

## INDUSTRIAL ARBITRATION (AMENDMENT) ACT.

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Act No. 14, 1936.

**Edward VIII,  
No. 14, 1936.**

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An Act to provide for the appointment of an additional member of the Industrial Commission; to amend the law relating to the appointment of members and alternate members of conciliation committees; to extend the powers of apprenticeship councils; to provide for the appointment of an additional Apprenticeship Commissioner; to extend the term of appointment of the Apprenticeship Commissioner; to validate certain matters; to amend the Industrial Arbitration Act, 1912, the Industrial Arbitration (Amendment) Act, 1926, the  
Industrial

Industrial Arbitration (Amendment) Act, 1932, and certain other Acts; and for purposes connected therewith. [Assented to, 25th May, 1936.]

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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.** (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1936," and shall be read and construed with the Industrial Arbitration Act, 1912, as amended by subsequent Acts, and the Industrial Arbitration (Amendment) Act, 1926, as amended by subsequent Acts and the Industrial Arbitration (Amendment) Act, 1932.

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

**2.** The Principal Act is amended—

- (a) (i) by omitting from the definition of "Apprentice" in section five the words "under twenty-two years of age";
- (ii) by inserting in the definition of "Improver" in the same section after the word "age" the words "not being a trainee apprentice";
- (iii) by inserting at the end of the same section the following new definition:—

Amendment of  
Act No. 17,  
1912.  
Sec. 5.  
(Defini-  
tions.)

"Trainee apprentice" means an employee who, under conditions prescribed by an award of an apprenticeship council relating to any trade is serving a period

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of training without an indenture of apprenticeship or other written contract for the purpose of rendering him fit to be a qualified worker in that trade.

Sec. 26A.  
(No wages less than declared or adjusted living wage.)

- (b) by inserting at the end of subsection one of section 26A the following words:—"This subsection shall not apply to an industrial agreement entered into or an award made for wages of apprentices or trainee apprentices."

Sec. 80.  
(Functions of Board of Trade.)

- (c) by inserting at the end of section eighty the following new subsection—

(2) Subsection one of this section shall apply to and in respect of trainee apprentices in the same manner and to the same extent as it applies to apprentices.

In the application of subsection one of this section to and in respect of trainee apprentices—

- (a) a reference to the master of an apprentice shall be construed as a reference to the employer of a trainee apprentice;
- (b) a reference to apprenticeship shall be construed as a reference to the contract of employment of a trainee apprentice.

Sec. 101A.  
(Cancellation of license or permit.)

- (d) by omitting from section 101A the words "A theatrical agent's license or a theatrical employer's permit" and by inserting in lieu thereof the words "Any license or permit under this Part".

Amendment of Act No. 14, 1926.

**3.** (1) The Industrial Arbitration (Amendment) Act, 1926, as amended by subsequent Acts, is amended—

Sec. 6.  
(Industrial Commission.)

- (a) (i) by omitting from subsection one of section six the words "constituted by the appointment by the Governor of three members, one of whom" and by inserting in lieu thereof the words "The Governor may appoint four persons each of whom shall be a member of the Commission. One of such persons"

(ii)

(ii) by omitting from subsection four of the same section the words "The Commission may grant leave to appeal" and by inserting in lieu thereof the words "An appeal shall lie"; No. 14, 1936.

(iii) by inserting in the same subsection after the words "such appeal" the words "the Commission";

(iv) by inserting after subsection five of the same section the following new subsection—

(5A) The members other than the President shall have seniority according to the dates of their commissions or when the commissions of two or more of them bear the same date according to the precedence assigned to them by their commissions or failing such assignment according to the order of their being sworn. cf. Judiciary Act, 1903-1933 (Commonwealth), s. 6.

(v) by omitting subsection seven of the same section and by inserting in lieu thereof the following subsections:—

(7) (a) At sittings of the Commission three members shall be present as arranged by the President, and any question shall be decided according to the decision of the majority:

Provided, however, that the Commission may in any particular matter delegate any of its powers or functions to any one member.

(b) From any order, award, ruling or decision made by such member an appeal shall lie to the Commission, and on the appeal the Commission may vary any such order, award, ruling or decision in such manner as it thinks just. Industrial Arbitration (Amendment) Act, 1926, s. 6 (7).

(c) No member shall sit on the hearing of the appeal from any order, award, ruling or decision made by him other than cf. Act No. 35, 1900, s. 13.

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an appeal from an order, award, ruling or decision pronounced or made pro forma by consent of the parties.

cf. Judiciary  
Act, 1903-  
1933 (Com-  
monwealth),  
s. 18.

(d) Any member may state any case or reserve any question for the consideration of the Commission or may direct any case or question to be argued before the Commission.

*Ibid.* s. 7.

(7A) (a) In case of the absence of the President or of his inability to perform the duties of his office, all the duties and powers of the President shall, during such absence or inability, devolve upon the senior member.

(b) In case of the absence or inability of any member upon whom such powers and duties devolve they shall, during such absence or inability devolve upon the member who is next in seniority.

Sec. 8.  
(Concilia-  
tion Com-  
mittees.)

(b) (i) by inserting in subsection three of section eight, after the word "chairman" the words "Such representatives shall be persons who are or who have been engaged in the industry or calling, or who are acquainted with the working of the industry or calling";

(ii) by omitting from subsection four of the same section the words "employer or no employee in the industry can be found" and by inserting in lieu thereof the words "nomination has been made of a representative."

(2) The persons who, immediately before the commencement of this Act, were President and other members of the Commission shall continue to hold office as President and members of the Commission in all respects as if the amendments made by paragraph (a) of subsection one of this section had been in force at the date of their respective appointments.

4. (1) The Industrial Arbitration (Amendment) Act, 1926, is further amended by inserting next after section six the following new section:—

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Further amendment of Act No. 14, 1926.

New sec. 6A.

Decision of Commission or member final.

6A. (1) Except as provided in section six of this Act any decision of the Commission or of any member thereof in the exercise of any power or function delegated to him by the Commission, shall be final; and no award and no order or proceeding of the Commission or of any such member shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever.

(2) No writ of prohibition or certiorari shall lie in respect of any award, order, proceeding or direction of—

(a) the Commission, or

(b) any member thereof exercising any power or function delegated to him by the Commission,

relating to any industrial matter or any other matter which, on the face of the proceedings, appears to be or to relate to an industrial matter.

(2) Subsection one of this section shall be deemed to have commenced on the ninth day of December, one thousand nine hundred and twenty-seven.

5. The Industrial Arbitration (Amendment) Act, 1926, is further amended by inserting in paragraph (b) of subsection one of section seven, after the words "fourteen years" the words—

Further amendment of Act No. 14, 1926.

"The Commission shall declare the living wage for adult female employees in the State at fifty-four per centum (calculated to the nearest sixpence) of the living wage declared for adult male employees on the requirements of a man and wife with one child under the age of fourteen years."

6. (1) The Commission shall, within one week after the commencement of this Act, declare the living wage for adult female employees at fifty-four per centum (calculated as aforesaid) of the living wage for adult male

Declaration of living wage for adult female employees.

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male employees in the State as declared by the Commission under the Industrial Arbitration (Amendment) Act, 1926, on the twenty-fourth day of April, one thousand nine hundred and thirty-six.

(2) The living wage for adult female employees declared under this section shall, for all purposes, have force and effect as if it had been declared by the Commission under the Industrial Arbitration (Amendment) Act, 1926, on the twenty-fourth day of April, one thousand nine hundred and thirty-six, and as if the amendment made by section five of this Act had come into force immediately before such date.

Amendment  
of Act  
No. 39, 1932.  
New s. 10A.

**7.** The Industrial Arbitration (Amendment) Act, 1932, is further amended by inserting next after section ten the following new section:—

Decisions of  
conciliation  
commis-  
sioner and of  
apprentice-  
ship councils  
final.

10A. (1) Except as provided in section eight of this Act any decision of the conciliation commissioner in the exercise of the jurisdiction powers and functions conferred and imposed upon him by that section shall be final.

(2) Except as provided in section ten of this Act any decision of an apprenticeship council in the exercise of the powers and duties conferred and imposed upon it by that section shall be final.

(3) Except as provided in section eight or in section ten of this Act, no award, order or proceeding of the conciliation commissioner or of an apprenticeship council as the case may be, shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever.

(4) No writ of prohibition or certiorari shall lie in respect of any award, order, proceeding or direction of the conciliation commissioner or of an apprenticeship council in the exercise of the jurisdiction powers and functions conferred and imposed by section eight of this Act or in the exercise of the powers and duties conferred and imposed by section ten of this Act respectively.

8. The Industrial Arbitration (Amendment) Act, 1932, is amended—

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Amendment  
of Act No.  
39, 1932.

Sec. 10.

(Appren-  
ticeship  
Commis-  
sioner.)

(a) by omitting from subsection two of section ten the word "three" and by inserting in lieu thereof the word "seven";

(b) by inserting next after subsection four of the same section the following new subsection:—

(4A) (a) The Governor may from time to time appoint an additional apprenticeship commissioner who shall receive such fees or remuneration as the Governor may fix.

(b) Such appointment shall be for a period specified in the instrument of appointment but not exceeding twelve months.

(c) The apprenticeship commissioner may, by writing under his hand, delegate to the additional apprenticeship commissioner such of the powers, authorities, duties and functions conferred and imposed on the apprenticeship commissioner by this or any other Act as the apprenticeship commissioner may in and by such writing specify.

(d) The additional apprenticeship commissioner when acting within the scope of such delegation shall be deemed to be the apprenticeship commissioner.

(e) The apprenticeship commissioner may by writing under his hand revoke any delegation made under this section.

(f) During the temporary absence of the apprenticeship commissioner or during any vacancy in the position of apprenticeship commissioner the additional apprenticeship commissioner shall have and may exercise and perform all the powers, authorities, duties and functions of the apprenticeship commissioner.

(c) by inserting next after subsection six of the same section the following new subsection:—

(6A) (a) A copy of all indentures or other contracts of apprenticeship shall be forwarded by the master of the apprentice to the Industrial Registrar within one month of the date of execution.

(b)



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(b) No apprentice or trainee apprentice shall be employed by any person without the consent of the apprenticeship council.

(c) Any person who contravenes or fails to carry out any provision of this subsection shall be liable to a penalty not exceeding ten pounds.

(d) The penalty imposed by this subsection may be ordered to be paid by the registrar or an industrial magistrate subject to the provisions of section fifty-four of the Principal Act.

(d) by omitting from subsection nine of the same section all words after the word "matter," and by inserting in lieu thereof the words "shall be embodied in an award."

(e) by inserting next after subsection nine of the same section the following new subsection:—

cf. Act No.  
14, 1926,  
s. 9 (2).

(9A) (a) Any award of an apprenticeship council shall be settled by the registrar.

(b) Upon any settlement the registrar may refer any provision of the award or submit any question of law to the Commission and the Commission may give such direction as it deems proper or it may refer the matter back to the apprenticeship commissioner for report.

(c) After settlement the award shall be signed by the apprenticeship commissioner.

(d) The registrar shall when the award has been signed by the apprenticeship commissioner publish the same or such notification of the same as he thinks fit, in the Gazette, and shall notify the parties in the prescribed manner.

(f) by inserting next after subsection thirteen of the same section the following new subsection:—

(14) An apprenticeship council or the apprenticeship commissioner may submit any question arising in any matter to the Commission for its opinion and direction.

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**9.** The person holding office as apprenticeship commissioner at the commencement of this Act shall be deemed to have been validly appointed as such for a term of seven years.

**Apprenticeship Commissioner.**

**10.** Any award of an apprenticeship council made before the commencement of this Act in relation to the employment of trainee apprentices shall have the same force and effect as if this Act had been in force at the time when such award was made.

**Saving of awards of apprenticeship council.**

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