

INDUSTRIAL ARBITRATION
(EIGHT HOURS) FURTHER
AMENDMENT ACT.

Act No. 53, 1930.

George V.
[No. 53, 1930.]

An Act to make further provision for regulating the hours of work in certain industries, the payment of overtime, and the making, varying, and amending of awards and industrial agreements; to amend the Industrial Arbitration Act, 1912, the Industrial Arbitration (Eight Hours) Amendment Act, 1930, and certain other Acts; and for purposes connected therewith. [Assented to, 23rd December, 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:—

Short title.

1. (1) This Act may be cited as the "Industrial Arbitration (Eight Hours) Further Amendment Act, 1930."

Commence-
ment.

(2) This Act shall commence upon a day to be appointed by the Governor, and notified by proclamation published in the Gazette.

Further
amendment of
Act No. 22, 1930,
s. 4.
cf. Act No.
16, 1925, s. 6
) .

2. Section four of the Industrial Arbitration (Eight Hours) Amendment Act, 1930, is amended—

- (a) (i) by inserting in subsection one immediately before the words "The following directions" the words "The ordinary working hours in all industries other than coal-mining to which the Principal Act applies shall be as prescribed in or under this section and";

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(ii) by omitting paragraphs (a) and (b) of the same subsection and by inserting in lieu thereof the following paragraphs:—

(a) In all industries subject to the provisions of this section, the number of ordinary working hours of an employee shall not exceed—

Act No. 16,
1925, s. 6(1)
(a).

(1) eight hours during any consecutive twenty-four hours;
or

(2) forty-four hours per week; or

(3) eighty-eight hours in fourteen consecutive days; or

(4) one hundred and thirty-two hours in twenty-one consecutive days; or

(5) one hundred and seventy-six hours in twenty-eight consecutive days.

Where in any industry or calling meal time or crib time is at the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, included in the hours of labour by award or agreement, or by well established practice in the industry, such meal time or crib time shall be counted as working time.

Where a working period has been fixed by an award or agreement before or after the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, the working period shall not be altered to any of the longer working periods referred to in this section except by agreement or award made by consent.

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Act No. 16,
1925, s. 6 (1)
(b).

- (b) The working time of an employee in a shift in underground occupations or occupations in which the conditions as to temperature, ventilation, and lighting are similar to those obtaining in underground occupations, shall not exceed six hours if for four hours of the working time of the shift the temperature of the place where the employee is occupied shall have exceeded eighty-one degrees Fahrenheit thermometer using a wet bulb.

For the purposes of this paragraph any number of employees whose regular time for beginning work is approximately the same and whose regular time of terminating work is approximately the same are to be deemed a shift of employees.

- (iii) by omitting paragraph (d) of the same subsection and by inserting in lieu thereof the following paragraph:—

(d) Overtime in any industry may be permitted by the terms of any award or agreement, and shall be paid at a rate to be fixed by the court or the board or by the agreement.

- (iv) by omitting from paragraph (e) of the same subsection all words following the words “public interest”;

- (v) by omitting from paragraph (f) of the same subsection all words following the words “prejudicial to health”;

- (vi) by inserting after paragraph (f) of the same subsection the following new paragraphs:—

(g) Notwithstanding the terms of any award or agreement from time to time current, the court or board may, by award, or the parties may, by agreement, from time to time, for the purpose of distributing the work available

Ibid. s. 6 (1)
(c).

Ibid. s. 6 (1)
(d).

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available in an industry so as to relieve unemployment or for any other purpose which appears to the court or board or to the parties in the case of an agreement, to be good and sufficient, prohibit or restrict to any extent the working of overtime.

- (h) Where in any industry the ordinary time of work is, at the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, fixed by award or agreement or by well established practice in the industry, such time shall not be exceeded after such commencement in respect of such industry.

Act No. 16,
1925, s. 6 (1)
(c).

- (b) By omitting subsection two and by inserting in lieu thereof the following subsection :—

(2) After the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, the ordinary hours of 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 later than the hours fixed for such cessation of work by any award or agreement in force immediately prior to the sixteenth day of June, one thousand nine hundred and thirty.

3. The Industrial Arbitration (Eight Hours) Amendment Act, 1930, is further amended by omitting section five and by inserting in lieu thereof the following section :—

Further
amendment
of Act No. 22,
1930, s. 5.

5. (1) Every award or agreement in force at the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, shall respectively be deemed to incorporate such of the provisions of section four of this Act, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, as relate to the industry in which the conditions of employment are regulated by the award or agreement.

Existing
awards and
agreements.
Act No. 16,
1925, s. 7 (1).

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(2) Wages fixed by any such award or agreement or any award made or agreement entered into after the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, upon a weekly basis, shall not be reduced by reason only of any reduction of the ordinary working hours by or under this Act, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930.

(3) Where the ordinary working hours in an industry subject to an award or agreement are reduced by or under the provisions of this Act, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, the wages properly payable in such industry immediately before the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, upon a daily or hourly basis, shall, without any order of the court or variation or amendment of the award or agreement, 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 or agreement.

(4) Where the ordinary working hours in an industry subject to an award or agreement are reduced by or under the provisions of this Act, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, any piecework rate properly payable in such industry immediately before the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, shall, without any further award or variation or amendment of the award or agreement, be increased by ten per centum.

This subsection shall apply only to a piecework rate reduced by or under this Act prior to the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930.

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(5) The increase in the rate of wages and piecework shall take effect—

Date of
increase.

(a) in the case in which the court or a board exercises the jurisdiction conferred by paragraph (f) of subsection one of section four of this Act as from the date of the order of the court or board, or as from such future date as is specified in the order; and

cf. Act No.
16, 1925,
s. 7 (3).

(b) in other cases as from the date of the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930.

(6) Any increase in the rate of wages or piecework rate under this section shall be binding and enforceable in the same manner as if the same had been made by an award of the court or board.

Increase to
be binding.
cf. *Ibid.* s. 7
(4).

4. The Industrial Arbitration (Eight Hours) Amendment Act, 1930, is further amended:—

Further
amendment of
Act No. 22, 1930.

(a) by omitting sections six and seven and by inserting in lieu thereof the following sections:—

Secs. 6, 7.

6. Application may be made at any time during the currency of an award or agreement whether made or entered into before or after the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, for such variations or amendments as are necessary to bring it into conformity with or to give effect to the provisions of this Act, as amended by the said Act.

Application
to vary
terms of
existing
awards or
agreements.
Act No. 16,
1925, s. 9.

7. Rates of pay for hours worked as overtime or in excess of ordinary working hours in any industry in respect of which overtime or work in excess of ordinary working hours is not prohibited by or under this Act shall not be fixed by an award or agreement at less than the rates which were paid in the industry at the commencement of the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, either under award or agreement or by well established practice in the industry.

Overtime
rates of pay.
Ibid. s. 8.

(b)

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Sec. 8.

Rationing of
employment
of employees
of the Crown.

- (b) by omitting section eight and by inserting in lieu thereof the following new sections :—

8. (1) This section shall apply only to and in respect of employees of the Crown, including all salaried and all permanent officers, but shall not apply to such employees employed under the Police Regulation Act, 1899, or any Act passed in substitution for or amendment of the same.

(2) Notwithstanding any conditions of employment, whether statutory or otherwise, or the terms of any regulation, award, or industrial agreement, the Crown may for the purpose of enabling the retention in employment of employees of the Crown, or of a larger number of them than could or would otherwise be retained in employment, or for the purpose of extending the time any available work would or is estimated to last, or for any other purpose the Governor deems sufficient, require such employees or any number or proportion of them to remain away from work for such time per week or other period as will in the opinion of the Minister of the Department in which the employees concerned are employed or of the person or corporation employing such employees be desirable.

In respect of the time any such employee is or would be as the result of such requirement away from his work the Crown shall be under no obligation or liability to him in respect of salary or otherwise.

(3) This section shall remain in force for a period of twelve months after the commencement of this Act or for such further period as the Governor may determine and notify by proclamation published in the Gazette.

(4) In this section the Crown includes the Railway Commissioners for New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Water, Sewerage, and Drainage Board, the Water Conservation and Irrigation Commission

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Commission, the Hunter District Water Supply and Sewerage Board, the Government Savings Bank of New South Wales, any transport trust established under the Transport Act, 1930, and any person or corporation employing persons on behalf of the Government of the State.

8A. The Governor may by proclamation published in the Gazette extend the provisions of section eight to such persons appointed under the provisions of any Act to any office under the Crown or to the members of any corporate body specifically mentioned in or included within the definition of "Crown" contained in subsection four of section eight of this Act, and for the purposes of that section the Minister to whom for the time being the administration of the Act under which any such person is appointed is assigned shall be deemed to be the employer of such person.

Power to
extend
rationing
provisions.

(c) by omitting sections nine and ten and by inserting in lieu thereof the following sections:—

Secs. 9, 10.

9. Any person making a contract or agreement express or implied, and whether verbally or in writing, which provides for the working of hours in excess of those prescribed by or under this Act, as amended by the Industrial Arbitration (Eight Hours) Further Amendment Act, 1930, or who is guilty of a contravention of this Act as so amended, for which a penalty is not expressly provided, shall be liable to a penalty not exceeding fifty pounds, recoverable before an industrial magistrate.

Penalties.
Act No. 16,
1925, s. 10.

10. 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.

Act not to
debar
proceedings
for recovery
of compensa-
tion for
injuries or
wages, &c.
Ibid. s. 11.

(d)

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Sec. 11.

Amendment of
Act No. 17, 1912,
s. 6.

(d) by omitting section eleven and by inserting in lieu thereof the following new section :—

11. Section five of the Principal Act is amended—

(a) by inserting in paragraph (a) of the definition of “Industrial matters” after the words “results shall be” the words “allowed, forbidden, or”;

(b) by inserting in paragraph (c) of the same definition after the word “industry” the words “or the right to dismiss or refuse to employ or reinstate in employment any particular person or class of persons therein”;

Sec. 12.

(e) by omitting section twelve;

Sec. 13 (1).

(f) by omitting subsection one of section thirteen;

Sec. 13 (2).

(g) (i) by omitting from paragraph (a) of subsection two of section thirteen the words “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”;

(ii) by omitting paragraph (b) of the same subsection and by inserting in lieu thereof the following paragraph :—

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

(h) by omitting section fifteen.