

INDUSTRIAL ARBITRATION
(THEATRICAL AGENCIES AND
EMPLOYERS LICENSING) ACT.

Act No. 3, 1935.

George V.
No. 3, 1935.
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An Act to regulate in certain respects theatrical agencies and employment; for this and certain other purposes to amend the Industrial Arbitration Act, 1912, and certain other Acts; and for purposes connected therewith. [Assented to, 20th February, 1935.]

BE

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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. (1) This Act may be cited as the "Industrial Arbitration (Theatrical Agencies and Employers Licensing) Act, 1935." Short title,
construction
and com-
mencement.

(2) The Industrial Arbitration Act, 1912, as amended by subsequent Acts, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Industrial Arbitration Act, 1912-1935.

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

2. The Principal Act is amended—

Amendment of
Act No. 17,
1912.

(a) by inserting after section ninety-three the following new section:—

New s. 93A.

93A. In this Part of this Act unless the context otherwise indicates—

Definitions.

"Theatrical agency" means any agency carried on or represented as being intended to be carried on (whether for the purpose of gain or not) for or in connection with the employment or engagement of theatrical performers, and includes any person who on any one occasion or as an isolated act engages any theatrical performer for a theatrical employer.

"Theatrical employer" means any person, firm, company, syndicate, society or association, who or which employs any theatrical performer for the purpose of a theatrical enterprise, and includes any agent of such person, firm, company, syndicate, society, or association and the parties

parties to any partnership or other agreement for the purpose of a theatrical enterprise, whether persons other than the parties are employed or not.

“Theatrical enterprise” means an enterprise or venture which is undertaken or proposed to be undertaken for the purpose of giving a performance or performances in any theatre, music hall, or other place of public entertainment, the main purpose of which is the financial benefit of a theatrical employer and/or a theatrical performer.

“Theatrical performer” means any actor, singer, dancer, acrobat, or performer of any kind employed by a theatrical employer to act, sing, dance, play or perform in any theatre, music hall or other place of public entertainment.

Division 2—
Part X.

Substituted
s. 94.

Persons
carrying on
private
employment
agencies and
theatrical
agencies to
be licensed
and
theatrical
employers
to hold
permits.

- (b) by inserting at the end of the short heading to Division 2 of Part X the words “Theatrical Agencies and Employers”;
- (c) by omitting section ninety-four and by inserting in lieu thereof the following new section:—

94. (1) A person shall not—

- (a) 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 seeking employment, or open or carry on, whether for profit or otherwise, any theatrical agency, unless he is the holder of a license under this Part of this Act;
- (b) carry on business as a theatrical employer unless he is the holder of a permit under this Part of this Act.

(2) Every such license shall be in or to the effect of 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

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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 or theatrical agency to which it relates is carried on.

(3) A permit shall be in the form prescribed, and may be issued in respect of an individual theatrical enterprise or several theatrical enterprises, and shall only apply to the particular matter therein specified, and shall continue in force until the completion of the same and no longer.

(4) The Minister may from time to time, by notification in writing, exempt from all or any of the foregoing provisions of this section any theatrical employer for the period specified in the notification, on being satisfied that the agency or business of the theatrical employer is in all respects being properly carried on, and may by a like notification revoke any such exemption.

- (d) (i) by omitting from subsection one of section ninety-five the words "such license" and by inserting in lieu thereof the words "a license or for the issue of a permit";
- (ii) by inserting in subsection two of the same section after the word "license" where firstly occurring the words "or permit";
- (iii) by inserting in the same subsection after the word "renewed" the words "and a permit shall not be issued";
- (iv) by inserting after the word "license" where thirdly occurring the words "or permit";
- (v) by inserting in the same subsection after the word "license" where lastly occurring the words "or to the issue of a permit";

Sec. 95.

(Application
for license.)

(e)

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Sec. 95,
new ss. (3)
(4).

(e) by inserting at the end of section ninety-five the following new subsections:—

(3) The issue or renewal of a theatrical agent's license or the issue of a theatrical employer's permit may be refused—

- (a) to any person under the age of twenty-one years; or
- (b) in respect of any premises which are not in the opinion of the Minister in all respects suitable for a theatrical agency or business of a theatrical employer; or
- (c) in respect of any theatrical agency or business of a theatrical employer which in the opinion of the Minister has been or is being improperly conducted; or
- (d) to any person who has not satisfactorily complied with the conditions (if any) imposed by the license or any previous license or permit.

(4) (a) A theatrical agent's license may be issued or renewed, and a theatrical employer's permit may be issued subject to the performance by the licensee or holder of the permit of such conditions as are thereby imposed.

(b) Conditions approved by the Minister may be imposed for the protection of theatrical performers and employees and, inter alia, for requiring the deposit of security approved by the Minister to secure the payment of salaries or wages to the theatrical performers or employees connected with any theatrical enterprise, and, in addition, where theatrical performers or employees are to be employed outside the metropolitan area, to secure payment of return fares of the theatrical performers or employees on termination from whatever cause of the employment.

(c) Any other condition may be imposed which, in the opinion of the Minister, is necessary or desirable to safeguard the interests of the theatrical performers or employees concerned, or for the prevention of immorality.

(f)

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- (f) by inserting after section one hundred and one the following new section:—

New s. 101A.

101A. A theatrical agent's license or a theatrical employer's permit may be cancelled by the Minister in the prescribed manner at any time, on any one or more of the following grounds:—

Cancellation
of license
or permit.

- (a) that the issue or renewal of the license or the issue of the permit was obtained by some false or misleading statement, whether on the part of the holder of the license or permit or of some other person;
 - (b) that the holder of the license or permit is not in all respects a fit person to hold the same;
 - (c) that the premises in or upon which the agency or business is being carried on are not in all respects suitable for such agency or business;
 - (d) that the agency or business has been or is being improperly conducted;
 - (e) that the conditions (if any) imposed by the license or permit have not been complied with.
- (g) by inserting after section one hundred and four the following new section:—

New s. 104A.

104A. Any person who, not being the holder of a theatrical agent's license or theatrical employer's permit under this Part of this Act, opens or carries on a theatrical agency or carries on business as a theatrical employer shall be liable on summary conviction to a penalty not exceeding fifty pounds, and if the offence continues after such conviction to a further penalty not exceeding ten pounds for each day during which the offence continues.

Offences.

Where in any prosecution for an offence it is proved that the defendant has carried on a theatrical agency or has carried on business as a theatrical employer, and that in connection with the carrying on of such agency or business there has been fraud, extortion, or immorality on the part of the defendant, or by any other person with

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with his connivance or collusion, he shall be liable to a penalty not exceeding two hundred and fifty pounds, or to imprisonment for a term not exceeding six months, or to both such penalty and imprisonment.

Sec. 105.
(Penalty for
contra-
vention
of Part.)

(h) (i) by inserting in section one hundred and five after the words "Any person who" the words "commits an offence against this Part of this Act or who";

(ii) by inserting in the same section before the word "conviction" the word "summary."

New s. 105A.

(i) by inserting after section one hundred and five the following new section:—

Who may
take pro-
ceedings.

105A. Proceedings for an offence against this Part of this Act or the regulations thereunder may be taken by any person acting with the authority of the Minister.

Sec. 107.
(Regula-
tions.)

(j) (i) by inserting in paragraph (b) of section one hundred and seven after the word "licenses" where firstly occurring the words "and permits";

(ii) by inserting in paragraph (c) of the same section after the word "licenses" the words "and permits";

(iii) by inserting at the end of paragraph (d) of the same section the words "and holders of permits";

(iv) by inserting after paragraph (d) of the same section the following new paragraphs:—

(d i) regulating any premises used for the purposes of or in connection with any theatrical agency or theatrical employer's business;

(d ii) prescribing measures for the prevention of fraud, extortion or immorality in connection with the carrying on of any theatrical agency or theatrical employer's business;

(d iii) restricting or regulating contracts for the employment abroad in any capacity of female persons;

(d iv)

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(d iv) prescribing the manner in which, and the conditions on which, securities deposited under this Act may be applied by the Minister;

(d v) prescribing any matter or thing which by this Part of this Act is required or permitted to be prescribed.

3. The Principal Act is further amended—

Further
amendment
of Act No. 17,
1912.

- (a) (i) by omitting from subsection one of section ninety-two the words "in localities distant from those in which they find themselves"; Sec. 92. (Advances to meet expenses of travelling to work.)
- (ii) by inserting in subsection two of the same section before the words "then or future employer" the word "past";
- (b) (i) by omitting from subsection two of section ninety-three the words "If any person" and by inserting in lieu thereof the words "Any person who"; Sec. 93 (2). (Penalty for obtaining loan by fraud.)
- (ii) by omitting from the same subsection the words "in superintendence";
- (iii) by omitting from the same subsection all words occurring after the words "or to procure labour" and by inserting in lieu thereof the words "or who harasses or molests others proceeding to, from or in employment shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a penalty not exceeding ten pounds.

4. The Principal Act is further amended—

Further
amendment
of Act No. 17,
1912.

- (a) (i) by omitting from section three the figures "12" and by inserting in lieu thereof the figures and letter "12c"; Sec. 3. (Revision.)
- (ii) by omitting from the same section the figures "48" and by inserting in lieu thereof the figures and letter "48E";

(iii)

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- (iii) by inserting in the same section after the matter relating to Part VII the following matter:—

PART VIIA—TRADES UNIONS—ss. 52A–52K.

- (iv) by inserting at the end of the same section the following matter:—

PART IX.—THE BOARD OF TRADE—ss. 74–89.

PART X.—THE ORGANIZATION OF THE
LABOUR MARKET—ss. 90–107.

PART XI.—INSURANCE AGAINST UNEMPLOYMENT—s. 108.

Sec. 13f.
(Revision.)

- (b) by omitting from section 13f the words “ the Principal ” and by inserting in lieu thereof the word “ this ”;

Sec. 45.
(Revision.)

- (c) by omitting from section forty-five the words “ Board of Water Supply and Sewerage ” and by inserting in lieu thereof the words “ Metropolitan Water, Sewerage and Drainage Board.”

Amendment
of Act No.
14, 1926.

5. The Industrial Arbitration (Amendment) Act, 1926, as amended by subsequent Acts, is further amended by inserting in paragraph (b) of subsection one of section seven after the words “published in the Gazette” where secondly occurring, the following proviso:—

Provided that if within sixty days from the date of any such declaration or of the publication in the Gazette of any such adjustment, application is not made to the Registrar in accordance with the provisions of section 12b or section 26a of the Principal Act for variation of any award or industrial agreement the automatic effect on such award or industrial agreement of such declaration or adjustment shall cease until such time as such award or industrial agreement is varied by the Registrar on application made to him in accordance with section 12b or section 26a.

METROPOLITAN