

INDUSTRIAL ARBITRATION
(EIGHT HOURS) AMENDMENT
ACT.

Act No. 22, 1930.

An Act to regulate the hours of work in certain industries ; to further regulate the making, varying, and amending of awards and industrial agreements ; to amend the Industrial Arbitration Act, 1912, the Early Closing (Amendment) Act, 1915, and certain other Acts ; to repeal the Forty-four Hours Week Act, 1925, and the Forty-four Hours Week (Amendment) Act, 1926 ; and for purposes connected therewith. [Assented to, 16th June, 1930.]

George V.
No. 22, 1930.

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 "Industrial Arbitration (Eight Hours) Amendment Act, 1930," and shall be construed with the Industrial Arbitration Act, 1912, as amended by subsequent Acts.

The Industrial Arbitration Act, 1912, as so amended, is in this Act referred to as the Principal Act.

2. The Forty-four Hours Week Act, 1925, and the Forty-four Hours Week (Amendment) Act, 1926, are hereby repealed.

Repeal of Act
No. 16, 1925, and
Act No. 11, 1926.

3.

Interpre-
tation.

3. In this Act, unless the context or subject-matter otherwise requires,—

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

“Overtime” means time worked in excess of the days or hours limited by or under this Act.

Directions to
be observed
by the court
and by
boards.

4. (1) The following directions shall be observed by the court and the boards in making awards and by the parties in making agreements :—

(a) In the metalliferous mining industry—

Subject to the provisions of this section a workman shall not be below ground in a mine for the purpose of his work or of going to and coming from his work for more than eight hours during any consecutive twenty-four hours, nor for more than forty-eight hours in any period of six consecutive days, nor for more than ninety-six hours in any period of fourteen consecutive days, nor for more than one hundred and forty-four hours in any period of twenty-one consecutive days.

No contravention of the provisions of paragraph (a) of this section shall be deemed to take place in the case of a workman working in a shift if the period between the times at which the last workman in the shift leaves the surface and the first workman in the shift returns to the surface does not exceed eight hours; nor shall any contravention of the provisions of the aforesaid paragraph be deemed to take place in the case of any workman who is below ground in cases of accident, emergency, or other unavoidable contingency :

Provided that—

Where the ventilation in any place underground is found by the District Inspector of Mines to be inadequate, no work excepting such as is necessary for the purpose of remedying

remedying the conditions shall be undertaken in that place until the defect shall have been remedied to the satisfaction of such inspector.

The adequacy in the ventilation of such place shall be ascertained in the manner prescribed.

(b) In all other industries other than coal-mining—
Subject to the provisions of this section the number of ordinary working hours shall be—

- (i) eight hours per day on six consecutive days; or
- (ii) forty-eight hours per week; or
- (iii) ninety-six hours in fourteen consecutive days; or
- (iv) one hundred and forty-four hours in twenty-one consecutive days; or
- (v) one hundred and ninety-two hours in twenty-eight consecutive days.

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

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

(d) Overtime in any industry shall be permitted upon the terms and subject to any limitation which may be prescribed by award or agreement.

(e)

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- (c) The court or a board may increase the ordinary working hours or the number of days on which they may be worked or both such hours and days beyond those specified in this section in the public interest or where the working by any employce of forty-eight hours per week only would involve unreasonable additional expenditure.
- (f) The court or a board may reduce the ordinary working hours below the number of hours specified in this section of any employees engaged upon work which in the opinion of the court or board is prejudicial to health, or in the case of any industry or employees in any industry where prior to the fourth day of January, one thousand nine hundred and twenty-six, the ordinary working hours had not by award or agreement or well established practice been fixed at a number of hours in excess of forty-four.

(2) Where in any industry the wages are fixed by an award or agreement made after the commencement of this Act, or by virtue of this Act become the proper wages under any award or agreement for any ordinary working hours specified in paragraph (b) of subsection one of this section, an employer may agree with any employee that his ordinary working hours shall be those specified in paragraph (a) of subsection one of section six of the Forty-four Hours Week Act, 1925, and the employer shall in such case be liable to pay only eleven-twelfths of the wages fixed by or which have become the proper wages under the award or agreement.

Existing
awards and
agreements.

5. (1) Subject to this section, every award or agreement in force at the commencement of this Act shall respectively be deemed to incorporate such of the provisions of section four of this Act as relate to the industry in which the conditions of employment are regulated by award or agreement.

Any term of any such award or agreement expressed or deemed to be incorporated therein by reason of the provisions

provisions of any Acts repealed by this Act and inconsistent with the provisions of section four of this Act shall, as from the commencement of this Act, cease to have effect.

This subsection shall not operate to extend working hours which have been reduced to less than the ordinary working hours from considerations relating to the health of the employees under the powers conferred upon the court or a board by paragraph (f) of subsection one of section six of the Forty-four Hours Week Act, 1925, nor to extend the ordinary working hours of any class of employees in an industry beyond the ordinary working hours which prior to the fourth day of January, one thousand nine hundred and twenty-six, had by award or agreement or, where no award or agreement existed, by well-established practice been fixed for such class at a number less than forty-eight.

(2) Where the ordinary working hours in an industry at the commencement of this Act were in excess of those specified in paragraph (a) of subsection one of section six of the Forty-four Hours Week Act, 1925, the ordinary working hours shall, until altered by or under any order of the court or board, be increased by the same number of hours by which this Act increases the ordinary working hours above those specified in the aforesaid paragraph.

(3) Wages fixed by any award or agreement in force at the commencement of this Act, or any award made or agreement entered into after such commencement upon a weekly basis shall not be increased by reason of any increase of the ordinary working hours by or under this Act

(4) Where the ordinary working hours in an industry are increased by or under the provisions of this Act, the rates of wages specified in any award or agreement as payable upon a daily or hourly basis shall without any further award or variation or amendment of the award or agreement be reduced to such rates 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 or agreement.

(5) Where the ordinary working hours in an industry are increased by or under the provisions of this Act, any piecework rates specified in any award or agreement shall without any further award or variation or amendment of the award or agreement be reduced by an amount equal to the amount by which piecework rates were increased in such industry as a result of a reduction in ordinary working hours by or under the Forty-four Hours Week Act, 1925.

This subsection shall not apply to any industry in which piecework rates were not increased as a consequence of the ordinary working hours in such industry being reduced by or under the Forty-four Hours Week Act, 1925.

Adjustment
of existing
awards.

6. (1) The registrar may upon the application of any person bound thereby effect such variation or amendment in the terms of any award or agreement in force at the commencement of this Act as will clearly express the effect of this Act upon the terms of the award or agreement and may make any necessary consequential amendment as to the starting or finishing times, overtime, or other matter as may be necessary.

Upon publication in the Gazette of any variation or amendment of an award or agreement by the Registrar such variation or amendment shall be deemed to be part of the award or agreement.

(2) An appeal may be made to the commission from any determination of the registrar in the manner prescribed.

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

Certain
awards, &c.,
not
enforceable.
cf. No. 8,
1922, s. 6.

7. Any award or agreement made after the commencement of this Act which does not give effect to the provisions of this Act shall not be enforceable until such award or agreement has been varied or amended to conform with such provisions.

Rationing
employment.

8. Any employer may, for the purpose of enabling the retention in his employment of his employees or of a larger number of them than he otherwise could or would retain, or for the purpose of extending the time any available work will or is estimated to last, require

require his employees or any number or proportion of them to remain away from work for such time per week or other period as will in his opinion result in the work available being shared as equally as practicable, or extending over a longer period of time. In respect of the time any employee is or would be as the result of such requirement away from his work, his employer shall be under no obligation or liability to him in respect of salary or wages or otherwise. This provision shall remain in force for a period of twelve months after the commencement of this Act or such further period as may be proclaimed by the Governor.

9. Section twenty-four of the Principal Act is ^{Amendment of Act No. 17, 1912, s. 24.} amended by inserting at the end of paragraph (b) of subsection one the following new proviso:—

Provided that after the commencement of the Industrial Arbitration (Eight Hours) Amendment Act, 1930, the ordinary hours for cessation of work of persons employed in shops not being shops mentioned in Schedule One of the Early Closing Act, 1899, or any Act amending the same, shall be not earlier than the hours fixed by such Acts for the closing of such shops except on the usual late shopping night, when the ordinary hour for cessation of work shall be not earlier than nine o'clock.

10. Section twenty-six of the Principal Act, as ^{Amendment of Act No. 17, 1912. Repeal of s. 26.} inserted by the Industrial Arbitration (Amendment) Act, 1926, is hereby repealed.

11. (1) Any award or industrial agreement in force ^{Piece-work.} at the commencement of this Act or thereafter made which prohibits piece-work or contract work, or any other system of payment by results in any industry, shall, to the extent of such prohibition, be void and of no effect.

(2) Section five of the Principal Act is amended—^{Amendment of Act No. 17, 1912, s. 5.}
(a) by inserting in the definition of “Industrial matters” after the words “indictable offence” the words “nor questions or matters relating to the right to refuse to employ or continue in

in employment or to promote or disrate or reinstate in employment any particular person or class of persons in any industry";

- (b) by omitting from paragraph (a) of the definition "Industrial matters" the words "allowed, forbidden, or";
- (c) by omitting from paragraph (c) of the said definition the words "or the right to dismiss or refuse to employ or reinstate in employment any particular person or class of persons therein."

Sec. 52J.

(3) Section 52J of the Principal Act is amended by inserting at the end thereof the words "or of this Act, or the Industrial Arbitration (Eight Hours) Amendment Act, 1930, and any rule of a trade union preventing piece-work or inconsistent with any provision of either this Act, the Industrial Arbitration (Eight Hours) Amendment Act, 1930, or of an award or agreement, or requiring its members to perform only a definite amount of work in any one day, shall be void and of no effect."

Amendment
of Act No. 14,
1926.

New s. 9A.

Economic
consequences
to be
considered.

12. The Industrial Arbitration (Amendment) Act, 1926, is amended by inserting after section nine the following new section:—

9A. (1) A committee before making any award and in proceedings for the variation or cancellation of an award, or for the reduction of the ordinary working hours in any industry or of any employee therein, shall take into consideration the probable economic effect of the award applied for in relation to the community in general and the probable economic effect thereof upon the industry or industries concerned.

(2) The commission shall, upon any appeal or reference from a committee under this Act or in any proceeding pursuant to section twenty-eight of the Principal Act, as amended by the Industrial Arbitration (Eight Hours) Amendment Act, 1930, take into consideration the probable economic effect of the award in relation to the community in general and the probable economic effect thereof upon the industry or industries concerned.

(3)

(3) For the purpose of coming to a conclusion upon any of the matters referred to in the last preceding subsection the commission may, upon any appeal from a committee, take such further evidence as it may think proper.

(4) Any evidence produced or tendered to the committee or commission pursuant to this section shall be subject, mutatis mutandis, to the provisions and restrictions contained in paragraph (c) of section thirty-four of the Principal Act.

13. (1) The Principal Act is amended—

Amendment of
Act No. 17, 1912.

(a) by omitting from subsection one of section Sec. 28 (1). twenty-eight the words "whether made under (Variation of this Act or the repealed Acts" and also the award.) words "under this Act or the repealed Acts";

(b) by omitting subsection two of the same section Sec. 28 (2). and by inserting in lieu thereof the following new subsection :—

(2) In this section "board" includes a conciliation committee established under the Industrial Arbitration (Amendment) Act, 1926, and "award" includes an award, determination, or order made by such a committee under that Act.

(2) The Industrial Arbitration (Amendment) Amendment of Act No. 14,
Act, 1926, is further amended— 1926.

(a) by omitting subsection two of section nine and Sec. 9 (2). by inserting the following new subsection :—

(2) An award or order of a committee shall (Powers of after settlement by the registrar in manner conciliation prescribed by the regulations be signed by the committees.) chairman.

Upon any such settlement the registrar may submit any question of law to the commission who may give such direction as to it seems proper, or he may refer the matter back to the chairman of the committee for report or for further consideration by the committee.

The registrar shall publish the award or order, when signed, in the Gazette, and shall notify the parties in the prescribed manner.

(b)

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Sec. 10.

(Jurisdiction
of committee
exclusive.)

(b) by omitting from section ten the words "or unless and until the commission shall have been satisfied that a committee has failed to result in an order or award" and by inserting in lieu thereof the words "or to section twenty-eight of the Principal Act as amended by the Industrial Arbitration (Eight Hours) Amendment Act, 1930."

Blind
workers.

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

Amendment
of Act No. 64
1915, s. 2.

15. The Early Closing (Amendment) Act, 1915, is amended by inserting in section two after the word "cessation" the words "of the ordinary hours."
