and (as such judge may elect) may sit with or without assessors representative of the interests of the parties before it in any inquiry or application.

(2) Such assessors shall be appointed in the manner provided by section 13A of the Principal Act and by the regulations made thereunder.

8. Unless the special court shall otherwise determine, all employees engaged in any industry within the jurisdiction of the court shall be deemed to have made application for a reduction of the working hours fixed by this Act in relation to each such industry.

9. Any inquiry or hearing under this Act may be held or taken in respect of any industry or division of any industry or any combination, arrangement or grouping of industries, and in such order of precedence as the special court may direct.

10. The special court shall, on the completion of each inquiry or hearing, report and recommend to the Minister respecting the following matters:—

- (a) Whether the adoption of a working week of forty-four hours or, in the case of workmen employed below ground in mines, of less than forty-four hours will seriously injure the trade of any of the said industries or result in serious public mischief, or in a serious increase in the cost of living.
- (b) Whether, if the working hours of employees or any of them are reduced as aforesaid, there will result a diminution of output, and if so, to what extent.
- (c) Whether by any means production can be increased to an extent sufficient to make up for the decrease of production (if any) arising from the reduction of working hours as aforesaid.

(d)

(d) Whether any increase in the cost of production of any goods, commodities or articles of trade or commerce or the supply of any service will result from the reduction of working hours as aforesaid, and if so, to what extent.

(e) Whether any, and if so what, means can be adopted to prevent or minimise any increase in the cost of production or the supply of service which may be found as above-mentioned.

(f) Whether, owing to competition between any of the said industries as carried on in this State and similar industries as carried on in other States or abroad, the interests of (a) the State, (b) employers in such industries, or (c) employees in such industries will be prejudiced by the reduction of working hours as aforesaid, and if so, to what extent.

(g) Whether any, and if so what, means can be adopted to prevent or minimise any prejudicial operation of such reduced working hours.

(h) Whether the conditions, health, comfort, or well-being of any employees justify a reduction of working hours as aforesaid.

(i) Whether the reduction of working hours as aforesaid should be accompanied by a reduction of wages or by a prohibition of overtime or by either a qualified or an unlimited right to work overtime.

(j) Whether a reduction of working hours as aforesaid should be accompanied by any condition or provision for the adoption or continuance of more than one shift of employees with the object of providing employment in any of the said industries, or reducing the cost of production, or maintaining output, or otherwise.

(k) Generally whether any reduction of working hours as aforesaid is necessary or expedient, and to what extent and subject to what limitations, restrictions, qualifications or conditions (if any).

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Power of
special court
to confirm
and adopt a
certain report.

Powers and
duties of
special court.

11. The special court may without further inquiry confirm and adopt as its report any report made or to be made in relation to the working hours of employees in any industry by virtue of a Royal Commission issued to his Honor Judge Beeby on the twenty-eighth day of September, one thousand nine hundred and twenty.

12. (1) The special court shall, for the purposes of this Act, have and exercise all the powers of the Court of Industrial Arbitration and of a board, except the power to make or vary an award.

(2) Notwithstanding any of the provisions of the Principal Act, the special court may, in the course of any inquiry or hearing under this Act, investigate or inspect, in the absence of the parties or any of them, any business or industry in relation to any of the matters in respect of which it is directed to report and recommend.

(3) For the purposes aforesaid the special court may appoint such persons as it shall think fit with all necessary powers to investigate, inspect, audit, and report to the special court in respect of any business or industry. Every person so appointed shall take the oath prescribed in respect of members of a board by section nineteen of the Principal Act.

(4) The result of any investigation, inspection, or audit made in the absence of the parties or any of them by the special court or any person appointed as aforesaid shall (subject as hereinafter provided) be made known to the parties, who shall be entitled to be heard thereon before any report or recommendation shall be made by the special court in respect of the industry affected by such investigation, inspection, or audit.

(5) Neither the special court nor any person appointed by it as aforesaid shall, without the consent of an employer, disclose to any party or other person any information which will make known the profits, losses, receipts, outgoings, or trade secrets of such employer.

13. The Governor may, by proclamation in the ^{George V,} ^{No. 28.} Government Gazette, adopt the report and recommendation of the special court and declare that the working hours recommended by the special court shall, from a date to be fixed by the proclamation, be the ordinary working hours for the employees therein mentioned, subject to any limitations, restrictions, qualifications, or conditions contained in the report.

14. Notwithstanding the provisions of any award or industrial agreement, the working hours fixed by any proclamation as aforesaid shall, subject as aforesaid, be deemed to be fixed by this Act, and shall be the ordinary working hours for the employees mentioned in the proclamation, and the provisions of the proclamation shall be binding and enforceable in the same manner as if they had been made by or included in an award of the court or a board.

15. (1) Wages fixed by any award upon a weekly basis shall not be reduced by reason only of any reduction of the ordinary working hours by proclamation as aforesaid unless a reduction of wages is provided for by such proclamation as a condition of any reduction of hours.

(2) Wages fixed by any award upon a daily or hourly basis shall, as from the date of any reduction of hours proclaimed as aforesaid and without any further order of the court or other variation or amendment of the award, be increased to such amounts as will provide each employee working full time the same amount of wages as he would have received for working full time under the provisions of the award, unless a continuance of the award rates of wages is provided for by such proclamation as a condition of any reduction of hours.

(3) Any increase in wages under the last preceding subsection shall be binding and enforceable in the same manner as if the same had been made by an award of the court or a board.

16. No industrial agreement shall be entered into and no award made fixing ordinary working hours in excess of those proclaimed for any industry ^{Certain agreements and awards to be illegal and void.}

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Overtime
rates not to
be fixed at
less than
heretofore.

Ordinary
working
hours now
fixed not to
be exceeded.

Applications
to vary or
amend
awards and
industrial
agreements.

Certain
contracts and
agreements to
be illegal and
void.

Act not to
debar
proceedings
for recovery
of compen-
sation for
injuries or
wages, &c.

industry or division of any industry, or permitting overtime to be worked otherwise than in conformity with the provision of any proclamation issued under this Act, and any such agreement or award shall be illegal and void.

17. Rates or pay for hours worked as overtime or in excess of ordinary working hours in any industry in respect of which a proclamation under this Act does not prohibit overtime or work in excess of ordinary hours shall not be fixed by an award or industrial agreement at less than the rates which have heretofore been fixed by award or industrial agreement or customarily paid in any such industry.

18. Where in any industry the ordinary working hours are at the commencement of this Act fixed by award, industrial agreement, or well-established practice, such ordinary working hours shall not be exceeded in any award or industrial agreement thereafter made in respect of such industry.

19. Application may be made at any time during the currency of an award or industrial agreement to make such variations or amendments as are necessary to bring it into conformity with or to give effect to the provisions of this Act or any proclamation made hereunder.

20. Any contract or agreement, express or implied and whether verbal or in writing, which provides for the working of hours in excess of those prescribed by this Act or by any proclamation made as aforesaid, shall be illegal and void, and any person making such contract or agreement shall be liable to a penalty not exceeding fifty pounds, recoverable in a summary way before a stipendiary or police magistrate or any two justices in petty sessions.

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