

**APPRENTICES ACT.**

**New South Wales**



ANNO OCTAVO DECIMO

**ELIZABETHÆ II REGINÆ**

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**Act No. 37, 1969.**

An Act to make provisions regarding apprentices; to provide for the constitution of the New South Wales Apprenticeship Council; to provide for the appointment of an Apprenticeship Commissioner and the establishment of apprenticeship committees, and to delineate their powers, authorities, duties and functions; to amend the Industrial Arbitration Act, 1940, and certain other Acts; to repeal certain Acts, wholly or in part; and for purposes connected therewith. [Assented to, 17th April, 1969.]

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**B**E it enacted by the Queen's Most Excellent Majesty, by No. 37, 1969 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:—

**PART I.****PRELIMINARY.**

**1.** (1) This Act may be cited as the "Apprentices Act, 1969" and shall be read and construed with the Industrial Arbitration Act, 1940. Short title, construction and citation.

(2) The Industrial Arbitration Act, 1940, is in this Act referred to as the Principal Act.

(3) The Industrial Arbitration Act, 1940, as subsequently amended and as amended by this Act, may be cited as the Industrial Arbitration Act, 1940–1969.

(4) The Apprentices (War Service) Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Apprentices (War Service) Act, 1939–1969.

(5) The Child Welfare Act, 1939, as subsequently amended and as amended by this Act, may be cited as the Child Welfare Act, 1939–1969.

**2.** (1) Except as provided in subsection two of this section, this Act shall commence upon a day appointed by the Governor pursuant to this subsection and notified by proclamation published in the Gazette. Commencement.

(2) Sections forty and seventy-two of this Act shall commence upon such day, or respectively on such days, (being a day or days not earlier than the day appointed pursuant to subsection one of this section) as may be appointed by the Governor in respect thereof and notified by proclamation published in the Gazette.

**3.**

No. 37, 1969 3. This Act is divided as follows :—

Division  
of Act.

PART I.—PRELIMINARY—ss. 1–8.

PART II.—THE NEW SOUTH WALES APPRENTICESHIP COUNCIL, APPRENTICESHIP COMMISSIONER, APPRENTICESHIP COMMITTEES, THE INDUSTRIAL COMMISSION AND THE DIRECTOR OF APPRENTICESHIP—

DIVISION 1.—*Constitution and Powers of the New South Wales Apprenticeship Council*—ss. 9, 10.

DIVISION 2.—*The Apprenticeship Commissioner*—ss. 11–16.

DIVISION 3.—*Apprenticeship Committees*.—ss. 17–20.

DIVISION 4.—*The Industrial Commission*—ss. 21, 22.

DIVISION 5.—*The Director of Apprenticeship*—s. 23.

DIVISION 6.—*Appeals*—s. 24.

PART III.—APPRENTICESHIPS—

DIVISION 1.—*Engagement of Apprentices*—ss. 25–32.

DIVISION 2.—*General*—ss. 33–40.

PART IV.—PROCEDURE—

DIVISION 1.—*Apprenticeship Committees*—ss. 41–47.

DIVISION 2.—*The Industrial Commission*—s. 48.

DIVISION 3.—*General*—ss. 49–52.

PART V.—AWARDS—ss. 53–62.

PART VI.—BREACHES OF AWARDS AND OTHER OFFENCES—ss. 63–67.

PART VII.—GENERAL—ss. 68–73.

SCHEDULES.

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4. This Act shall be read and construed as operating to the full extent of, but so as not to exceed, the legislative powers of the State, to the intent that where any provision of the Act, or the application of any such provision to any person, subject-matter or circumstance, would, but for this section, have been construed as being in excess of those powers, it shall be a valid provision to the extent to which it is not in excess of those powers, and the remainder of the Act and the application of the provision to other persons, subject-matters or circumstances shall not be affected.

No. 37, 1969  
Plenary  
construc-  
tion of Act.

5. (1) An Act specified in the First Column of the First Schedule to this Act is, to the extent specified opposite that Act in the Second Column of that Schedule, hereby repealed.

Repeal and  
amendment  
of Acts.

(2) An Act specified in the First Column of the Second Schedule to this Act, as subsequently amended, is amended in the manner specified opposite that Act in the Second Column of that Schedule.

6. (1) So much of the provisions of any award, industrial agreement, declaration, determination, notice, order, ruling, decision, verdict, judgment, recommendation, authority or approval in force or operative immediately before the appointed day and made, given, filed, registered or published under the Acts repealed and amended by this Act, as could have been made, given, filed, registered or published under this Act, had it been in force at the time of the making, giving, filing, registration or publication thereof—

Savings,  
etc.

- (a) if made, given or published by the commission, or by the commission in court session, shall be deemed to have been made, given or published under this Act;
- (b) if made, given or published by the apprenticeship commissioner, shall be deemed to have been made, given or published under this Act;

(c)

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- (c) if made, given or published by the apprenticeship council for an industry, shall be deemed to have been made, given or published under this Act by the apprenticeship committee for that industry;
- (d) if made, given or published by the industrial registrar or the deputy industrial registrar, shall be deemed to have been made, given or published under this Act by the Director;
- (e) if filed or registered in the office of the industrial registrar, shall be deemed to have been filed or registered, as the case may be, under this Act in the office of the Director.

(2) Any matter, investigation, inquiry or proceeding pending or part heard immediately before the appointed day that was initiated under the Acts repealed and amended by this Act and would, had this Act been in force at the time of the initiation thereof, have been required to be initiated under this Act—

- (a) if pending or part heard before the commission, or before the commission in court session, shall be deemed to be pending or part heard before the commission or, as the case may be, the commission in court session, under this Act;
- (b) if pending or part heard before the apprenticeship commissioner, shall be deemed to be pending or part heard before the Apprenticeship Commissioner under this Act;
- (c) if pending or part heard before the additional apprenticeship commissioner, shall be deemed to be pending or part heard before the Deputy Apprenticeship Commissioner under this Act;
- (d) if pending or part heard before the apprenticeship council for an industry shall be deemed to be pending or part heard before the apprenticeship committee for that industry under this Act;

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- (e) if pending or part heard before the industrial registrar or the deputy industrial registrar, shall be deemed to be pending or part heard before the Director under this Act; No. 37, 1969
- (f) if pending or part heard before an industrial magistrate, shall be deemed to be pending or part heard before an industrial magistrate under this Act.

(3) Where, immediately before the appointed day, there was an apprenticeship council for an industry, the commission shall be deemed, on that day, to have established an apprenticeship committee for that industry and the members and deputy or alternate members of that council holding office immediately before that day shall be deemed to have been appointed on that day as members or, as the case may be, deputy or alternate members, of that committee.

(4) Where, immediately before the appointed day, a person holds the office of additional apprenticeship commissioner, he shall be deemed to have been appointed on that day as Deputy Apprenticeship Commissioner for the remainder of the term for which he was appointed additional apprenticeship commissioner.

(5) Any rules, regulations or instructions made or given under the Acts repealed or amended by this Act and in force or operative immediately before the appointed day shall, *mutatis mutandis* and to the extent that they could have been made under this Act had it been in force at the relevant time, apply as if made or given under this Act.

(6) A delegation made under section nineteen of the Principal Act and in force immediately before the appointed day shall be deemed to be a delegation made on that day in favour of the Deputy Apprenticeship Commissioner.

(7) A reference in an Act other than this Act, or in any regulation, rule, award, agreement or other document, to a provision of an Act repealed or amended by this Act shall,

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**No. 37, 1969** shall, to the extent that it relates to a matter affecting apprentices or apprenticeship that is dealt with by this Act, be construed as a reference to the corresponding provision of this Act.

(8) Subject to section five of this Act, a reference in an Act other than this Act, or in any regulation, rule, award, agreement or other document, to an apprenticeship council or to the additional apprenticeship commissioner shall be construed, respectively, as references to an apprenticeship committee and to the Deputy Apprenticeship Commissioner, respectively.

(9) A reference to the industrial registrar or the deputy industrial registrar in a provision of an Act other than this Act, or in a provision of a regulation, rule, award, agreement, notice or other document in force or operative immediately before the appointed day shall, to the extent that the provision relates to a matter affecting apprentices or apprenticeship that is dealt with by this Act, be construed as a reference to the Director.

(10) Nothing in this section shall be construed so as to prejudice or affect—

- (a) any saving made by the Interpretation Act of 1897;
- (b) the duration of an award, industrial agreement, declaration, determination, notice, order, ruling, decision, verdict, judgment, recommendation, authority or approval referred to in subsection one of this section; or
- (c) the power to repeal, amend or rescind rules or regulations made under an Act other than this Act.

**Definitions.** 7. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed pursuant to subsection one of section two of this Act;

“apprentice” includes trainee apprentice;

“award”

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- “award” means award made, or deemed to have been made, under this Act and includes a variation thereof; No. 37, 1969
- “Council” means the New South Wales Apprenticeship Council established under this Act;
- “Director” means Director of Apprenticeship appointed under this Act;
- “employer” means person employing an apprentice or probationer, and includes the Crown;
- “indenture” includes any written contract;
- “indentured apprentice” means employee who is serving a period of training under an indenture for the purpose of rendering him fit to be a qualified worker in an industry;
- “Minister” means Minister of the Crown administering this Act;
- “prescribed” means prescribed by this Act or by regulations made thereunder;
- “probationer” means person employed in an industry with a view to ascertaining his suitability for engagement as an indentured apprentice;
- “trainee apprentice” means employee who, under conditions prescribed by an award of an apprenticeship committee relating to an industry, is serving a period of training, without an indenture of apprenticeship, for the purpose of rendering him fit to be a qualified worker in that calling.

(2) In this Act, subsections three, four and five of section one, section five and the First and Second Schedules excepted, a reference to an Act includes all amendments of that Act and any Act passed in substitution for the Act referred to or incorporating any of its provisions.

**8.**



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**No. 37, 1969** **8.** (1) Any industrial union of employees may make an agreement in writing with an employer or other industrial union relating to wages and conditions of employment of apprentices or persons employed with a view to apprenticeship which are not inconsistent with the provisions of this Act.

Apprenticeship agreements.

Act No. 2, 1940, ss. 11, 13.

(2) Any such agreement if made for a term specified therein, not exceeding five years from the making thereof and if filed in the office of the Director shall be an apprenticeship agreement within the meaning of this Act and shall be binding on the parties and on all persons for the time being members of such unions or union, but may be rescinded or varied in writing by the parties. Any variation of the agreement if filed as aforesaid, shall be binding as part of the agreement.

Any such agreement may be enforced under the provisions of this Act.

(3) An apprenticeship agreement shall continue in force after expiration of the term specified therein until varied or rescinded by the parties or by an apprenticeship committee under this Act or until notice of termination shall have been given in writing by a party thereto to the other party or parties and to the Director.

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**PART II.**

**THE NEW SOUTH WALES APPRENTICESHIP COUNCIL,  
APPRENTICESHIP COMMISSIONER, APPRENTICESHIP  
COMMITTEES, THE INDUSTRIAL COMMISSION AND THE  
DIRECTOR OF APPRENTICESHIP.**

**DIVISION 1.—*Constitution and Powers of the New South  
Wales Apprenticeship Council.***

**9.** (1) There shall be a New South Wales Apprenticeship Council which shall have and may exercise the powers, authorities, duties and functions conferred or imposed upon it by this Act.

Constitution of New South Wales Apprenticeship Council.

(2)

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(2) The Council shall consist of nine members of No. 37, 1969 whom—

- (a) one, to be the chairman of the Council, shall be the person for the time being holding or acting in the office of Director of Apprenticeship;
- (b) one shall be the person for the time being holding or acting in the office of Director of the Department of Technical Education;
- (c) one shall be the person for the time being holding the office of Apprenticeship Commissioner;
- (d) three shall, on the nomination of the Minister, be appointed by the Governor as representatives of employers; and
- (e) three shall, on the nomination of the Minister, be appointed by the Governor as representatives of employees.

(3) During the absence or illness of the member referred to in paragraph (a) of subsection two of this section, an officer of the Department of Labour and Industry may act as chairman of the Council and, while so acting, shall have and may exercise the powers, authorities, duties and functions conferred or imposed on the chairman in his capacity as a member of the Council.

(4) The member of the Council referred to in paragraph (b) of subsection two of this section may nominate a person to act for him as a member of the Council and the person so nominated, while so acting, shall have and may exercise the powers, authorities, duties and functions conferred or imposed as a member of the Council upon the person for whom he acts.

(5) A person nominated by the Minister for membership of the Council shall be appointed for a term of not more than five years, and shall be eligible for reappointment from time to time upon the expiration of his term of office.

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(6) Where a vacancy occurs (otherwise than by the retirement of a member on the expiration of his term of office) in the office of a member of the Council appointed on the nomination of the Minister, the Governor may, on the nomination of the Minister, appoint a person to fill the vacancy, and that person shall hold office during the remainder of the term of office of the member whose office he fills.

(7) During any vacancy in the membership of the Council the remaining members may conduct the business of the Council as if no vacancy existed.

(8) A member of the Council appointed on the nomination of the Minister shall be entitled to receive such remuneration or fees for his services as may be fixed from time to time by the Governor. A member of the Council shall be entitled to receive such allowances as the Governor may from time to time determine.

(9) A member of the Council appointed on the nomination of the Minister shall be deemed to have vacated his office if he—

- (a) dies;
- (b) becomes bankrupt, compounds with his creditors or makes any assignment of his income or estate for their benefit;
- (c) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958;
- (d) resigns his office by writing under his hand addressed to the Minister;
- (e) is absent from three consecutive meetings of the council otherwise than with leave granted by the council; or
- (f) if he is removed from office by the Governor.

(10)

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(10) A majority (including the chairman) of the members of the Council shall constitute a quorum for the purposes of any meeting of the Council and any duly convened meeting of the Council at which a quorum is present shall be capable of exercising and performing any of the powers, authorities, duties and functions conferred or imposed upon the Council by this Act. No. 37, 1969

(11) At any meeting of the Council at which a quorum is present the decision of the majority of the members present and voting at such meeting shall be the decision of the Council.

If at any meeting of the Council the voting on any matter is equal the chairman shall have a second or casting vote.

(12) Subject to this Act the Council may regulate its own proceedings.

(13) The provisions of the Public Service Act, 1902, shall not apply to or in respect of the appointment by the Governor of a member of the Council and such a member so appointed shall not, in his capacity as such a member, be subject to the provisions of that Act during his term of office.

(14) The office of a member of the Council shall, for the purposes of the Constitution Act, 1902, be deemed not to be an office of profit under the Crown.

10. (1) Subject to this Act the Council shall—

(a) keep under review—

- (i) the requirements of the State for skilled tradesmen;
- (ii) the availability of skilled tradesmen to meet those requirements;
- (iii) the availability of young persons for apprenticeship;

Powers,  
etc., of the  
Council.

(iv)

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- (iv) the availability of vacancies for apprentices and the extent to which employers are participating in the training of apprentices;
  - (v) the adequacy of the training of apprentices in employers' workshops and in technical colleges and measures which can be taken to improve that training;
  - (vi) the adequacy of the apprenticeship system as a means of training skilled tradesmen and the desirability of modifying that system or of providing supplementary systems of training for skilled occupations;
  - (vii) the measures which should be taken to promote apprenticeship;
- (b) conduct research into all matters pertaining to its functions;
  - (c) disseminate information as to matters which it has a duty to keep under review;
  - (d) report to the Minister annually, and at such other times as it thinks fit, its conclusions on the matters which it has a duty to keep under review;
  - (e) make recommendations to the commission and to apprenticeship committees in relation to any matter concerning apprenticeship or otherwise relating to the training of skilled workers;
  - (f) consider, and report to the Minister on, any matter referred by him to the Council concerning apprenticeship or concerning the training of skilled workers by other means.

(2) A minority report or recommendation may be recorded by a member, or by members, of the Council in respect of any matter upon which a report or recommendation is made by the Council under subsection one of this section and any such minority report or recommendation shall be submitted and considered with the report or recommendation of the Council.

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(3) For the purposes of exercising and performing No. 37, 1969 its powers, authorities, duties and functions under this Act the Council may confer with any person, body or organisation and may, with the approval of the Minister concerned and of the Public Service Board and on such terms as may be arranged, make use of the services of any of the officers or employees of any Government Department.

*DIVISION 2.—The Apprenticeship Commissioner.*

**11.** (1) The Governor may appoint an Apprenticeship Commissioner, who shall be paid such remuneration as the Governor may from time to time determine. Apprenticeship Commissioner. Act No. 2, 1940, ss. 15, 19.

(2) The Apprenticeship Commissioner shall, subject to this Act, hold office until he attains the age of sixty-five years.

(3) The Apprenticeship Commissioner may be suspended from office by the Governor for misbehaviour or incompetence, but shall not be removed from office except in the following manner, that is to say—

(a) The Minister shall cause to be laid before Parliament a full statement of the grounds of suspension within seven sitting days after such suspension if Parliament is in session, or if not, then within seven sitting days after the commencement of the next session.

(b) An Apprenticeship Commissioner suspended under this subsection shall be restored to office unless each House of Parliament within twenty-one sitting days from the time when such statement has been laid before it, declares by resolution that such Apprenticeship Commissioner ought to be removed from office, and if within the time aforesaid each House of Parliament so declares, such Apprenticeship Commissioner shall be removed by the Governor accordingly.

(4) An Apprenticeship Commissioner shall be deemed to have vacated his office if he—

(a) dies;

(b)

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No. 37, 1969

- (b) becomes bankrupt, compounds with his creditors or makes an assignment of his salary or estate for their benefit;
- (c) absents himself from duty for a period of fourteen consecutive days except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or becomes incapable of carrying out his duties;
- (d) becomes a mentally ill person, a protected person or an incapable person within the meaning of the Mental Health Act, 1958; or
- (e) resigns his office by writing under his hand addressed to the Governor.

(5) Where an officer of the Public Service is appointed to be Apprenticeship Commissioner he shall, while he holds that office, be deemed to be an employee within the meaning of the Superannuation Act, 1916, and shall be entitled to have his services as Apprenticeship Commissioner reckoned as service for the purposes of the Public Service Act, 1902, and the regulations made thereunder.

(6) Where an officer of a Crown Corporation within the meaning of subsection eight of section fifteen of the Principal Act is appointed Apprenticeship Commissioner he shall be entitled to have his service as Apprenticeship Commissioner reckoned as service for the purpose of the Act or regulations governing his service as such an officer, and if, as such an officer, he was an employee within the meaning of the Superannuation Act, 1916, he shall while he holds office as Apprenticeship Commissioner, be deemed to be an employee within the meaning of the Act.

Oath of office.  
Act No. 2,  
1940, s. 17.

**12.** A person appointed Apprenticeship Commissioner shall take the oath of allegiance and the judicial oath.

Deputy Apprenticeship Commissioner.  
Act No. 2,  
1940, s. 19.

**13.** (1) The Governor may from time to time appoint a Deputy Apprenticeship Commissioner who shall receive such fees or remuneration as the Governor may determine.

(2)

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(2) An appointment of a Deputy Apprenticeship Commissioner shall be for such period, not exceeding twelve months, as is specified in the instrument of appointment. No. 37, 1969

(3) The Apprenticeship Commissioner may, by writing under his hand, delegate to the Deputy Apprenticeship Commissioner such of the powers, authorities, duties and functions conferred and imposed on the Apprenticeship Commissioner by this or any other Act to the extent that the Apprenticeship Commissioner may in and by such writing specify. The Deputy Apprenticeship Commissioner while acting within the scope of such delegation shall be deemed to be the Apprenticeship Commissioner.

The Apprenticeship Commissioner may, by writing under his hand, revoke any delegation made by him under this subsection.

(4) During the temporary absence of the Apprenticeship Commissioner or during any vacancy in the office of Apprenticeship Commissioner the Deputy Apprenticeship Commissioner shall have and may exercise and perform all the powers, authorities, duties and functions of the Apprenticeship Commissioner other than the power conferred by subsection three of this section.

**14.** The Apprenticeship Commissioner may, by writing under his hand delegate to any special commissioner, appointed as such under the provisions of section 17A of the Principal Act, such of the powers, authorities, duties and functions conferred and imposed upon the Apprenticeship Commissioner by this or any other Act, other than the power conferred by subsection three of section thirteen of this Act, to the extent that the Apprenticeship Commissioner may in and by such writing specify. A special commissioner while acting within the scope of such a delegation shall be deemed to be the Apprenticeship Commissioner. Special  
commis-  
sioners.

The Apprenticeship Commissioner may, by writing under his hand, revoke any delegation made by him under this section.

**15.**



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**No. 37, 1969** **15.** The Apprenticeship Commissioner shall be the chairman of each apprenticeship committee constituted by or under this Act.

Chairman of  
apprentice-  
ship  
committee.

Act No. 2,  
1940, s. 19.

Powers of  
Apprentice-  
ship Com-  
missioner.

**16.** (1) The Apprenticeship Commissioner, sitting alone, may—

- (a) conciliate on differences and disputes between an employer and an apprentice;
- (b) determine any such difference or dispute by ordering either party to make such redress (other than damages for breach of contract) as the Apprenticeship Commissioner in his discretion considers equitable;
- (c) require an employer to afford an apprentice further or better facilities for training within the scope of the employer's business;
- (d) vary or amend the terms of a contract of apprenticeship;
- (e) authorise the suspension of an apprentice without pay in cases of proved misbehaviour or breach of his contract of apprenticeship;
- (f) on consideration of a report by a Principal of a technical college concerning the conduct of an apprentice, his attendance at classes or his progress in his studies at the technical college, take such action and give such directions with regard thereto as he may deem proper.

(2) In the exercise of his powers under subsection one of this section, the Apprenticeship Commissioner may recommend to the appropriate apprenticeship committee that the indentures of an apprentice should be cancelled.

(3)

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(3) A decision of the Apprenticeship Commissioner No. 37, 1969 under this section shall be embodied in an order which shall, when signed by the Apprenticeship Commissioner, be evidence of his decision and shall be given effect to by the persons named therein.

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

DIVISION 3.—*Apprenticeship Committees.*

17. (1) The commission may, of its own motion or upon application, and in the manner prescribed, establish an apprenticeship committee for any industry.

Apprentice-  
ship  
committees.  
Act No. 2,  
1940, s. 18.

(2) The commission may assign to an apprenticeship committee established for one industry any other industry and may likewise alter the assignment of industries previously made to an apprenticeship committee.

(3) In the establishment of an apprenticeship committee no exception shall be made from the industry for which the committee is established which will have the effect of excluding the employees of a specified employer or a specified group of employers engaged in that industry, unless those employees are engaged in an industry for which some other apprenticeship committee is established.

(4) An apprenticeship committee shall consist of such an equal number of representatives of employers and employees respectively as are appointed by the commission upon nomination by an employer or industrial union as prescribed, together with the Apprenticeship Commissioner as chairman. Such representatives (in this section hereinafter referred to as "members") shall be persons who are or who have been engaged in the industry, or who are acquainted with the industry. Deputy or alternate members shall be nominated

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**No. 37, 1969** nominated and appointed as prescribed in the same manner as the representatives aforesaid and shall be competent to discharge the duties of the regular members.

(5) Where no nomination has been made of a representative who is willing to act on an apprenticeship committee on behalf of the employers or employees, as the case may be, the commission may appoint any person whom it considers to be acquainted with the working of the industry for which the apprenticeship committee was established, to represent the employers or the employees, as the case may be, on the committee.

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

(7) Subject to subsection eight of this section, upon appointment each member of an apprenticeship committee shall take the oath prescribed.

(8) Where a person upon appointment as a member of an apprenticeship committee has taken the oath prescribed, he shall not, upon any subsequent appointment as a member of an apprenticeship committee, be required to take a further oath, where the oath originally taken by him has been recorded by the Director who shall keep a register of oaths taken in accordance with subsection seven of this section.

(9) The commission may at any time dissolve an apprenticeship committee and, subject thereto, a member of the committee shall hold office until he resigns or the employer or industrial union who or which nominated that person to be such a member has notified the Director that the nomination has been withdrawn.

(10) A new apprenticeship committee may be appointed to take the place of an apprenticeship committee that has been dissolved or the members of which have resigned or have ceased to hold office.

(11)

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(11) Where from any cause a member of an apprenticeship committee ceases to hold office, the commission may appoint a duly qualified person to the vacancy so created. **No. 37, 1969**

(12) Where a person is appointed to any vacancy on an apprenticeship committee, the committee as newly established, may continue the hearing of and may determine any part heard case.

(13) Every appointment of a member of an apprenticeship committee, other than a member holding office pursuant to subsection three of section six of this Act, shall be published in the Industrial Gazette, and a copy of the Gazette containing a notice of such an appointment purporting to have been published pursuant to this Act or, in the case of a member holding office pursuant to that subsection, a notice of his appointment as a member of a conciliation committee purporting to have been published under the Principal Act, shall be conclusive evidence that the person named in the notice was legally appointed to the office named and had power and jurisdiction to act in that office, and such appointment shall not be challenged for any cause.

**18.** (1) Subject to this Act and notwithstanding any custom of or against apprenticeship the apprenticeship committee for an industry— **Jurisdiction of apprenticeship committees.**

- (a) shall control and direct the conditions in all respects of apprenticeship in that industry; and
- (b) without prejudice to the generality of the foregoing, shall have the particular powers, authorities, duties and functions conferred or imposed by this section.

(2) An apprenticeship committee shall in respect of the industry for which it is established keep under review, and shall report to the New South Wales Apprenticeship Council at least once every two years upon—

- (a) the requirements of that industry for skilled tradesmen;

(b)

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- (b) the availability of skilled tradesmen to meet those requirements;
- (c) the availability of young persons for apprenticeship;
- (d) the availability of vacancies for apprentices and the extent to which employers are participating in the training of apprentices;
- (e) the adequacy of the training both arranged by the employer and given in technical colleges and measures which can be taken to improve that training.

(3) Subject to this Act, an apprenticeship committee may, in respect of the industry for which it is established, make awards—

- (a) determining the trades or callings for which apprenticeship is to be prescribed;
- (b) prescribing either generally or in any particular case the hours of employment, wages and conditions of apprenticeship (including the age at which persons may be apprenticed) and the term of apprenticeship;
- (c) determining whether and to what extent there shall be a limitation on the number of apprentices employed in any trade or calling;
- (d) prescribing any standard form of indenture in respect of the industry for which it is established;
- (e) providing that a contract of apprenticeship may be made between an apprentice and an industrial union of employers or between an apprentice and 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;

(f)

*Apprentices.*

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- (f) exempting any employer from all or any of the conditions of employment prescribed by an award on being satisfied that there exists in the establishment of the employer apprenticeship conditions of a special and proper character which are advantageous to apprentices. No. 37, 1969

(4) In the exercise of its powers under subsection three of this section an apprenticeship committee shall—

- (a) where it fixes rates of wages for apprentices in any trade or occupation in which the work has usually been performed by male apprentices, fix the same rate for female as for male apprentices; and
- (b) in fixing hours of employment shall, *mutatis mutandis*, apply the provisions of section sixty-three of the Principal Act.

(5) Where a matter has been referred to an apprenticeship committee by the Apprenticeship Commissioner the apprenticeship committee shall have and may exercise the powers conferred upon the Apprenticeship Commissioner by subsection one of section sixteen of this Act.

(6) In the exercise of its powers under subsection five of this section an apprenticeship committee may cancel an apprentice's indenture.

(7) A decision of an apprenticeship committee under subsection five of this section shall be embodied in an order, which shall be given effect to by the persons named therein.

(8) An apprenticeship committee shall, in respect of the industry for which it is established—

- (a) co-operate with the Department of Technical Education in any matter concerning the technical education of apprentices:

(b)

*Apprentices.*

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- (b) keep under review the facilities available for the training of apprentices, in the industry for which it is established, in technical colleges conducted by the Department of Technical Education;
- (c) require apprentices to attend technical colleges for such classes or courses of instruction as it may specify;
- (d) require apprentices for whom regular attendance at a technical college is not practicable to obtain instruction by correspondence or in such other manner as the committee may direct.

(9) In respect of the industry for which it is established, an apprenticeship committee may—

- (a) approve or refuse to approve of the making of a contract of apprenticeship;
- (b) approve or refuse to approve of the assignment of an indenture of apprenticeship;
- (c) cancel an indenture of apprenticeship; and
- (d) approve the schedule of skills produced by the Department of Technical Education for a trade.

(10) An apprenticeship committee may submit any question arising out of any matter before it to the commission for its opinion and direction and shall, at the request of the Director of Technical Education, so submit any question arising under paragraph (d) of subsection nine of this section.

Daylight  
training of  
apprentices.

**19.** Where, in the exercise of its powers under section eighteen of this Act, an apprenticeship committee—

- (a) requires that an apprentice shall attend at technical college for any class or course of instruction; or
- (b) requires that an apprentice shall obtain instruction by correspondence or in some other manner, specified by the committee,

the

*Apprentices.*

the employer of the apprentice shall allow him such time No. 37, 1969 as is necessary during ordinary working hours for the purpose of that attendance or of taking full advantage of that instruction, as the case may require.

**20.** (1) A decision of an apprenticeship committee which is of general application to apprentices in a particular industry and a decision of such a committee which fixes wages or conditions of employment in respect of an individual apprentice shall be embodied in an award, which may be enforced under this Act. Decisions of apprenticeship committees, etc.

(2) Except as provided in subsection one of this section, a decision of an apprenticeship committee which relates only to an individual apprentice shall be embodied in an order.

(3) Except as provided in section twenty-four of this Act—

- (a) a decision of an apprenticeship committee in the exercise and performance of the powers and duties conferred and imposed upon it by this Act shall be final;
- (b) no award, order or proceeding of an apprenticeship committee 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.

and no writ of prohibition or certiorari shall lie in respect of any award, order, proceeding or direction of an apprenticeship committee in the exercise and performance of the jurisdiction, powers and duties conferred and imposed upon it by this Act.

*DIVISION 4.—The Industrial Commission.*

**21.** (1) Subject to this section, the commission may, where a recommendation has been made to it by the Council, deal with that recommendation at a hearing, notice of which has been given to such parties as the commission may direct, Jurisdiction of the commission.  
and



*Apprentices.*

No. 37, 1969 and may make an award, or vary an existing award, in relation to the matters which are the subject of the recommendation before it.

(2) Subject to this section, the commission may, at any time on its own initiative or upon application—

- (a) hear and determine any matter which involves a question affecting apprentices within the jurisdiction of more than one apprenticeship committee, or which, in the opinion of the commission, raises a question of principle;
- (b) determine the trades or callings for which apprenticeship is to be prescribed; or
- (c) vary an award to provide that the term of apprenticeship in a trade or a section of a trade may be for a term in excess of four years where it is satisfied that a term in excess of four years is necessary to provide adequate training for an apprentice in that trade or section of a trade.

(3) The jurisdiction of the commission under this Act shall be exercised by one member of the commission sitting alone.

(4) From any decision of a member of the commission sitting alone under this Act an appeal shall lie to the commission in court session—

- (a) where any question of jurisdiction is involved; or
- (b) by leave of the commission in court session, where the commission in court session is of the opinion that the matter raised on appeal is of such importance that an appeal should lie.

(5) The commission in court session shall have jurisdiction to hear and determine any matter in any proceeding commenced or arising before a member of the commission under this Act which that member considers ought to be removed to the commission in court session.

(6)

*Apprentices.*

(6) In any proceedings under subsection four or five No. 37, 1969 of this section—

- (a) the commission in court session may make such order, award, ruling or decision as to it seems fit in the circumstances of the case; and
- (b) any question shall be decided according to the decision of the majority of the members comprising the commission in court session, if there is a majority, but if those members are equally divided in opinion the question shall be decided according to the opinion of the President or, if the President is not a member of the commission in court session, according to the opinion of the senior member present.

(7) A decision of the commission, or the commission in court session, under this section shall be embodied in an award.

**22.** Proceedings before the commission under section twenty-one of this Act shall be commenced—

- (a) by a recommendation to the commission by the Council;
- (b) by application to the commission by an industrial union whose members include employers or employees in an industry concerned in the application; or
- (c) by application by the Director of Technical Education in respect of any matter relating to the training of apprentices in technical colleges conducted by the Department of Technical Education.

Commencement of proceedings before the commission.

**DIVISION 5.—***The Director of Apprenticeship.*

**23.** (1) The Governor may, under and in accordance with the Public Service Act, 1902, appoint a Director of Apprenticeship who shall have the prescribed powers and duties.

Director of apprenticeship.

(2)

No. 37, 1969

(2) The Governor may, under and in accordance with the Public Service Act, 1902, appoint any person to be the Deputy Director of Apprenticeship.

(3) The Deputy Director of Apprenticeship shall exercise such powers and perform such duties of the Director as the Director shall from time to time direct, and while exercising those powers or performing those duties and during the temporary absence of the Director and during any vacancy in the office of Director, the Deputy Director of Apprenticeship shall have the same jurisdiction and powers as he would have if he were Director.

(4) In addition to the powers and duties otherwise conferred on him by this Act the Director shall—

- (a) act as chairman of the Council;
- (b) arrange the compilation of statistics concerning the skilled work force and apprentices;
- (c) conduct research into the requirements of the community for skilled tradesmen and the likely availability, from all sources, of tradesmen, and into the number of apprentices required from time to time to ensure that the community's need for skilled tradesmen will be met;
- (d) maintain the apprenticeship register maintained, immediately before the appointed day, by the industrial registrar;
- (e) furnish the Council with such information and statistics as it requires for the exercise of its functions;
- (f) at the direction of the Apprenticeship Commissioner, summon meetings of apprenticeship committees or serve notices of hearings of matters by the Apprenticeship Commissioner and summon parties and witnesses, as prescribed, required to attend at those meetings or hearings;
- (g) deal with applications by employers for approval to employ apprentices and applications for extension of periods of probation;

(h)

*Apprentices.*

- (h) prepare and issue forms of indentures for completion by the parties to apprenticeship contracts; No. 37, 1969
- (i) register—
- (i) indentures of apprenticeship; and
  - (ii) approvals of applications to establish trainee apprenticeships;
- (j) deal with applications for approval of assignment of indentures of apprenticeship;
- (k) record the completion of apprenticeships;
- (l) countersign completed indentures, and issue certificates of completion of apprenticeship to trainee apprentices;
- (m) in co-operation with the Department of Technical Education, maintain records concerning apprentices and their progress in courses at technical colleges.

*DIVISION 6.—Appeals.*

24. (1) An appeal, in the manner prescribed, shall lie to the commission from any award made by an apprenticeship committee, from any order or decision of an apprenticeship committee or the Apprenticeship Commissioner and from a decision of the Director, made pursuant to paragraph (g) or (j) of subsection four of section twenty-three of this Act. Appeals to commission. Act No. 2, 1940, s. 28.

(2) An appeal, in the manner prescribed, shall lie to the commission with regard to any direction issued by an apprenticeship committee upon a reference by the Director under subsection twelve of section forty of this Act.

(3) From any decision of an industrial magistrate arising out of the exercise of jurisdiction conferred on him by this Act an appeal shall lie to the commission.

(4) An appeal pursuant to this section shall be by way of rehearing and on the hearing of such an appeal, the commission may, in its discretion, call for and receive such further information and evidence as it considers desirable.

(5)

*Apprentices.*

No. 37, 1969

(5) On the hearing of an appeal pursuant to this section, against an award, order, direction or decision of an apprenticeship committee, the commission may require the members of the apprenticeship committee other than the Apprenticeship Commissioner to sit with the commission, but as assessors only and without a vote.

(6) The commission may, on appeal pursuant to this section, vary or reverse any award, order, direction or decision and may make such further or other award, order, direction or decision as it considers the apprenticeship committee, the Apprenticeship Commissioner, the industrial magistrate or the Director ought to have made in the first place.

## PART III.

## APPRENTICESHIPS.

DIVISION 1.—*Engagement of Apprentices.*

Probation. **25.** (1) In this Part “probationer” means a person employed in an industry or calling with a view to ascertaining his suitability for employment as an indentured apprentice.

(2) A person desirous of becoming an indentured apprentice shall be first employed as a probationer for a period of three months, or for such longer period, not exceeding six months in all, as the Director may, on application by the employer, approve and, where a probationer becomes an indentured apprentice, his probationary period shall be counted as part of his term of apprenticeship.

Prohibition on employment of minors. **26.** No employer shall employ a person under the age of twenty-one years in a trade prescribed by an award of an apprenticeship committee, unless—

- (a) that person is a probationer or an apprentice;
- (b) approval has been given to the establishment of an apprenticeship for that person; or
- (c) that person has completed a term of apprenticeship.

**27.**

*Apprentices.*

**27.** (1) An apprentice who is a party to an indenture of apprenticeship shall be bound by the covenants contained therein throughout the term specified in the indenture whether or not, during that term, he attains the age of twenty-one years.

No. 37, 1969  
Extent to  
which  
indentures  
are binding.

(2) A parent or guardian of an apprentice who is a party to an indenture of apprenticeship shall be bound thereby until the apprentice attains the age of twenty-one years or until the term specified in the indenture expires, whichever first occurs.

**28.** (1) Within fourteen days of the employment of a probationer the employer shall notify the Director thereof and apply to him in the form prescribed for approval to establish an apprenticeship.

Indentured  
apprentices.

(2) On receipt of a notification and application pursuant to subsection one of this section, the Director shall cause inquiries to be made as to whether approval should be given to the application and may approve of the application or refer the application to the appropriate apprenticeship committee which may approve of the application or make such order as it considers appropriate to the particular case, including an order that the probationer be no longer employed by the applicant.

(3) Where an application under subsection one of this section has been approved, the Director shall notify the applicant accordingly and, on the expiration of the period of probation, or as soon as practicable thereafter, shall forward an indenture of apprenticeship to the employer for completion.

(4) An employer to whom an indenture of apprenticeship is forwarded for completion shall arrange for the completion and return thereof to the Director within twenty-eight days of its despatch by the Director who shall retain the indenture during the term of the apprenticeship to which it relates.

(5)

(5)

*Apprentices.*

No. 37, 1969

(5) During a period of probation, whether or not a notification of the employment of the probationer has been forwarded to the Director, the terms of an award applying to apprentices in the industry in which the probationer is employed shall, mutatis mutandis, apply to and in respect of the employment of the probationer during the probationary period as if he were an apprentice.

(6) An employer who terminates the employment of a probationer shall forthwith notify the Director, in writing, of that termination.

Assignment  
of inden-  
tures.

**29.** (1) An indenture of apprenticeship shall not be assigned from one employer to another employer except pursuant to this section.

(2) On receipt of a written application for approval to assign an indenture of apprenticeship, the Director may, after making such inquiries as he deems fit, approve the application or refer it to the appropriate apprenticeship committee, which may approve or refuse to approve of the proposed assignment.

(3) Where approval is granted to the assignment of an indenture of apprenticeship the Director shall forward a form of assignment to the parties for completion and return to the Director.

Trainee  
apprentices.

**30.** (1) Within fourteen days of the employment of a trainee apprentice the employer shall notify the Director thereof and shall apply to him, in the form prescribed, for approval to the establishment of such an apprenticeship.

(2) On receipt of a notification and application pursuant to subsection one of this section the Director shall cause inquiries to be made as to whether approval should be given to the application and may approve the application or refer it to the appropriate apprenticeship committee which may approve or refuse to approve of the application.

(3)

*Apprentices.*

(3) Where an application under subsection one of this section has been approved the Director shall notify the applicant accordingly and forward to him a progress card for issue to the trainee apprentice. No. 37, 1969

(4) An employer who terminates the employment of a trainee apprentice shall forthwith notify the Director in writing of that termination.

**31.** (1) Subject to subsection two of this section, an indenture of apprenticeship may be cancelled by agreement of all the parties thereto including, in the case of an apprentice under the age of twenty-one years, his parent or guardian, but shall not be otherwise determined except with the approval of an apprenticeship committee. Cancellation of indentures.

(2) A female indentured apprentice may cancel her indenture of apprenticeship in the event of her marriage upon giving notice of termination of her contract of apprenticeship to her employer and to the Director.

(3) Within fourteen days of the cancellation of an indenture of apprenticeship by agreement of all the parties the employer concerned shall forward notice of the cancellation to the Director.

(4) Where the employer of an indentured apprentice dies and the business in which the apprentice was employed is carried on by the executors or administrators for the time being of the will or estate of the deceased employer, the contract of apprenticeship shall be deemed not to have been determined by the death of the employer and shall, unless cancellation of the indenture of apprenticeship is, on the application of those executors or administrators, or the apprentice, approved by the appropriate apprenticeship committee, be binding on those executors or administrators as if they were the employer of the apprentice.

(5)



*Apprentices.*

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(5) Where the employer of an indentured apprentice is a partnership and the business in which the apprentice is employed is carried on by the partners for the time being after the death or retirement of a partner, the contract of apprenticeship shall be deemed not to have been determined by that death or retirement and shall, unless cancellation of the indenture of apprenticeship is, on the application of those partners, approved by the appropriate apprenticeship committee, be binding on those partners as if they were the employer of the apprentice.

(6) Where cancellation of an indenture of apprenticeship is approved by an apprenticeship committee, any party thereto shall forthwith surrender his copy of the indenture to the Director.

(7) As soon as practicable after the appointed day the Director shall review the terms of all awards in force immediately before that day and shall make such variation thereto as he may consider necessary to bring them into conformity with the provisions of this section.

The Director may refer to the commission for direction any matter arising out of such a review or variation.

Completion  
of appren-  
ticeship.

**32.** (1) Upon the expiration of a term of apprenticeship by effluxion of time—

- (a) the employer of an indentured apprentice shall so notify the Director who shall certify on the indenture that the term thereof has expired and forward it to the person who has completed the term of apprenticeship;
- (b) the employer of a trainee apprentice shall complete the apprentice's progress card and return it to the Director who shall thereupon forward a certificate in the form prescribed to the person who has completed the term of apprenticeship.

(2)

*Apprentices.*

(2) The Director may, in the case of a person who has completed a term of apprenticeship and satisfied all the requirements of the Department of Technical Education in respect of the classes or courses of instruction conducted by that Department as prescribed by the appropriate award which governed the employment of that person as an apprentice, issue that person with a certificate of proficiency in the form prescribed.

No. 37, 1969

DIVISION 2.—*General.*

**33.** (1) The employer of an apprentice shall, by the best means in his power, teach the apprentice, or cause him to be taught, the trade or calling in which he is apprenticed, and shall provide facilities for the practical training of the apprentice in that trade or calling and shall give the apprentice every opportunity to learn that trade or calling and to receive during the period of his apprenticeship such technical, trade or other training as may be prescribed by any award governing the employment of the apprentice.

Duties of employers and apprentices.

(2) An apprentice shall, during the period of his apprenticeship, faithfully serve his employer for the purpose of being taught the trade or calling in which he is an apprentice and shall conscientiously and regularly accept such technical, trade or other instruction as may be prescribed by any award governing his employment, in addition to the instruction provided by the employer.

**34.** Any time occupied by an apprentice, during working hours, in attendance at a technical college or in carrying out a correspondence course, as required by the terms of an award (including time actually spent in travelling to and from a technical college) shall—

Computation of time spent in classes.

- (a) be counted as and included as part of his term of apprenticeship; and
- (b) shall be deemed to be time worked for the purpose of calculating wages to be paid to him under any award.

**35.**

*Apprentices.*

**No. 37, 1969** **35.** No employer shall directly or indirectly or by any pretence or device—

Premium  
not to be  
demanded.  
Act No. 2,  
1940, s. 28.

- (a) require or permit any person to pay or give; or
- (b) demand or receive from any person,  
any premium, fee, gift, reward, bonus or consideration for entering into an indenture of apprenticeship (whether with such person or any other person) or for training any employee or prospective employee in any industry, without having first obtained the consent of the apprenticeship committee for that industry.

Supervision  
of practical  
training of  
apprentices.

**36.** (1) An apprenticeship committee, the Apprenticeship Commissioner or any person appointed pursuant to section sixty-eight of this Act to be an apprenticeship supervisor may inspect the training of an apprentice in the premises of an employer or in other premises in which the employer has arranged for the apprentice to be trained.

(2) If an apprenticeship committee is of the opinion that the practical training given or being given by an employer to an apprentice is inadequate in any respect the committee may, by notice in writing addressed to the employer, under the hand of the Director, require the employer to do such things in relation to the training of the apprentice as the committee may deem appropriate.

Recognition  
of service  
apprenticeships.

**37.** (1) In this section—

“forces” means armed forces of the Commonwealth of Australia;

“service adult trade training” means training undertaken by a person as a member of the forces pursuant to a scheme, not involving apprenticeship, for the trade training of a person over the age of seventeen years;

“service apprenticeship” means apprenticeship served by a person as a member of the forces.

(2) An apprenticeship committee may confer with accredited representatives of the forces on any matter concerning service apprenticeships or service adult trade training,

with

*Apprentices.*

with a view to ensuring that, upon his discharge from the forces, a person who has served a service apprenticeship or completed a period of service adult trade training will be accorded recognition in a civilian trade. No. 37, 1969

(3) Where an apprenticeship committee determines that the course of training provided for a class of service apprenticeship or service adult trade training is such that an apprentice or adult trainee who satisfactorily completes the course, and complies with such further conditions as to experience or otherwise as the committee may determine, would be adequately trained to work as a tradesman in a comparable civilian trade, the apprenticeship committee may settle the form of a tradesman's certificate for issue to a person who satisfactorily completes that course and complies with those conditions.

(4) A determination of an apprenticeship committee under subsection three of this section shall be made by instrument in writing signed by the Apprenticeship Commissioner and filed with the Director, and a copy thereof shall be forwarded by the Director to the relevant service authority.

(5) The Director may issue a tradesman's certificate in the form settled by an apprenticeship committee under subsection three of this section to a person who makes application therefor, as prescribed, and satisfies the Director that he has satisfactorily completed the course of training to which the certificate relates and has complied with any other conditions prescribed in the determination.

(6) A tradesman's certificate issued pursuant to this section shall entitle the person to whom it is issued to recognition as a tradesman in the trade specified therein.

**38.** Where it is proved to the satisfaction of an apprenticeship committee— Certificates  
of service.

- (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 industry for which the committee is established;

(b)

*Apprentices.*

No. 37, 1969

(b) that during that service that person has received training rendering him fit to be a qualified worker in that industry; and

(c) no formal apprenticeship was established in respect of that service and training,

the apprenticeship committee may issue that person with a certificate of service in the form prescribed.

Entry of  
females  
into  
trades.

**39.** No provision shall be inserted in an award made under this Act prohibiting the entry of females into an apprenticeship trade unless the appropriate apprenticeship committee is satisfied that the work to be performed in that trade is unsuitable for females.

Term of  
apprentice-  
ship.

**40.** (1) Subject to this section and section twenty-one of this Act, an award, and an apprenticeship agreement, that—

(a) was in force immediately before the day on which this section commences or was made before, and comes into force after, that day; and

(b) provides for a term of apprenticeship exceeding four years,

shall be deemed to have been varied as on and from that day in respect of an apprentice who commenced his apprenticeship less than two years before that day, or who commences his apprenticeship after that day, to provide for a term of apprenticeship not exceeding four years.

(2) As soon as practicable after the commencement of this section, the Director shall, to the extent necessary to give effect to subsection one of this section, vary the terms of awards and apprenticeship agreements and, for that purpose, he may—

(a) make such alterations to the form of an award or apprenticeship agreement as he thinks necessary or desirable to ensure that full effect is given to that subsection; or

(b) refer any matter arising under this section to the commission for direction.

(3)

*Apprentices.*

(3) A variation of an award or apprenticeship agreement made by the Director pursuant to subsection two of this section shall be deemed to be the variation made by subsection one of this section. No. 37, 1969

(4) Where the term of apprenticeship provided by an award or apprenticeship agreement is reduced in accordance with subsection one of this section to a period of four years, an apprentice to whom the award, as varied in accordance with that subsection, applies—

- (a) shall, where the award or apprenticeship agreement fixes a scale of wages for a four year term of apprenticeship, be paid wages in accordance with that scale; or
- (b) shall, where no such scale is so fixed, be paid such wages as the appropriate apprenticeship committee may direct,

as on and from the commencement of this section or the commencement of the apprenticeship, whichever is the later.

(5) As soon as practicable after the commencement of this section, the appropriate apprenticeship committee shall vary the terms of awards and apprenticeship agreements to the extent necessary to give effect to subsection four of this section.

(6) Subject to section twenty-one of this Act, where, after the commencement of this section, the commission or an apprenticeship committee proposes to make an award, or the proper parties propose to make an apprenticeship agreement, containing a provision prescribing the term of apprenticeship for a trade or trades, the maximum term of apprenticeship for which provision may be made shall, in respect of any apprentice who commenced his apprenticeship less than two years before that day, or who commences his apprenticeship after that day, not exceed four years.

(7) Notwithstanding any other provision of this section, or of any award or apprenticeship agreement, an apprenticeship committee may extend the term of a particular apprenticeship

*Apprentices.*

No. 37, 1969 apprenticeship beyond four years where, on application made to it less than four years after commencement of the apprenticeship, the committee is satisfied that the apprentice to whom the application relates will not have attained an adequate standard of skill and knowledge within that period of four years.

(8) Where in consequence of the operation of the other provisions of this section a contract of apprenticeship made less than two years before the commencement of this section provides for a term of apprenticeship longer than that provided for by an award or apprenticeship agreement that relates to the trade in respect of which the contract was entered into, the contract shall be deemed to be varied, as on and from that commencement, to the extent necessary to provide a term of apprenticeship in conformity with the award or apprenticeship agreement.

(9) Where the term of an apprenticeship is extended as provided by subsection seven of this section and the contract relating to the apprenticeship 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.

(10) Where an award, an apprenticeship agreement or a contract of apprenticeship provides that an apprentice shall make up ordinary time lost by him, any time so required to be made up shall not be taken into account in computing the term of his apprenticeship.

(11) No award of an apprenticeship committee made or deemed to have been made under this Act shall contain any provision relating to age which would prevent an apprentice who commences his apprenticeship under the age of twenty-one years from completing the full term of his apprenticeship.

(12) As soon as practicable after the appointed day the Director shall vary the provisions of all awards in force to the extent necessary to give effect to the provisions of subsection eleven of this section.

The

*Apprentices.*

The Director may refer the provisions of any such award to the appropriate apprenticeship committee for its advice and direction. No. 37, 1969

## PART IV.

## PROCEDURE.

DIVISION 1.—*Apprenticeship Committees.*

**41.** Proceedings before an apprenticeship committee may be commenced at any time by the committee on its own initiative or on application by— Commencement of proceedings.

- (a) an industrial union whose members are employers, or whose members are employees, in the industry for which the committee is established;
- (b) an employer of apprentices in that industry;
- (c) an apprentice employed in that industry; or
- (d) the Director of Technical Education.

**42.** A meeting of an apprenticeship committee shall be convened by the Apprenticeship Commissioner whenever he thinks fit, or within three days of a request in writing by two members of the committee, by notice in writing signed by the Apprenticeship Commissioner or the Director. Convening of meeting of apprenticeship committees.

**43.** Subject to this Act and the regulations made thereunder as to matters of procedure, an apprenticeship committee may make rules as to the order and conduct of its business and proceedings. Power to make rules for conduct of business.

**44.** (1) An apprenticeship committee may confer with any person with respect to a matter before it and may summon any person before it for the purpose of conference Witnesses.

OR



*Apprentices.*

**No. 37, 1969** or of giving evidence and the Apprenticeship Commissioner shall have the like powers exercisable in the like manner. Such a summons shall be in the form prescribed and shall be signed by the Apprenticeship Commissioner or the Director.

(2) A person summoned pursuant to subsection one of this section shall be bound to attend on the summons and for disobedience thereto shall, on conviction, be liable to a penalty not exceeding one hundred dollars.

Conduct of  
proceedings.  
Act No. 2,  
1940, s. 77D.

**45.** (1) Subject to this section, an apprenticeship committee and the Apprenticeship Commissioner may—

- (a) conduct proceedings in public or in private;
- (b) adjourn proceedings to any time or place;
- (c) exercise in respect of witnesses and documents and persons summoned or giving evidence before it or him, as the case may be, or on affidavit, the same powers as are exercisable by a committee under paragraph (c) of section 77D of the Principal Act.

(2) Subject to subsection three of this section, no person shall, without his consent, be required by the Apprenticeship Commissioner or an apprenticeship committee to produce his books, or to give evidence as to trade secrets, profits, losses, receipts and outgoings of his business or his financial position unless he raises the objection that the profits of an industry are not sufficient to enable him to pay the wages or grant the conditions claimed.

(3) Where a person raises an objection referred to in subsection two of this section, he may be required, on the order of the Apprenticeship Commissioner, to produce the books used in connection with the carrying on of the business in respect of which the claim is made, and to give evidence with regard to the profits, losses, receipts and outgoings in connection with the industry to which the objection relates. but he shall not be required, without his consent, to give evidence regarding any trade secrets or his financial position.

(4)

*Apprentices.*

(4) A person subject to an order under subsection No. 37, 1969 three of this section shall not, without his consent, be required to give his evidence otherwise than in the presence of the committee alone, and no person shall examine books produced pursuant to the order except the Apprenticeship Commissioner or an accountant, appointed by the committee, who may report to the committee whether or not his examination of the books produced supports the evidence so given, but shall not otherwise disclose the contents of those books.

(5) An accountant referred to in subsection four of this section shall, before examining any books produced, take an oath not to disclose any matter or evidence that is before the committee relating to—

- (a) trade secrets;
- (b) the profits or losses or the receipts and outgoings of any employer;
- (c) the books of any employer or witness produced before the committee; or
- (d) the financial position of any employer or of any witness.

and if he violates his oath he shall be liable to a penalty not exceeding one thousand dollars.

46. The Apprenticeship Commissioner may require any person, including a member of an apprenticeship committee, who appears before him or before an apprenticeship committee, to give his evidence on oath. Evidence may be on oath.  
Act No. 2,  
1940, s. 77.

47. (1) The Apprenticeship Commissioner shall preside at each meeting of an apprenticeship committee, and at any such meeting each member, other than the chairman, shall sit as assessors only and without a vote. Proceedings at meetings.

(2)

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(2) If the Apprenticeship Commissioner is present at a duly convened meeting of an apprenticeship committee and any member is, or all the members are, absent therefrom, the hearing of the matter before the committee may proceed and any determination made thereon shall be deemed to be the decision of the committee.

DIVISION 2.—*The Industrial Commission.*

Proceedings before the commission.

**48.** Except to the extent that this Act or the regulations made thereunder otherwise provide, the provisions of the Principal Act and the regulations made thereunder relating to the initiation and conduct of proceedings before the commission and the summoning of witnesses to appear before it shall, mutatis mutandis, apply with regard to the carrying out by the commission of its functions under this Act.

DIVISION 3.—*General.*

Intervention by the Crown.  
Act No. 2, 1940, ss. 78, 79.

**49.** Where, in the opinion of the Minister, the public interests are or would be likely to be affected, the Crown may intervene in any proceedings under this Act before an apprenticeship committee, the Apprenticeship Commissioner or the commission and appeal from any award of an apprenticeship committee or the commission and make such representations as it thinks necessary in order to safeguard the public interests.

Legal representation.  
Act No. 2, 1940, s. 80.

**50.** (1) In proceedings under this Act before the commission no party shall, except with the consent of the commission, be represented by a barrister or solicitor.

(2) In proceedings under this Act before an apprenticeship committee, the Apprenticeship Commissioner or a special commissioner, no party shall, except with the consent of the apprenticeship committee, the Apprenticeship Commissioner or the special commissioner, as the case may be, and all the parties, be represented by a barrister or solicitor or by a person who has qualified for admission as a barrister or solicitor.

(3)

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(3) Nothing in this section shall preclude any permanent employee of the Crown from appearing on behalf of the Crown in any proceedings before the commission, apprenticeship committee, the Apprenticeship Commissioner or a special commissioner, but in any case where the permanent employee of the Crown so appearing is a barrister or solicitor, the Crown shall be deemed to have consented to the representation of any other party to the proceedings by a barrister or solicitor and the consent of the commission, the apprenticeship committee, the Apprenticeship Commissioner or the special commissioner, as the case may be, to such representation shall not be refused.

51. The commission, an apprenticeship committee, the Apprenticeship Commissioner, a special commissioner and the Director exercising the jurisdiction conferred by this Act, shall be governed in their procedures and in their decisions by equity and good conscience and shall not be bound to observe the rules of law regarding the admissibility of evidence.

Rules governing the apprenticeship committees, the Apprenticeship Commissioner and the Director.

52. The commission, an apprenticeship committee, the Apprenticeship Commissioner and the Director shall have power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise.

Compliance with procedural regulations may be waived.

## PART V.

## AWARDS.

53. (1) An award made by the commission or by an apprenticeship committee shall be settled by the Director as prescribed and upon the settlement of any award made by an apprenticeship committee the Director may refer any provision of the award or any question of law to the commission and the commission may give such directions with regard thereto as to it may seem proper or it may refer the matter to the Apprenticeship Commissioner for report.

Settlements of awards.

(2)

**No. 37, 1969** (2) An award shall, after settlement thereof, be signed by a member of the commission, in the case of an award made by the commission, or by the Apprenticeship Commissioner, in the case of an award made by an apprenticeship committee.

(3) An award shall, after signature as provided in subsection one of this section, be published by the Director in the Gazette and the Director shall inform the parties concerned in the prescribed manner.

Binding  
force of  
awards.  
Act No. 2,  
1940, s. 87.

**54.** Subject to the right of appeal under this Act and subject to such conditions and exemptions as the commission or an apprenticeship committee may, and is hereby authorised to determine and direct, an award shall be binding on any or all employers and employees in the industry to which it relates as the commission or apprenticeship committee may direct and within the locality and for the period, not exceeding three years, specified therein and, after such period, until varied or rescinded.

Operative  
date of  
awards.  
Act No. 2,  
1940, s. 88.

**55.** The commission or an apprenticeship committee may in its discretion determine that an award shall take effect from such day subsequent to the lodging of the application therefor as the commission or committee may determine but the award shall not become operative and enforceable until fourteen days after publication in the Gazette.

Evidence  
of awards  
and orders,  
etc.  
Act No. 2,  
1940, s. 90.

**56.** (1) Evidence of any proclamation, notification, rule, regulation or award made, or deemed to have been made, under this Act, may be given by the production of any document purporting to be a copy thereof and purporting to be printed by the Government Printer or by the authority of the Minister.

(2) Evidence of any order, decision, ruling or determination made under the authority of this Act may be given by the production of a copy thereof duly certified by the Director to be such a copy.

**57.**

*Apprentices.*

**57.** Where an award, made or deemed to have been made under this Act has been varied (whether such variation was made before or after the appointed day) the Government Printer shall, if and when directed so to do by the Director, reprint the award in a form certified as correct by the Director.

No. 37, 1969  
Incorporation of variations in reprints of awards.

Act No. 2, 1940, s. 90A.

**58.** All awards, or other notifications, excepting rules or regulations, required or directed by this Act to be published in the Gazette may be published in the Gazette or in the New South Wales Industrial Gazette.

Publication of awards.  
Act No. 2, 1940, s. 91.

**59.** (1) An apprenticeship committee may include, in an award made by it, provisions whereby terms of apprenticeship may be granted in the industry for which it is established which are shorter than the standard term generally applied in that industry, based on outstanding achievement in studies at technical college, outstanding progress in the employer's workshop, or standards of education achieved before commencement of apprenticeship.

Incentives to apprentices.

(2) An apprenticeship 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 technical college.

**60.** (1) The commission or an apprenticeship committee shall, upon application made therefor, insert in any award or apprenticeship agreement provisions entitling each apprentice to one week's sick leave on full pay for each year of service with an employer.

Sick leave.  
Act No. 2, 1940, s. 88c.

(2) The commission or an apprenticeship committee shall, upon application made therefor, insert (by way of variation or otherwise) in any award or apprenticeship agreement which contains provisions relating to sick leave, provisions enabling sick leave to accumulate from year to year so that

**sick**

**No. 37, 1969** sick leave not taken in each year of service shall be available to the employee for a period of at least three years from the end of each such year.

(3) The commission or an apprenticeship committee inserting provisions of the nature referred to in subsection one or two of this section may include such provisions as to the mode, terms and conditions under which sick leave may be given and taken as it deems necessary or desirable and, without limiting the generality of the foregoing may, subject to subsection two of this section, impose limitations upon the amount of sick leave which may be accumulated by an apprentice.

(4) The commission or an apprenticeship committee may exempt any employer from the operation of the provisions of any award or apprenticeship agreement relating to sick leave in any case where it is satisfied that the apprentices of that employer are entitled to benefits in the nature of sick leave under any scheme conducted by or on behalf of their employer which are not less favourable than those specified in the award or apprenticeship agreement and that it is in the best interests of the apprentices that such an exemption should be granted.

(5) An exemption granted pursuant to subsection four of this section shall not apply to an employer in respect of any apprentice who, within a period of three months after the date from which the exemption takes effect, or the date of commencement of his employment, as the case may require, has by notice in writing to the employer elected to be subject to the provisions of the award or apprenticeship agreement relating to sick leave in lieu of those of any such scheme.

Notwithstanding any provision of any such scheme, where an apprentice has given notice in writing as aforesaid, he shall be entitled to such benefits under the scheme, other than sick leave, as he would have been entitled to receive had he voluntarily left the service of the employer on the date upon which the notice was given and, except as aforesaid, upon the notice being given the rights of the apprentice to any benefits under the scheme and the obligations under the scheme of

the

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the employer and any persons charged with the administration of the scheme in respect of that apprentice and of any person claiming under that apprentice, or in respect of his employment, shall cease and determine. No. 37, 1969

(6) Nothing in this section relating to sick leave shall apply where apprentices are by or under any Act other than this Act entitled to leave in the nature of sick leave.

(7) Subject to subsection eight of this section, nothing contained in this section shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission or any member thereof or an apprenticeship committee by or under this Act in respect of sick leave.

(8) In the exercise or performance of the powers, authorities, duties or functions referred to in subsection seven of this section, the commission or any member thereof or an apprenticeship committee shall not in any award or apprenticeship agreement made, or deemed to have been made, under this Act, insert any provisions relating to sick leave less favourable to apprentices than the provisions prescribed by the foregoing provisions of this section.

**61.** (1) An apprenticeship committee shall, upon application made therefor, insert (by way of variation or otherwise) in an award or apprenticeship agreement made or deemed to have been made under this Act provisions having the nature of a disciplinary code. Disciplinary code.

(2) Where an apprenticeship committee inserts in an award or apprenticeship agreement provisions referred to in subsection one of this section 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



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been committed, the period of the suspension, the address of the Apprenticeship Commissioner and that the apprentice is entitled to apply to the Apprenticeship 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 Apprenticeship Commissioner, and 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.

(3) The Apprenticeship 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.

Provisions  
relevant to  
automation.  
Act No. 2,  
1940, s. 88g.

**62.** (1) Notwithstanding any other provision of this Act, the commission or an apprenticeship committee shall upon application therefor insert (by way of variation or otherwise) in an award or apprenticeship agreement whether made before or after the commencement of this Act, provisions relating to the matters set out in subsection two of this section.

(2) The matters referred to in subsection one of this section shall be—

- (a) the obligations, duties and responsibilities of an employer upon the introduction or proposed introduction of mechanisation or technological changes in the industry in which he is engaged;
- (b) the apprentices to whom notices of termination of services (being not less than three months) are to be given on account of such introduction or proposed

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proposed introduction and the form and effect of such notices and the consequences (including requirements that the ordinary rate of pay shall be paid for a specified period, being the difference between the notice given and that required to be given under the provisions inserted in the award or apprenticeship agreement pursuant to this section, and the period of notice to be given shall be deemed to be service with the employer for the purpose of the Long Service Leave Act, 1955, the Annual Holidays Act, 1944, the Long Service Leave (Metalliferous Mining Industry) Act, 1963) of failure to give such notices;

- (c) the notifications to be given by the employer to the Director, the Director of the Vocational Guidance Bureau and the Director of Technical Education of or pertaining to such notices of termination of services;
- (d) such other matters as the commission or apprenticeship committee deems relevant to or consequential upon the matters referred to in paragraphs (a), (b) and (c) of this subsection.

## PART VI.

## BREACHES OF AWARDS AND OTHER OFFENCES.

**63.** (1) (a) Where an employer employs a person to do any work for which the price or rate has been fixed by an award or apprenticeship agreement made or deemed to have been made under this Act, he shall be liable to pay in full in money to that person the price or rate so fixed without any deduction except such as may be authorised by the award or apprenticeship agreement, as the case may be.

Recovery  
of wages.  
Act No. 2,  
1940, s. 92.

(b) Where any such award or apprenticeship agreement fixes a price, rate or amount (not being a price or rate for work done) to be paid in the circumstances set

out

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No. 37, 1969 out therein in relation to any other matter the employer shall in those circumstances be liable to pay that price, rate or amount in full in money to the person entitled thereto without any deduction except such as may be authorised by the award or apprenticeship agreement, as the case may be.

(2) Such a person may apply, in the manner prescribed, to an industrial magistrate for an order directing the employer to pay the full amount of any balance due—

- (a) in respect of a price or rate referred to in paragraph (a) of subsection one of this section or a price or rate or amount referred to in paragraph (b) of that subsection; or
- (b) to that person in relation to any provision of an award or apprenticeship agreement providing that the employer shall bear or defray the cost or extra cost to the employee of doing any act or thing described in the award or apprenticeship agreement or that, upon the occurrence of events or happenings described in the award or apprenticeship agreement, the employer shall reimburse, compensate or recompense the employee to the extent of any loss sustained or expense incurred by him,

where such price or rate or price, rate or amount, or liability became due during the period of twelve months immediately preceding the date of the application (where that person is still in the employment of that employer at that date) or within the last twelve months with that employer (where the employment was terminated before the date of the application).

An application under this subsection made after the termination of the employment shall be made not later than twelve months after the date of that termination.

Such an order may be so made notwithstanding any smaller payment or any express or implied agreement to the contrary. The industrial magistrate may make such order as he thinks just and may award costs to either party and assess the amount of those costs.

(3)

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(3) Such a person may, in lieu of applying for an order under subsection two of this section, sue for any balance due as aforesaid in any district court or court of petty sessions and any person feeling aggrieved by a judgment or order of such a court given or made under this subsection may appeal therefrom to the commission as prescribed. **No. 37, 1969**

Upon such an appeal the commission may affirm, vary or rescind the judgment or order appealed from and may make such order as the court appealed from should have made including an order as to costs of the judgment or order appealed from or of the appeal.

(4) Such a person may take such proceedings and may recover any such balance due and costs, notwithstanding that he may not be of full age either at the time of doing the work or at the time of taking the proceedings.

(5) In any case where proceedings may be taken under subsection two or three of this section the proceedings may, with the concurrence in writing of the person so authorised, be taken by the secretary or other officer of an industrial union concerned in the industry to which the award or apprenticeship agreement relates in the name or on behalf of that person.

Any amount ordered to be paid in proceedings under this section may be paid to that secretary or other officer and the receipt of the secretary or other officer shall be sufficient discharge to the employer for the amount named in the receipt.

Any amount paid to that secretary or other officer (less any costs properly incurred in connection with the proceedings and not paid by the employer) shall be held by him on trust for the person in whose behalf the proceedings were taken.

(6) Whosoever inserts or causes to be inserted in a newspaper any advertisement in which he offers or seeks employment as an apprentice at a wage lower than the price or rate or upon conditions less favourable than those fixed by an award or apprenticeship agreement made, or deemed

to

**No. 37, 1969** to have been made, under this Act and applicable to that employment, shall be liable to a penalty not exceeding two hundred dollars.

The printer or publisher of any newspaper in which any such advertisement is published shall, upon demand, furnish the Director or the secretary of the industrial union for the industry to which the award or apprenticeship agreement relates with the name and address of the person who inserted or caused to be inserted, the advertisement.

(7) Where any female performs work under any award or apprenticeship agreement made, or deemed to have been made, under this Act, which does not prescribe rates for female employees she shall, pending variation of the award or apprenticeship agreement in consequence of the work being performed by a female, be paid the price or rate prescribed by that award or apprenticeship agreement for employees engaged on the class of work performed by her.

Nothing in the foregoing provisions of this subsection shall be construed as a direction that any variation of an award or apprenticeship agreement shall necessarily be made.

Penalty for  
breach of  
award or  
order.  
Act No. 2,  
1940, s. 93.

**64.** (1) If any person commits a breach of an award, apprenticeship agreement or order made or deemed to have been made under this Act, whether by contravening or failing to observe it, or otherwise, he shall be liable to a penalty not exceeding two hundred dollars. Proceedings for the recovery of any such penalty shall be taken before an industrial magistrate.

(2) Where in proceedings for the recovery of any such penalty it appears that the breach complained of relates to the failure of the defendant to pay in full any wages (including wages for overtime) due to an employee at the price or rate fixed by the award or apprenticeship agreement or any other moneys due to or recoverable by an employee in terms of the award or apprenticeship agreement, the industrial magistrate may also make such order with respect to

those

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those wages or moneys as might have been made in proceedings taken under section sixty-three of this Act. Such an order may be made without motion and shall be a bar to proceedings under that section in respect of those wages or moneys. No. 37, 1969

(3) Where a penalty is imposed upon any person under subsection one of this section and the industrial magistrate is of the opinion that the breach was committed by the wilful act or default of that person, he may, on motion or without motion and in addition to any penalty imposed, grant a writ of injunction to restrain any person from committing further or other breaches of the award or apprenticeship agreement.

If any person disobeys such a writ of injunction he shall be guilty of a misdemeanour and shall be liable to imprisonment for any period not exceeding six months.

Such a person may be committed for trial for an offence by any justice or justices under and pursuant to the Justices Act, 1902, or by the commission. For the purposes of such a committal the commission shall have the power of a justice or justices under that Act.

(4) Proceedings for a breach of an award, apprenticeship agreement or order may be taken and prosecuted by the Minister or by an employer or by the secretary of an industrial union concerned in the industry not later than twelve months after the date of the breach.

The industrial magistrate may award costs to either party and assess the amount of those costs according to the scale fixed by the Commission, from time to time, pursuant to subsection four of section ninety-three of the Principal Act.

65. If the secretary of an industrial union of employees or a person acting or purporting to act on behalf of such a union receives any money paid in respect of any act constituting a breach of an award or apprenticeship agreement, made or deemed to have been made under this Act, otherwise than Secretary  
of union  
receiving  
money for  
breach of  
award.  
Act No. 2,  
1940, s. 94.

in

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**No. 37, 1969** in pursuance of the order, or with the prior approval, of the Director or an industrial magistrate, he shall be liable to a penalty not exceeding two hundred dollars.

Application  
of certain  
provisions  
of the  
Principal  
Act.

**66.** (1) The provisions of section ninety-six of the Principal Act and the regulations made thereunder with respect to time sheets and pay sheets of employees and the exhibition of awards shall, mutatis mutandis, apply to and in respect of employers in industries to which an award or apprenticeship agreement made or deemed to have been made under this Act applies.

(2) The provisions of section 96A of the Principal Act shall, mutatis mutandis, apply to and in respect of proceedings instituted under this Part of this Act.

Penalties  
for breach  
of Act.

**67.** (1) Any person who commits a breach of this Act shall, where no penalty is specifically provided, be liable to a penalty not exceeding two hundred dollars.

(2) Any penalty imposed by or under this Act or the regulations may be recovered upon summary conviction before an industrial magistrate, who shall throughout the State have the jurisdiction and powers conferred by this Act on an industrial magistrate, and in the exercise of such jurisdiction may do alone whatever might be done by two or more justices sitting in petty sessions.

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**PART VII.**
**GENERAL.**

Appren-  
ticeship  
supervisors.

**68.** (1) The Governor may, under and in accordance with the Public Service Act, 1902, appoint apprenticeship supervisors who shall have the powers and duties prescribed.

(2)

*Apprentices.*

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(2) An apprenticeship supervisor may, in respect of No. 37, 1969 an industry in which apprentices are employed—

- (a) generally supervise the adequacy of training of apprentices in an employer's establishment;
- (b) advise and assist employers in relation to the employment and training of apprentices and the formation and conduct of group apprenticeship schemes;
- (c) investigate any complaints regarding conditions of employment of apprentices and alleged breaches of this Act or the regulations;
- (d) perform such duties as may be assigned by the Director; and
- (e) on obtaining the authority of the Minister, institute proceedings for the imposition of a penalty for any breach of the provisions of this Act.

(3) For the purpose of carrying out his duties an apprenticeship supervisor may at all reasonable times enter upon the premises of an employer in an industry in which apprentices are employed, and may require the production of time and pay sheets, copies of indentures and other documents relating to the employment of persons with respect to whom provision is made in this Act.

(4) No apprenticeship supervisor shall have authority under this Act to enter a private dwelling-house or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried out therein.

(5) If any person obstructs any apprenticeship supervisor in the exercise of his powers under this Act, or fails when duly required to produce time and pay sheets or documents as aforesaid he shall be liable to a penalty not exceeding one hundred dollars.



*Apprentices.*

**No. 37, 1969** **69.** (1) The commission and an apprenticeship committee or a member thereof, and a person authorised in writing by the commission, or the Director or the Apprenticeship Commissioner, may at any time during working hours enter any building, mine, mine working, ship, vessel, place or premises of any kind wherein, or in respect of which, an industry for which an apprenticeship committee is established by or under this Act is carried on, or in respect of which an award has been made, or is deemed to have been made, under this Act, or any offence against this Act is suspected to have been committed and may inspect and view any work, material, machinery, appliance, articles, book or documents therein subject, in the case of a person so authorised, to the terms of his authority.

**Powers  
of entry.**

**Act No. 2,  
1940, s. 129.**

(2) No person referred to in subsection one of this section shall have authority to enter a private dwelling-house or the land used in connection therewith unless some manufacture or trade in which labour is employed is carried on therein.

(3) A person who hinders or obstructs the commission, a member thereof, an apprenticeship committee or the members thereof, or any other person authorised as aforesaid, in the exercise of any power conferred by this section shall be liable to a penalty not exceeding one hundred dollars.

**Common  
law  
actions.**

**70.** (1) Notwithstanding the provisions of any other Act or any custom or usage, action for damages for breach of a contract of apprenticeship may be taken only before an industrial magistrate, in the manner prescribed.

(2) An industrial magistrate is hereby authorised and empowered to hear and determine an action commenced by either party to a contract of apprenticeship for damages for breach of the contract. An industrial magistrate may in such an action award such damages for breach of the contract of apprenticeship as he deems fit and may in relation thereto award costs in such amount as he shall assess in relation to a scale fixed by the commission.

**(3)**

*Apprentices.*

(3) In the exercise of the jurisdiction conferred by this section an industrial magistrate shall be governed in his procedure and in his decision by equity and good conscience. No. 37, 1969

(4) Where proceedings are initiated with a view to recovery of damages for breach of an apprenticeship contract an industrial magistrate, before commencing to hear the proceedings, shall refer the matter to the appropriate apprenticeship committee which shall endeavour to settle the matter by conciliation. If the Director notifies the industrial magistrate that the apprenticeship committee has not been able to settle the matter by conciliation he shall thereupon proceed to hear and determine the matter.

(5) From any decision of an industrial magistrate under this section an appeal shall lie, as prescribed, to the commission.

**71.** The provisions of the Principal Act and the regulations made thereunder relating to proceedings before an industrial magistrate, the recovery of any penalty and the enforcement of an order for the payment of money, and to appeals from an industrial magistrate to the commission, shall apply, *mutatis mutandis*, to and in respect of the like matters arising under this Act. Provision as to enforcement of orders, etc.

**72.** (1) Where, immediately before the thirtieth day of November in the year in which this section commences, or in any succeeding year, there is an apprenticeship committee for an industry, an employer in that industry shall, on or before the thirty-first day of January next succeeding that day, forward to the Director the prescribed form of return relating to tradesmen, apprentices and other persons employed by that employer in that industry on that thirtieth day of November. Employers to furnish information as to certain employees.

(2) A person who fails to comply with the provisions of this section shall be guilty of an offence and liable, on summary conviction before an industrial magistrate, to a penalty not exceeding one hundred dollars.

**73.**

*Apprentices.*

**No. 37, 1969** **73.** (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the carrying out of or giving effect to this Act.

Regulations.

(2) Such regulations may impose a penalty not exceeding forty dollars for any breach thereof.

(3) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

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SCHEDULES.

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FIRST SCHEDULE.

Sec. 5.

FIRST COLUMN.		SECOND COLUMN.
No. and Year of Act.	Short Title.	Extent of Repeal.
No. 41, 1901	Apprentices Act, 1901	The whole.
No. 35, 1937	Statute Law Revision Act, 1937.	So much of the Second Schedule as amended the Apprentices Act, 1901.
No. 74, 1964	Maintenance Act, 1964.	So much of Schedule Two as amended the Apprentices Act, 1901, and so much of Schedule Three as relates to the citation of that Act.

SECOND

*Apprentices.*

SECOND SCHEDULE.			No. 37, 1969
FIRST COLUMN.		SECOND COLUMN.	Sec. 5.
No. and Year of Act.	Short Title.	Amendment.	
No. 17, 1939	Child Welfare Act, 1939.	<p>Section 4, subsection (1)— Omit "apprenticed," from the definition of "Admitted to State control". Omit "without being apprenticed" from the definition of "Placed-out".</p> <p>Section 10— Omit "or apprenticed".</p> <p>Section 23, subsection (1)— Omit "apprenticed," from paragraph (b). Omit "apprentice," from paragraph (e).</p> <p>Section 23, subsection (6)— Omit "or apprenticed".</p> <p>Section 24— Omit "apprenticed,".</p> <p>Section 52— Omit ", apprenticed" wherever occurring.</p> <p>Section 53, subsection (1)— Omit "apprentice him," from paragraph (c).</p> <p>Section 141— After "may" where secondly occurring insert "otherwise". Omit "in cases where apprenticeship conditions are not applicable or desirable".</p> <p>Section 142— Omit subsection (1) and insert in lieu thereof the following subsection:— (1) An agreement for the placing out of a ward, other than an indenture of apprenticeship, shall be in the form prescribed, and any such agreement or indenture entered into by the Minister or his delegate shall be exempt from the provisions of the Stamp Duties Act, 1920, as amended by subsequent Acts.</p> <p>Section 148, subsection (2)— Omit "or apprenticed," from paragraph (b).</p> <p>Section 161, subsection (1)— Omit ", placing as adopted boarders, and apprenticing" from paragraph (c) and insert in lieu thereof "and placing as adopted boarders".</p>	

SECOND

## Apprentices.

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SECOND SCHEDULE—*continued.*

FIRST COLUMN.		SECOND COLUMN.
No. and Year of Act.	Short Title.	Amendment.
No. 17, 1939	Child Welfare Act, 1939— <i>continued.</i>	Section 161, subsection (1)— <i>continued.</i> Omit "apprenticeship articles," from paragraph (e). Omit "apprenticed," from paragraph (n).
No. 35, 1939	Apprentices (War Service) Act, 1939.	Section 1, subsection (2)— Omit "1912, as amended by subsequent Acts" and insert in lieu thereof "1940, and the Apprentices Act, 1969, and any Act amending those Acts". Section 3, subsection (1)— Omit "council" wherever occurring and insert in lieu thereof "committee". Omit "Industrial Registrar" and insert in lieu thereof "Director". Section 3, subsection (2)— Omit "Act, 1903-1939," and insert in lieu thereof "Act 1903". After "Australia" insert ", and any Act amending that Act". Section 5, subsection (2)— Omit "Industrial Registrar" wherever occurring and insert in lieu thereof "Director". Omit "council" wherever occurring and insert in lieu thereof "committee". Section 6, subsections (2), (3) and (4)— Omit "Industrial Registrar" wherever occurring and insert in lieu thereof "Director". Section 6, subsections (5), (7) and (8)— Omit "council" wherever occurring and insert in lieu thereof "committee". Sections 7, 8 and 9— Omit "council" wherever occurring and insert in lieu thereof "committee". Section 10, subsection (2)— Omit "council" and insert in lieu thereof "committee". Omit "industrial" and insert in lieu thereof "apprenticeship". Section 11— Omit the section.

SECOND

## Apprentices.

FIRST COLUMN.		SECOND COLUMN.
No. and Year of Act.	Short Title.	Amendment.
No. 35, 1939	Apprentices (War Service) Act, 1939 —continued.	<p>Section 12, subsection (1)— Omit “1912” and insert in lieu thereof “1940”.</p> <p>Section 12, subsection (2)— Omit “Industrial Arbitration Act, 1912,” and insert in lieu thereof “Apprentices Act, 1969.” After “made” insert “or deemed to have been made”.</p> <p>Section 13, subsections (1) and (2)— Omit “council” wherever occurring and insert in lieu thereof “committee”.</p> <p>Section 13, subsection (3)— Omit “Industrial Arbitration Act, 1912,” and insert in lieu thereof “Apprentices Act, 1969.” After “made” insert “or deemed to have been made”.</p> <p>Omit “councils” and insert in lieu thereof “committees”.</p>
No. 2, 1940	Industrial Arbitration Act, 1940.	<p>Section 2— Omit “, CONCILIATION COMMITTEES, AND APPRENTICESHIP COUNCILS” from the matter relating to Part II and insert in lieu thereof “AND CONCILIATION COMMITTEES”.</p> <p>Omit the matter relating to Division 4 of Part II.</p> <p>Omit “, APPRENTICESHIP COUNCILS.” from the matter relating to Part III.</p> <p>Omit the matter relating to Division 3 of Part III.</p> <p>Section 5, subsection (1)— Omit the definitions of “Apprentice” and “Trainee apprentice”.</p> <p>Section 8, subsection (8)— After “agreement,” insert “award or apprenticeship agreement under the Apprentices Act, 1969,”.</p> <p>Omit “the apprenticeship council” and insert in lieu thereof “an apprenticeship committee established under that Act”.</p>

SECOND

*Apprentices.*

No. 37, 1969

SECOND SCHEDULE—*continued.*

FIRST COLUMN.		SECOND COLUMN.
No. and Year of Act.	Short Title.	Amendment.
No. 2, 1940	Industrial Arbitration Act, 1940— <i>ctd.</i>	<p>Section 9, subsection (3)— After "agreement" insert ", or award or apprenticeship agreement under the Apprentices Act, 1969,".</p> <p>Section 9, subsection (4)— After "agreement" insert "or award or apprenticeship agreement under the Apprentices Act, 1969,". Omit "the apprenticeship council" and insert in lieu thereof "an apprenticeship committee established under that Act,".</p> <p>Part II— Omit ", CONCILIATION COMMITTEES, AND APPRENTICESHIP COUNCILS" from the heading and insert in lieu thereof "AND CONCILIATION COMMITTEES".</p> <p>Section 14, subsection (10)— Omit ", the conciliation committees, and the apprenticeship councils" and insert in lieu thereof "and the conciliation committees".</p> <p>Part II, Division 4— Omit the Division.</p> <p>Part III— Omit from the heading ", APPRENTICESHIP COUNCILS,".</p> <p>Section 20, subsection (1)— Omit paragraph (d).</p> <p>Part III, Division 3— Omit the Division.</p> <p>Section 30B, subsection (1)— After "Act" where secondly occurring in paragraph (c) insert "or the Apprentices Act, 1969".</p> <p>Section 30B, subsection (2)— After "this" insert "or any other".</p> <p>Section 30C— Omit ", an apprenticeship council". Omit ", the apprenticeship commissioner".</p>

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*Apprentices.*SECOND SCHEDULE—*continued.*

No. 37, 1969

FIRST COLUMN.		SECOND COLUMN.
No. and Year of Act.	Short Title.	Amendment.
No. 2, 1940	Industrial Arbitration Act, 1940— <i>ctd.</i>	<p>Section 53— After subsection (2) insert the following new subsection:— (3) On and after the day appointed under subsection one of section two of the Apprentices Act, 1969—</p> <p>(a) the provisions of sections fifty-five, fifty-six, fifty-seven and fifty-eight of this Act shall be read and construed as if—</p> <p>(i) a reference therein to an award, or an award made under this Act, included an award made or deemed to have been made under the Apprentices Act, 1969;</p> <p>(ii) a reference therein to an agreement included a reference to an apprenticeship agreement made or deemed to have been made under the Apprentices Act, 1969; and</p> <p>(iii) a reference therein to an apprenticeship council were a reference to an apprenticeship committee established by or under the Apprentices Act, 1969; and</p> <p>(b) in so far as, but for this paragraph, the powers, authorities, duties and functions conferred or imposed upon the registrar by subsection five of section fifty-seven, or subsection six of section fifty-eight, of this Act would, but for this paragraph, be exercised or performed by him in relation to awards and apprenticeship agreements made under the Apprentices Act, 1969, they shall be exercised or performed by the Director appointed under that Act.</p>

SECOND



## Apprentices.

No. 37, 1969

SECOND SCHEDULE—*continued.*

FIRST COLUMN.		SECOND COLUMN.
No. and Year of Act.	Short Title.	Amendment.
No. 2, 1940	Industrial Arbitration Act, 1940— <i>ctd.</i>	<p>Section 83A— Omit “, an apprenticeship council”.</p> <p>Section 88c, subsections (2), (2A) and (4)— Omit “, a committee or an apprenticeship council” and insert in lieu thereof “or a committee”.</p> <p>Section 88c, subsection (3)— Omit “, committee or apprenticeship council” and insert in lieu thereof “or committee”.</p> <p>Section 88c, subsection (9)— Omit “committee, a conciliation commissioner or an apprenticeship council” and insert in lieu thereof “committee or conciliation commissioner”.</p> <p>Omit “committee, conciliation commissioner or an apprenticeship council” and insert in lieu thereof “committee or conciliation commissioner”.</p> <p>Section 125, subsection (4)— Omit the subsection.</p> <p>Section 129B, subsection (1)— Omit “, a committee or an apprenticeship council” and insert in lieu thereof “or a committee”.</p>
No. 31, 1944	Annual Holidays Act, 1944.	<p>Section 2, subsection (1)— After “Act” where thirdly occurring in the definition of “Agreement” insert “and includes an apprenticeship agreement for the time being in force under the Apprentices Act, 1969, or any Act amending or replacing that Act”.</p> <p>After “Act” where thirdly occurring in the definition of “Award” insert “and includes an award for the time being in force under the Apprentices Act, 1969, or any Act amending or replacing that Act”.</p> <p>Section 5, subsection (1A)— After the word “Acts,” insert “or the Apprentices Act, 1969”.</p>

SECOND

*Apprentices.*

SECOND SCHEDULE— <i>continued.</i>			No. 37, 1969
FIRST COLUMN.		SECOND COLUMN.	
No. and Year of Act.	Short Title.	Amendment.	
No. 38, 1955	Long Service Leave Act, 1955.	<p>Section 3, subsection (1)—            After "Act" in the definition of "Award" insert "or under the Apprentices Act, 1969".            After "Act" where secondly occurring in the definition of "Industrial Agreement" insert "and includes an apprenticeship agreement for the time being in force under the Apprentices Act, 1969".</p> <p>Section 4, subsection (13)—            After "1940," in the definition of "Award" insert "or an award or apprenticeship agreement made under the Apprentices Act, 1969,".            Omit "either" from the same definition and insert in lieu thereof "any".</p>	

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