

**INDUSTRIAL ARBITRATION (APPRENTICESHIP)
AMENDMENT ACT, 1981, No. 81**

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 81, 1981.

An Act to amend the Industrial Arbitration Act, 1940, to provide for a conciliation commissioner for apprenticeships and apprenticeship conciliation committees; and to make other provisions with respect to apprenticeship. [Assented to, 3rd June, 1981.]

Industrial Arbitration (Apprenticeship) Amendment.

BE it enacted by the Queen'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. This Act may be cited as the "Industrial Arbitration (Apprenticeship) Amendment Act, 1981".

Commencement.

2. (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the Apprenticeship Act, 1981.

Principal Act.

3. The Industrial Arbitration Act, 1940, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

SCHEDULE 3.—AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

SCHEDULE 4.—AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

SCHEDULE 5.—AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

SCHEDULE 6.—AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT.

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SCHEDULE 7.—AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

SCHEDULE 8.—AMENDMENTS TO PART XII OF THE PRINCIPAL ACT.

SCHEDULE 9.—SAVINGS AND TRANSITIONAL PROVISIONS.

Amendment of Act No. 2, 1940.

5. The Principal Act is amended in the manner set forth in Schedules 1–8.

Savings and transitional provisions.

6. Schedule 9 has effect.

SCHEDULE 1.

(Sec. 5.)

AMENDMENTS TO PART I OF THE PRINCIPAL ACT.

(1) (a) Section 2—

From the matter relating to Part II, omit “, CONCILIATION COMMITTEES AND CONTRACT REGULATION TRIBUNALS—ss. 14–19.”, insert instead “AND COMMITTEES—ss. 14–18A.”.

(b) Section 2—

Omit the matter relating to Division 3 of Part II, insert instead:—

DIVISION 3.—*Establishment and Constitution of Committees—ss. 18, 18A.*

(c) Section 2—

From the matter relating to Part III, omit “20–38”, insert instead “19A–38G”.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(d) Section 2—

Omit the matter relating to Division 1 of Part III, insert instead:—

DIVISION 1.—*Committees Established under Section 18 (1)—ss. 19A–23B.*

DIVISION 1A.—*Apprenticeship Conciliation Committees—ss. 23C–23J.*

(e) Section 2—

After the matter relating to Division 2 of Part III, insert:—

DIVISION 3.—*Conciliation Commissioner for Apprenticeships—ss. 28, 29.*

(2) (a) Section 5 (1), definitions of “Apprentice”, “Apprenticeship award”, “Apprenticeship conciliation committee”, “Appropriate apprenticeship committee”—

After the definition of “Agreement”, insert:—

“Apprentice” means—

- (a) an indentured apprentice;
- (b) a probationer; and
- (c) a trainee apprentice,

within the meaning of the Apprenticeship Act, 1981.

“Apprenticeship award” means an award within the meaning of the Apprenticeship Act, 1981.

“Apprenticeship conciliation committee” means an apprenticeship conciliation committee constituted by the operation of section 18A (1).

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

“Appropriate apprenticeship committee” means—

- (a) in relation to any act, matter or thing concerning an apprenticeship—the apprenticeship conciliation committee on which powers are conferred by Division 1A of Part III with respect to that apprenticeship; or
- (b) in relation to a trade or calling—the apprenticeship conciliation committee on which powers are conferred by that Division with respect to apprenticeships in that trade or calling or, if there is more than one such committee, each of them.

(b) Section 5 (1), definition of “Award”—

Omit the definition, insert instead:—

“Award” means—

- (a) an award, all of the provisions of which are made under this Act, and any variation thereof; and
- (b) an apprenticeship award.

(c) Section 5 (1), definition of “Committee”—

Omit the definition, insert instead:—

“Committee” means—

- (a) a conciliation committee established under section 18 (1); and
- (b) an apprenticeship conciliation committee.

(3) (a) Section 8B (4)—

Omit “, or award or apprenticeship agreement under the Apprentices Act, 1969,” wherever occurring.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 1—*continued.*AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(b) Section 8B (4A)—

After section 8B (4), insert:—

(4A) Where the commission cancels or partially cancels an apprenticeship award pursuant to subsection (4), the registrar shall forthwith provide the Director of Apprenticeship with written particulars of the cancellation or partial cancellation.

(c) Section 8B (5)—

Omit “or award or apprenticeship agreement under the Apprentices Act, 1969,” wherever occurring.

(d) Section 8B (5)—

Omit “or an apprenticeship committee established under that Act”.

(4) (a) Section 9 (3)—

Omit “, or award or apprenticeship agreement under the Apprentices Act, 1969,”.

(b) Section 9 (3A)—

After section 9 (3), insert:—

(3A) Where the commission cancels an apprenticeship award pursuant to subsection (3), the registrar shall forthwith provide the Director of Apprenticeship with written particulars of the cancellation.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 1—*continued.*

AMENDMENTS TO PART I OF THE PRINCIPAL ACT—*continued.*

(c) Section 9 (4)—

Omit “or award or apprenticeship agreement under the Apprentices Act, 1969,” wherever occurring.

(d) Section 9 (4)—

Omit “or an apprenticeship committee established under that Act”.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO PART II OF THE PRINCIPAL ACT.

(1) Part II, heading—

Omit “, CONCILIATION COMMITTEES AND CONTRACT REGULATION TRIBUNALS”, insert instead “AND COMMITTEES”.

(2) (a) Section 14 (13)—

Omit:—

At such conference the members of the conciliation committee established for the industry or calling concerned or, as the case may be, of the contract regulation tribunal established for the class of contracts concerned shall, if the commission so directs, sit with the commission.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(b) Section 14 (14)—

After section 14 (13), insert:—

(14) At a conference called under subsection (13), the members of—

- (a) the conciliation committee established for the industry or calling concerned;
- (b) the appropriate apprenticeship committee for any apprenticeships concerned; or
- (c) the contract regulation tribunal established for the class of contracts concerned,

as the case may be, shall, if the commission so directs, sit with the commission.

(3) (a) Section 15 (1)—

After “commissioner”, insert “and another of them to be the conciliation commissioner for apprenticeships”.

(b) Section 15 (1A) (a)—

After “commissioner”, insert “and the conciliation commissioner for apprenticeships”.

(c) Section 15 (1A) (c)—

Omit “It shall”, insert instead “Subject to subsection (1c), it shall”.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 2—*continued.*

AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(d) Section 15 (1c)—

After section 15 (1B), insert:—

(1c) The conciliation commissioner for apprenticeships shall be the chairman of each apprenticeship conciliation committee unless—

(a) he is absent or unable to perform the duties of chairman; or

(b) there is a vacancy in the office of conciliation commissioner for apprenticeships,

and shall devote the whole of his time to the duties of his office as conciliation commissioner for apprenticeships.

(e) Section 15 (4)—

Omit “his office”, insert instead “the office of conciliation commissioner”.

(f) Section 15 (4)—

Omit “office” where secondly occurring, insert instead “the office of conciliation commissioner”.

(4) Part II, Division 3, heading—

Omit the heading, insert instead:—

DIVISION 3.—*Establishment and Constitution of Committees.*

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 2—*continued.*AMENDMENTS TO PART II OF THE PRINCIPAL ACT—*continued.*

(5) Section 18 (11)—

After section 18 (10), insert:—

(11) In this section, “committee” means a conciliation committee established under subsection (1).

(6) Section 18A—

After section 18, insert:—

Apprenticeship conciliation committees.

18A. (1) The conciliation commissioner for apprenticeships or, in any of the circumstances referred to in section 15 (1c) (a) or (b), another conciliation commissioner nominated by the senior conciliation commissioner, together with the appointed members for the time being of an apprenticeship training committee established by the commission under section 12 (1) (a) of the Apprenticeship Act, 1981, are hereby constituted an apprenticeship conciliation committee.

(2) The members of an apprenticeship conciliation committee other than the chairman, shall not receive remuneration by way of salaries or fees, but may be reimbursed such fares and out-of-pocket expenses as are approved by the Minister.

(3) Where any variation in the membership of an apprenticeship conciliation committee occurs, the committee as newly constituted may continue the hearing of and may determine any part-heard case.

(4) The Director-General of Technical and Further Education or a person nominated by him for the purpose shall, except for the purposes of subsection (2) and section 77E, be deemed to be a member of an apprenticeship conciliation committee.

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SCHEDULE 3.

(Sec. 5.)

AMENDMENTS TO PART III OF THE PRINCIPAL ACT.

- (1) Part III, Division 1, heading—

After “Committees”, insert “Established under Section 18 (1)”.

- (2) Section 19A—

Before section 20, insert:—

Application of Division.

19A. The provisions of this Division, other than sections 20A, 23A and 23B, do not apply to or in respect of—

- (a) apprenticeship conciliation committees; or
- (b) orders or awards relating to the employment of apprentices.

- (3) (a) Section 20 (1B) (a)—

After “employee”, insert “, not being an apprentice,”.

- (b) Section 20 (1B) (b)—

After “an officer”, insert “, not being an apprentice,”.

- (4) Part III, Division 1A—

After section 23B, insert:—

DIVISION 1A.—Apprenticeship Conciliation Committees.

Limitation on powers, etc.

23C. (1) In this section, “corresponding training committee”, in relation to an apprenticeship conciliation committee, means the training committee established under section 12 (1) (a) of the Apprenticeship Act, 1981, the members of which, other than the chairman, are members of the apprenticeship conciliation committee.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(2) The powers, authorities, duties and functions conferred and imposed upon an apprenticeship conciliation committee by this Division may be exercised and shall be performed by the committee only in relation to apprentices subject to apprenticeships with respect to which its corresponding training committee is, for the time being, assigned functions under section 13 (2) of the Apprenticeship Act, 1981, and the employers of those apprentices.

Awards, generally.

23D. (1) Subject to section 23A and this section, an apprenticeship conciliation committee may make an order or award—

- (a) prescribing generally or in any particular case the hours and conditions of employment and the wages of apprentices;
- (b) providing that a contract of apprenticeship may be made between an apprentice and an industrial union of employers or more than one employer and, in relation thereto, determining the manner in which any such contract may be entered into and specifying the rights, duties and liabilities of the parties to such a contract; or
- (c) exempting any employer from all or any of the conditions of employment prescribed by provisions made under paragraph (a) on being satisfied that there exist, in the establishment of the employer, apprenticeship conditions of a special and proper character which are advantageous to apprentices.

(2) In the exercise of its powers under subsection (1), an apprenticeship conciliation committee shall not, where it fixes rates of wages for apprentices in any trade or calling, fix any rate which discriminates between apprentices on the basis of their sexes.

(3) A decision of an apprenticeship conciliation committee which is of general application to apprentices in a particular trade or calling and a decision of any such committee which fixes wages

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SCHEDULE 3—continued.**AMENDMENTS TO PART III OF THE PRINCIPAL ACT—continued.**

or conditions of employment in respect of apprentices employed by a particular employer or group of employers shall be embodied in an award.

(4) Subject to subsection (3), a decision of an apprenticeship conciliation committee which relates only to an individual apprentice shall be embodied in an order.

Incentives to apprentices.

23E. An apprenticeship conciliation committee may include in an award made by it provisions granting extra remuneration to apprentices who attain specified standards of excellence in their studies at colleges within the meaning of the Technical and Further Education Act, 1974.

Disciplinary code.

23F. (1) In this section—

“apprenticeship agreement” means an industrial agreement relating to the wages and conditions of employment of apprentices or persons employed with a view to apprenticeship;

“commissioner” means the conciliation commissioner for apprenticeships.

(2) An apprenticeship conciliation committee may, upon application made therefor, insert (by way of variation or otherwise) in an award or apprenticeship agreement made under this Act provisions having the nature of a disciplinary code.

Industrial Arbitration (Apprenticeship) Amendment.

*SCHEDULE 3—continued.**AMENDMENTS TO PART III OF THE PRINCIPAL ACT—continued.*

(3) Where an apprenticeship conciliation committee inserts in an award or apprenticeship agreement provisions referred to in subsection (2) and those provisions include the conferring on an employer of power to suspend an apprentice, those provisions shall also include—

- (a) an obligation on the employer, where he suspends an apprentice, to effect the suspension by handing or delivering to the apprentice a notice in writing specifying particulars of the offence alleged to have been committed, the period of the suspension and the address of the commissioner and that the apprentice is entitled to apply to the commissioner at that address, by letter, to have the suspension set aside;
- (b) an obligation on the employer to forward a copy of the notice to the commissioner and, where the apprentice is under the age of 18 years, to the parent or guardian of the apprentice, on the same day as the notice is handed or delivered to the apprentice; and
- (c) a provision that any purported suspension not effected in accordance with the award or apprenticeship agreement shall be nugatory.

(4) The commissioner may, of his own motion, review a suspension and shall, where application is made by an apprentice for a review of a suspension in terms of an award or apprenticeship agreement, review the suspension without delay, and may make such order with regard thereto as he thinks fit, or he may convene a meeting of the appropriate apprenticeship committee for those purposes.

Approval of certain apprenticeships.

23G. Where an application to establish an apprenticeship is referred to an apprenticeship conciliation committee under section 23 (2) (c) or 29 (2) (c) of the Apprenticeship Act, 1981, the committee may—

- (a) approve the application; or

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- (b) make such order with respect to the probationer or trainee apprentice to whom the application relates or his employer as it considers appropriate to the particular case, including an order that the probationer or trainee apprentice be no longer employed by the applicant in a specified trade or calling.

Extension of apprenticeship term.

23H. (1) Notwithstanding the provisions of any apprenticeship award or industrial agreement and any regulation made under the Apprenticeship Act, 1981, the appropriate apprenticeship committee may extend the term of a particular apprenticeship beyond the term prescribed with respect to it by regulations made under the Apprenticeship Act, 1981, where, on application made to it before the end of that term, the committee is satisfied that the apprentice to whom the application relates will not have attained an adequate standard of skill and knowledge by the end of that term.

(2) Where the term of an apprenticeship is extended as provided by subsection (1) and the contract relating to the apprenticeship, whether made before or after the commencement of this section, provides for a term of apprenticeship shorter than that to which the apprenticeship is extended, the contract shall be deemed to be varied to the extent necessary to provide a term of apprenticeship in conformity with the extended term.

Remedial and disciplinary powers.

23I. (1) An apprenticeship conciliation committee may, where a matter relating to an apprenticeship is referred to it under section 29 (2)—

- (a) exercise, with respect to the matter, any of the powers conferred on the conciliation commissioner for apprenticeships by section 29 (1) (a), (b), (c) or (d); or

Industrial Arbitration (Apprenticeship) Amendment.

*SCHEDULE 3—continued.**AMENDMENTS TO PART III OF THE PRINCIPAL ACT—continued.*

- (b) whether or not a recommendation with respect to that course of action is made to it under section 29 (1) (f), dispose of the matter by cancelling an indentured apprentice's indenture or terminating a trainee apprentice's contract of employment.

(2) An apprenticeship conciliation committee may approve of the cancellation of an indenture of apprenticeship, but only if the committee considers the reasons for the cancellation are sufficiently compelling.

(3) A decision of an apprenticeship conciliation committee to do anything under subsection (1) (a) or (b) or (2) shall be embodied in an order which shall, when signed by the chairman of the committee, be evidence of its decision.

(4) An employer is not in breach of any award or industrial agreement by reason only of his giving effect to an order made under subsection (3).

(5) An apprenticeship conciliation committee may submit any question arising out of any matter before it to the commission for its opinion and direction.

Certification of certain tradesmen.

23J. (1) Where it is proved to the satisfaction of an apprenticeship conciliation committee—

- (a) that a person has served a period (being not less than the term of an appropriate apprenticeship) as a learner in the employ of an employer or employers in the trade or calling for which the committee is an appropriate apprenticeship committee; and

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SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- (b) that during that service the person has received training rendering him fit to be a qualified worker in that trade or calling,

the committee may authorise the Director of Apprenticeship to issue that person with a certificate in the form prescribed for the purposes of this section under the Apprenticeship Act, 1981.

- (2) A certificate issued pursuant to this section shall entitle the person to whom it is issued to recognition as a qualified tradesman in the trade or calling specified therein.

- (5) (a) Section 25 (3)—

Omit the subsection, insert instead:—

- (3) At a conference called under subsection (1)—

- (a) the members of the conciliation committee established for the industry or calling concerned;
- (b) the members of the appropriate apprenticeship committee for any apprenticeships concerned; or
- (c) in a case referred to in subsection (1) (d) or (e), the members of the contract regulation tribunal concerned,

shall, if the conciliation commissioner summons them so to do, sit with the conciliation commissioner.

- (b) Section 25 (4) (a) (i)—

Before “make”, insert “except as provided in subparagraph (ia),”.

Industrial Arbitration (Apprenticeship) Amendment.

*SCHEDULE 3—continued.**AMENDMENTS TO PART III OF THE PRINCIPAL ACT—continued.*

(c) Section 25 (4) (a) (i)—

Omit “committee; or”, insert instead “committee;”.

(d) Section 25 (4) (a) (ia)—

After section 25 (4) (a) (i), insert:—

- (ia) if the question, dispute or difficulty relates to apprenticeships, make an order or award in relation to the question, dispute or difficulty, which order or award shall have the like effect as an order or award made by the appropriate apprenticeship committee; or

(e) Section 25 (4) (b) (ii)—

Omit “commission; or”, insert instead “commission;”.

(f) Section 25 (4) (b1)—

After section 25 (4) (b), insert:—

- (b1) where the members of an apprenticeship conciliation committee are summoned to sit with the conciliation commissioner they, together with the conciliation commissioner as chairman, may—

- (i) sit as an apprenticeship conciliation committee and make an order or award in relation to the question, dispute or difficulty; or
(ii) refer the question, dispute or difficulty to the commission; or

(6) Section 26—

After “calling”, insert “or of the appropriate apprenticeship committee for any apprenticeships to which the matter relates”.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(7) (a) Section 27—

Omit “24, 26 and 77” wherever occurring, insert instead “24 and 26”.

(b) Section 27—

Omit “and 77” where lastly occurring, insert instead “and 77 (2)”.

(8) Part III, Division 3—

After section 27, insert:—

DIVISION 3.—*Conciliation Commissioner for Apprenticeships.*

Interpretation: Div. 3.

28.(1) In this Division, “the commissioner” means—

- (a) the conciliation commissioner for apprenticeships; or
- (b) in any of the circumstances referred to in section 15 (1c) (a) or (b), another conciliation commissioner nominated by the senior conciliation commissioner.

(2) Nothing in this Division prevents the commissioner from exercising or performing any power, authority, duty or function conferred or imposed upon him elsewhere by this Act as a conciliation commissioner.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.***Jurisdiction.**

29. (1) The commissioner, sitting alone, may—
- (a) conciliate on differences and disputes between an employer and an apprentice or, where the apprentice is under the age of 18 years, his parents or guardians;
 - (b) determine any such difference or dispute by directing either party to make such redress (other than by way of damages for breach of contract) as the commissioner, in his absolute discretion, considers equitable;
 - (c) authorise an employer to suspend an apprentice without pay for a period not exceeding 12 months—
 - (i) where the apprentice or the employer so requests, if the commissioner considers the reasons for the request are sufficiently compelling or in a case of proven serious misconduct by the apprentice or breach of his contract of apprenticeship; or
 - (ii) on the recommendation of an apprenticeship training committee established under the Apprenticeship Act, 1981;
 - (d) vary or amend the provisions of a contract of apprenticeship;
 - (e) on the recommendation of an apprenticeship training committee established under the Apprenticeship Act, 1981—
 - (i) require an employer to afford an apprentice employed by him further or better facilities for training within the scope of the employer's business; or
 - (ii) cancel an indentured apprentice's indenture or terminate a trainee apprentice's contract of employment; or

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SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

- (f) recommend to the appropriate apprenticeship committee that an indentured apprentice's indenture be cancelled or that a trainee apprentice's contract of employment be terminated.

(2) The commissioner may refer any matter relating to an apprenticeship that is before him to the appropriate apprenticeship committee whether or not he has commenced to take any action under subsection (1) (a) with respect to the matter but before he has made an order with respect to the matter under subsection (3).

(3) A decision of the commissioner to do anything under subsection (1) (b), (c), (d) or (e) shall be embodied in an order which shall, when signed by the commissioner, be evidence of his decision.

(4) An employer is not in breach of any award or industrial agreement by reason only of his giving effect to an order made under subsection (3).

(5) Where any question with respect to the training of apprentices arises out of any matter before him, the commissioner may refer the question to the Director of Apprenticeship for his consideration and report.

(6) The commissioner may submit any question arising out of any matter before him to the commission for its opinion and direction.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 3—*continued.*AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(9) (a) Section 30 (1)—

Omit “The”, insert instead “Subject to subsection (1A), the”.

(b) Section 30 (1A)—

After section 30 (1), insert:—

(1A) Subsection (1) does not enable the commission to exercise the powers, jurisdiction or functions of an apprenticeship conciliation committee unless the committee is constituted by the operation of section 18A (1).

(10) Section 30B (1) (c)—

Omit “the Apprentices Act, 1969”, insert instead “section 14 (5) of the Apprenticeship Act, 1981”.

(11) (a) Section 35 (1) (a)—

Omit “encourage and create councils”, insert instead “establish, under section 12 (1) (a) of the Apprenticeship Act, 1981, apprenticeship training committees composed of representatives”.

(b) Section 35 (2) (d)—

Omit “or” where lastly occurring, insert instead “of”.

(12) (a) Section 36 (1)—

After “make,”, insert “each apprenticeship award and”.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 3—*continued.*

AMENDMENTS TO PART III OF THE PRINCIPAL ACT—*continued.*

(b) Section 36 (1A)—

After section 36 (1), insert:—

(1A) The power conferred on the commission by subsection (1) to make amendments to an award does not extend to empowering the commission to vary the regulated provisions, within the meaning of the Apprenticeship Act, 1981, of an apprenticeship award.

SCHEDULE 4.

(Sec. 5.)

AMENDMENTS TO PART V OF THE PRINCIPAL ACT.

(1) Section 53 (3)—

Omit the subsection.

(2) Section 55 (4)—

Omit “or trainee apprentices”.

(3) (a) Section 56 (1) (a)—

Omit “or an apprenticeship council”.

(b) Section 56 (4)—

Omit “or trainee apprentices”.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 5.

(Sec. 5.)

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT.

(1) (a) Section 74 (1)—

Omit the subsection, insert instead:—

(1) Proceedings before a committee shall be commenced—

- (a) by reference to the committee by the commission or the Minister;
- (b) where the committee is not an apprenticeship conciliation committee, by application to the committee by employers or employees in the industries or callings for which the committee has been established; or
- (c) where the committee is an apprenticeship conciliation committee, by application to the committee by—
 - (i) an association or industrial union whose members are employers, or an industrial union whose members are employees, in a trade for apprenticeships in which a training committee has been established under section 12 (1) (a) of the Apprenticeship Act, 1981;
 - (ii) an employer of apprentices in that trade;
 - (iii) an apprentice employed in that trade; or
 - (iv) the Director of Apprenticeship.

(b) Section 74 (2A)—

After section 74 (2), insert:—

(2A) An application under subsection (1) (c) shall—

- (a) be in or to the effect of the prescribed form;
- (b) contain the prescribed particulars; and
- (c) be signed by such persons of such classes or descriptions as may be prescribed.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 5—*continued.*

AMENDMENTS TO PART VII OF THE PRINCIPAL ACT—*continued.*

(2) Section 77D (c), proviso—

After “industry” wherever occurring, insert “, trade”.

SCHEDULE 6.

(Sec. 5.)

AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT.

(1) (a) Section 87—

Omit “shall be binding on any or all employers and employees engaged in the industry or calling”, insert instead:—

made under this Act shall be binding—

- (a) except as provided in paragraph (b)—on such of the employers and employees engaged in the industry or calling to which the award relates; or
- (b) where it forms part of an apprenticeship award—on such of the employers and apprentices to whom the award applies engaged in the trade or calling to which the award relates,

(b) Section 87 (2)—

At the end of section 87, insert:—

(2) The regulated provisions, within the meaning of the Apprenticeship Act, 1981, of an apprenticeship award shall be binding—

- (a) on such of the employers as are bound by the other provisions of the award of which the regulated provisions form part; and

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SCHEDULE 6—continued.**AMENDMENTS TO PART VIII OF THE PRINCIPAL ACT—continued.**

- (b) on any apprentices employed by them in the trade or calling to which the award relates.

(2) Sections 88AA, 88AB—

After section 88A, insert:—

Entry to trades.

88AA. No provision shall be inserted in an award made under this Act prohibiting the entry of males or females into an apprenticeship in a trade or calling unless the commission is satisfied that the work to be performed in that trade or calling is unsuitable for males or females, as the case may be.

Apprenticeships may be completed.

88AB. No award made under this Act shall contain any provision relating to age which would prevent an apprentice from completing the full term of his apprenticeship.

(3) Section 90—

After “Act”, insert “, the Apprenticeship Act, 1981,”.

(4) Section 90A (1)—

After “this Act”, insert “or an apprenticeship award”.

(5) Section 91—

After “Act”, insert “or the Interpretation Act, 1897,”.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 7.

(Sec. 5.)

AMENDMENTS TO PART IX OF THE PRINCIPAL ACT.

(1) Section 92 (1A)—

After section 92 (1), insert:—

(1A) Where a regulation made under section 21 (2) of the Apprenticeship Act, 1981, is in force in respect of a trade or calling prescribed by the regulated provisions, within the meaning of the Apprenticeship Act, 1981, of an apprenticeship award, the provisions of subsection (1) (a) and (b) do not apply except in relation to the payment of any price, rate or amount fixed by the award to a person to whom the award applies.

(2) (a) Section 96 (1)—

Omit “Every employer in an industry in respect of which an award or an industrial agreement is in force”, insert instead:—

Every employer—

- (a) in an industry in respect of which an award or industrial agreement is in force; or
- (b) in a trade or calling prescribed for the purposes of section 21 (1) of the Apprenticeship Act, 1981,

(b) Section 96 (2)—

Omit “shall be exhibited and kept exhibited by every employer carrying on an industry”, insert instead “and, if the employer employs any apprentices, of an apprenticeship award shall be exhibited and kept exhibited by every employer carrying on an industry or, as the case may be, a trade or calling”.

(c) Section 96 (2)—

After “such industry”, insert “or trade or calling”.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 8.

(Sec. 5.)

AMENDMENTS TO PART XII OF THE PRINCIPAL ACT.

(1) Section 119 (1)—

Omit “or where an order is made under subsection (4A) of section 28 for the refund of any premium, fee, gift, reward, bonus or consideration or the value thereof,”.

(2) Section 119 (1)—

Omit “or for the amount of the value of such premium, fee, gift, reward, bonus or consideration”.

SCHEDULE 9.

(Sec. 6.)

SAVINGS AND TRANSITIONAL PROVISIONS.

Interpretation: Sch. 9.

1. (1) In this Schedule—

“commission” has the meaning ascribed thereto by section 5 (1) of the Principal Act;

“corresponding conciliation committee”, in relation to an apprenticeship committee established under the former Act, means the apprenticeship conciliation committee the members of which are, immediately after the commencement, the same as those of the apprenticeship committee immediately before the commencement;

“former Act” means the Apprentices Act, 1969;

“the commencement” means the commencement of this Schedule.

(2) In this Schedule, a reference to the Principal Act is a reference to that Act, as amended by this Act.

Saving of certain agreements, etc.

2. (1) Any agreement or variation thereof made under section 8 of the former Act and in force immediately before the commencement shall, on the commencement, be deemed to have been made under section 11 of the Principal Act.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 9—*continued.*

SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(2) Any apprenticeship agreement or variation thereof filed before the commencement in accordance with section 8 of the former Act shall, on the commencement, be deemed to be an industrial agreement or variation thereof filed in accordance with section 11 of the Principal Act.

(3) Forthwith after the commencement, the Director of Apprenticeship shall forward to the industrial registrar under the Principal Act any agreement or variation thereof to which subclause (2) relates.

Conciliation commissioner deemed appointed.

3. The person holding the office of Apprenticeship Commissioner under the former Act immediately before the commencement shall, on the commencement, be deemed to be appointed as a conciliation commissioner under section 15 (1) of the Principal Act and to be appointed under that subsection as the conciliation commissioner for apprenticeships.

Saving of certain awards, orders, etc.

4. (1) Any provisions set forth immediately before the commencement in the form of—

- (a) an award made under section 18 (3) of the former Act by an apprenticeship committee or any variation thereof made under section 24 (6) of that Act by the commission; or
- (b) an award made under section 24 (6) of that Act by the commission by reason of an appeal from an award made under section 18 (3) of that Act by an apprenticeship committee,

shall, on the commencement, be deemed to comprise an award made by the corresponding conciliation committee under section 23b (1) of the Principal Act.

(2) Any approval given under section 28 (2) or 30 (2) of the former Act before the commencement by the Director of Apprenticeship or an apprenticeship committee, being an approval with respect to a probationer or trainee apprentice above the age of 21 years, shall, on the commencement, be deemed to have been given under section 23g of the Principal Act by the corresponding conciliation committee.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 9—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.*

(3) Any order made under section 28 (2) of the former Act before the commencement by an apprenticeship committee, being an order with respect to a probationer above the age of 21 years shall, on the commencement, be deemed to have been made under section 23G of the Principal Act by the corresponding conciliation committee.

(4) Any extension granted under section 40 (7) of the former Act by an apprenticeship committee before the commencement shall, on the commencement, be deemed to have been granted under section 23H of the Principal Act by the corresponding conciliation committee.

(5) Any approval given under section 31 (1) of the former Act by an apprenticeship committee shall, on the commencement, be deemed to have been given under section 23I (2) of the Principal Act by the corresponding conciliation committee.

(6) Any order made under section 18 (7) of the former Act by an apprenticeship committee, being an order which had effect immediately before the commencement, shall, on the commencement, be deemed to be an order made under section 23I (3) of the Principal Act by the corresponding conciliation committee.

(7) Any certificate issued under section 38 of the former Act by an apprenticeship committee before the commencement shall, on the commencement, be deemed to be a certificate issued pursuant to section 23J of the Principal Act with the authority of the corresponding conciliation committee.

(8) Any recommendation made under section 16 (2) of the former Act by the Apprenticeship Commissioner to an apprenticeship committee shall, on the commencement, be deemed to be a recommendation made under section 29 (1) (f) of the Principal Act by the conciliation commissioner for apprenticeships to the corresponding conciliation committee.

(9) Any order made under section 16 (3) of the former Act by the Apprenticeship Commissioner, being an order which had effect immediately before the commencement, shall, on the commencement, be deemed to be an order made under section 29 (3) of the Principal Act by the conciliation commissioner for apprenticeships.

(10) Any award, order, ruling or decision made by the commission under section 21 or 24 (6) of the former Act, being an award, order, ruling or decision—

(a) having effect immediately before the commencement; and

(b) relating to a matter of the same nature as a matter with respect to which the commission could, immediately after the commencement, make an award, order, ruling or decision under section 30 (1) of the Principal Act,

shall, on the commencement, be deemed to be an award, order, ruling or decision made under section 30 (1) of the Principal Act by the commission.

Industrial Arbitration (Apprenticeship) Amendment.

SCHEDULE 9—*continued.*SAVINGS AND TRANSITIONAL PROVISIONS—*continued.***Continuation of proceedings.**

5. (1) Where, before the commencement, an apprenticeship committee had commenced under any provision of the former Act to deal with any matter and the corresponding conciliation committee is empowered by the Principal Act to deal with matters of a like nature, that conciliation committee may, after the commencement, deal with and dispose of the matter under the Principal Act as if it had commenced to deal with the matter under the Principal Act.

(2) Where, before the commencement, the Apprenticeship Commissioner had commenced under any provision of the former Act to deal with any matter and the conciliation commissioner for apprenticeships is empowered by the Principal Act to deal with matters of a like nature, the conciliation commissioner may, after the commencement, deal with and dispose of the matter under the Principal Act as if he had commenced to deal with the matter under the Principal Act.

(3) Where, before the commencement, the commission or an industrial magistrate had commenced under any provision of the former Act to deal with any matter and it or he is empowered by the Principal Act to deal with matters of a like nature, the commission or the industrial magistrate, as the case may be, may, after the commencement, deal with and dispose of the matter under the Principal Act as if it or he had commenced to deal with the matter under the Principal Act.

Construction of certain references.

6. Any reference to the Apprenticeship Commissioner or an apprenticeship committee in an award or order or any other written instrument made or given under the former Act before the commencement, being (in the case of an order or other written instrument) of the same kind as the conciliation commissioner for apprenticeships or the corresponding conciliation committee may make or give under the Principal Act after the commencement, shall, on the commencement, be construed as a reference to the conciliation commissioner for apprenticeships or the corresponding conciliation committee, respectively.
