

*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

W. S. MOWLE,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 29 October, 1919.*

New South Wales.



ANNO DECIMO

GEORGII V REGIS.

Act No. , 1919.

An Act to provide for payments towards the maintenance of children ; to amend the law relating to industrial arbitration ; to amend the Industrial Arbitration Act, 1912, the Industrial Arbitration (Amendment) Act, 1916, the Industrial Arbitration (Amendment) Act, 1918, and the Industrial Arbitration (Further Amendment) Act, 1918 ; and for purposes consequent thereon or incidental thereto.

Maintenance of Children.

BE it enacted by the King's Most Excellent Majesty,
 by and with the advice and consent of the Legis-
 lative Council and Legislative Assembly of New South
 Wales in Parliament assembled, and by the authority of
 5 the same, as follows:—

1. This Act may be cited as the "Maintenance of Short title.
 Children Act, 1919."

2. (1) In this Act, unless the context otherwise Definitions.
 indicates,—

10 "Board" means the New South Wales Board of
 Trade.

"Child" means any boy under fourteen years of age
 or any girl under the age of fifteen years who
 is not in employment, whose parent is an
 15 employee, and includes an illegitimate child.

"Employee" means any person over eighteen
 years of age engaged or employed in any
 capacity for hire or reward in any kind of
 work whatsoever, whether his remuneration
 20 is by salary or wages according to time
 or piece-work rates or otherwise howsoever,
 but shall not include a member of a family in
 the employment of a parent, or any person
 (other than a chauffeur) engaged in or in connec-
 25 tion with domestic duties in a private household
 or otherwise than in or in connection with the
 business, trade, or occupation of the employer;
 and the fact that a person is working under a
 contract for labour only or substantially for
 30 labour only or as lessee of any tools or other
 implements of production or any vehicle used
 in the delivery of goods, shall not in itself
 prevent such person from being held to be an
 employee.

35 "Employer" means any person, company, cor-
 poration, firm, or association engaging or
 employing or usually engaging or employing
 an employee in any capacity other than
 in or in connection with domestic duties in
 40 a private household, and whether on behalf
 of himself or any other person, and whether
 or

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5 or not the employer resides within the State.
The term includes every managing director,
public officer, agent, representative, or manager
of any such company, corporation, firm, or asso-
ciation, and every manager, agent, or repre-
sentative for any employer.

“Fund” means the Maintenance of Children Fund.

10 “Industrial Arbitration Act” means the Industrial
Arbitration Act, 1912, as amended by the
Industrial Arbitration (Amendment) Act, 1916,
the Industrial Arbitration (Amendment) Act,
1918, and the Industrial Arbitration (Further
Amendment) Act, 1918.

15 “Minister” means the Minister for Labour and
Industry, or other Minister of the Crown for
the time being charged with the adminis-
tration of this Act.

20 “Mother” includes any woman other than a paid
housekeeper, nurse, or other servant in charge
of the domestic affairs of a household in which
a child resides, and who has the care, control,
and management of a child, and if there is no
such woman, the father, or any person who is
25 otherwise in loco parentis to a child; but does
not include the female parent of any child
which is subject to the care, control, and
management of another person to whom pay-
ments out of the fund are made in respect of
such child.

30 “Prescribed” means prescribed by this Act or by
any rule, regulation, or order made there-
under.

(2) This Act shall apply to the Crown and to any department of His Majesty's Government. Act to apply to Crown.

35 (3) This Act shall not apply to any employers or
employees in so far as they are engaged in rural indus-
tries unless the conditions of employment of such
employees have been regulated by any award under the
Industrial Arbitration Act or to employers whose
40 industries are regulated by awards of the Common-
wealth Court of Conciliation and Arbitration or
employees

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employees whose wages and conditions of employment are regulated by and who are paid in accordance with an award of the Commonwealth Court of Conciliation and Arbitration.

5 **3.** Section seventy-nine of the Industrial Arbitration Act is amended by adding at the end of subsection one the following words:—"The living wage declared for adult male employees (including employees engaged in rural occupations) shall be the amount which the Board of Trade shall determine to be sufficient to maintain and support a man and his wife, and if the living wage declared during the year one thousand nine hundred and nineteen is fixed upon any other basis, the same shall not be operative, and the Board of Trade shall redetermine the living wage for that year upon the basis herein established."

Amendment
of Industrial
Arbitration
Act : s. 79.

Maintenance
of man and
wife.

4. Section seventy-nine of the Industrial Arbitration Act is further amended by adding the following new subsection:—

Amendment
of Industrial
Arbitration
Act, s. 79.

20 (4) All increases in wages granted by any award or variation of an award made upon the basis of a living wage of three pounds seventeen shillings, as declared by the Board of Trade prior to the passing of the Maintenance of Children Act, shall be void and inoperative, and every award so made or varied shall be read and construed until the Board of Trade shall determine the living wage for a man and his wife as if the wages payable prior to the making or variation thereof were repeated therein, and upon the living wage for a man and his wife being determined as aforesaid every such award or variation shall be read and construed as if the wages fixed thereby were reduced by a sum equal to the difference between the living wage for a man and his wife as determined as aforesaid and the sum of three pounds seventeen shillings.

5. The following new section is inserted next after section seventy-nine of the Industrial Arbitration Act:—

New section,
Industrial
Arbitration Act.
New s. 79A.

40 **79A.** The Board of Trade shall also, in the course of each inquiry directed by the last preceding section in relation to male employees, inquire into, ascertain, and make a separate declaration as to the further

Additional sum
for maintenance
of children.

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further sum necessary to be added to the cost of living for a man and his wife to provide for the maintenance of a single child, and for each additional child maintained in the same household.

5 **6.** (1) There is hereby created in the Treasury a fund, to be called "The Maintenance of Children's Fund." Maintenance of Children's Fund.

(2) All moneys received from employers under this Act shall be paid into the fund. All payments in respect of children shall be payable out of the fund.

10 (3) If and whenever the amount paid into the fund by employers as hereinafter prescribed is insufficient to meet all the payments necessary to be made from the said fund, the Treasurer shall have authority to pay into the said fund from the Consolidated Revenue a sum
15 equal to the deficiency.

(4) The fund shall be charged with the payment of all costs and expenses of administration, and any charges for salaries, rents, or other outgoings shall in all cases where payments on account thereof are not
20 made solely for the purposes of the fund be fairly apportioned between the fund and such other services as may be concerned in the payment thereof.

(5) The provisions of the Audit Act, 1898, and of any other Act relating to the collection and payment of
25 public moneys and the audit of the public accounts shall apply to the fund and to the officers administering it.

7. The Government Statistician shall, as soon as practicable after the determination by the Board in each
30 year of the cost of maintenance of a single child, ascertain and report to the Minister—

- (a) the number of employers ;
 (b) the number of employers employing male employees ;
 35 (c) the number of male employees ;
 (d) the number of employers employing female employees ;
 (e) the number of female employees ;
 40 (f) the number of male employees arranged in twelve successive groups according to wages, beginning with a group comprising all male employees receiving not more than five shillings
 per

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- per week in excess of the declared living wage for adult males for the time being in force, and each succeeding group comprising all male employees receiving wages not more than five shillings per week in excess of the group immediately preceding it respectively ;
- 5
- (g) the number of female employees arranged in twelve successive groups according to wages, beginning with a group comprising all female employees receiving not more than five shillings per week in excess of the declared living wage for adult females for the time being in force, and each succeeding group comprising all female employees receiving wages not more than five shillings per week in excess of the group immediately preceding it respectively ;
- 10
- (h) the number of children of male and female employees respectively ;
- 15
- (i) the number of children arranged according to groups of all employees included in each of the groups referred to in paragraphs (f) and (g) hereof ;
- 20
- (j) the total annual cost of maintenance of all children of employees referred to in paragraphs (f) and (g) hereof calculated in the following manner :—
- 25
- (i) the number of children of employees in the groups containing male and female employees in receipt of not less than five shillings in excess of the declared living wage for adult male and female employees respectively, shall be multiplied by the annual cost determined upon by the Board for the maintenance of a single child in a household ;
- 30
- (ii) the number of children of employees in each successive group shall be multiplied by the sum set opposite each group in the Schedule hereto and the totals so obtained shall be added to the sum ascertained under the last preceding paragraph ;
- 35
- 40
- (k)

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- 5 (k) the total annual cost of maintenance of all children of female employees referred to in paragraph (g) hereof (who are not also children of male employees) calculated in the same manner mutatis mutandis as hereinbefore provided in paragraph (j);
- 10 (l) the amount which will result from dividing the total cost of maintenance of children as ascertained in accordance with paragraph (j) hereof by the total number of male employees; and
- 15 (m) the amount which will result from dividing the total cost of maintenance of all children of female employees who are not also children of male employees as ascertained in accordance with paragraph (k) hereof by the total number of female employees;

within the State at a date to be prescribed. The report shall be made in the form and shall contain such other
20 particulars as may be prescribed.

8. (1) In order to enable the Government Statistician to make such report every employer shall make and forward statements and returns to the Government Statistician at the times, in the manner and form, and
25 containing such particulars duly verified as prescribed.

(2) In lieu of requiring such statements and returns, the Government Statistician may, in his discretion, accept as correct such particulars contained in any return for the same period furnished by the employers
30 or any class of employers or individual employer under any other Act as will enable the Government Statistician to make a proper return to the Board of Trade.

(3) The Government Statistician shall, in making any inquiry into the matters to be included in his report, and in procuring the necessary information therefor, have and exercise all the powers and authorities conferred on him by the Census Act, 1901, as fully and effectively as if the inquiry to be made and information to be obtained by him under this Act were provided for
40 in the Census Act, 1901.

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9. The amount of the monthly cost per male Proclamation of monthly cost of maintenance. employee of the maintenance of all children and of the monthly cost per female employee of the maintenance of all children of female employees
5 who are not also children of male employees shall be as fixed by proclamation in the Government Gazette within fourteen days after the receipt by the Minister of the statement from the Government Statistician. Such monthly cost shall in
10 each case be ascertained by dividing into twelve equal parts the respective annual costs as fixed in pursuance of paragraphs (l) and (m) of section six of this Act.

10. (1) The sum payable as hereinafter provided by Payments by employers. employer of male employees shall be the cost of
15 maintenance per male employee proclaimed as aforesaid multiplied by the daily average of the number of male employees (whether or not the same persons) employed by him on each working day in each month.

20 (2) The sum payable as hereinafter provided by each employer of female employees shall be the cost per female employee proclaimed as aforesaid multiplied by the daily average of the number of female employees (whether or not the same persons) employed by him on each working day in each month.

25 (2) Employees whose wages and conditions of employment are regulated by an award of the Commonwealth Court of Conciliation and Arbitration and who are paid in accordance therewith shall not be reckoned in the daily average of employees referred to in the two
30 preceding subsections of this section, nor shall an employer be required to pay an assessment in respect of any such employee provided he supplies the prescribed particulars in respect of such employee.

35 (4) Such sum shall be deemed to have been duly levied and assessed on each employer of male employees or of female employees respectively on the day on which the proclamation shall be published as aforesaid.

40 (5) Such assessment shall take effect as from the first day of the month in which publication is made, and shall continue in force thereafter from month to month until the publication of the next annual proclamation.
(6)

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(6) The amount of the assessment for the first month shall be paid to the Treasury by the employers so assessed on or before the fourteenth day of the month next following the publication of the proclamation, and thereafter the assessment for each month shall be paid on the fourteenth day of the next succeeding month.

(7) If the employer fails to pay the amount of an assessment the Minister may enforce payment of the sum so assessed.

(8) If an employer fails to pay the amount of an assessment or any part thereof, the Minister may enforce payment of the same together with one-twentieth more by way of penalty by complaint against the employer in any court of petty sessions or by action in any court of competent jurisdiction.

(9) Notwithstanding anything herein contained, the Minister may in any case in which the Court of Industrial Arbitration shall, after inquiry upon a reference made by him to the said court for that purpose, report that an employer has satisfied the said court that it would be a hardship to exact from him payment in full of an assessment, remit or postpone in favour of such employer the payment of the whole or such part of such assessment as the court may recommend.

For the purpose of any inquiry under this paragraph, the Court of Industrial Arbitration shall have and exercise all the powers and functions conferred on it by the Industrial Arbitration Act in respect of matters within its jurisdiction under that Act.

11. Each payment of an assessment shall be accompanied by a return to be prepared by the employer showing the number of male and female employees employed by him on each working day during the month for which payment is made, and also information as to any strike in which his employees have been concerned. The return shall be in such form and contain such particulars, and be verified in such manner as is prescribed.

12. (1) Every employer shall keep or cause to be kept from day to day at the place, in the manner, and to the effect prescribed, time-sheets and pay-sheets of all employees

Return to be furnished with payment.

Time-sheets and pay-sheets to be kept.

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employees whose wages or salaries do not exceed eight pounds per week or four hundred pounds per annum.

(2) Any time-sheets or pay-sheets or other records kept by an employer in compliance with any other Act may be accepted as correct for the purposes of the last preceding subsection if they are kept as prescribed therein or thereunder, notwithstanding that further or additional particulars are entered in the said records, time or pay sheets.

10 **13.** (1) The Governor may, subject to the Public Service Act, 1902, appoint inspectors and other officers who shall have the powers and duties prescribed.

Appointment
of inspectors
and other
officers.

(2) Every inspector may—

15 (a) enter any premises or place (other than a private dwelling-house in which no business or trade is carried on) at any time when he has reasonable cause to believe that any person is employed therein;

20 (b) question any person whom he finds in or about such premises or place or any person whom he has reasonable cause to believe to be or to have been within the preceding three months employed therein, and require such person to answer all questions put to him with respect to matters under this Act, and sign a declaration of the truth of his answers;

25 (c) require the production of any book, time-sheet, wages-sheet, record, list, or document which is by this Act required to be kept, and inspect, examine, and copy the same;

30 (d) take with him a constable when he has reasonable cause to apprehend any obstruction in the execution of his duty, or take with him when it appears expedient so to do an interpreter.

35 Any question or requisition made by an interpreter on behalf of the inspector shall be deemed to have been put or made by the inspector, and the answer thereto made to the interpreter shall be deemed to have been made to the inspector;

40 (e) exercise such powers and authorities as may be prescribed.

14.

*Maintenance of Children.***14.** If any person—

- Penalties.
- 5 (a) refuses or neglects to keep, fill up, complete and forward as prescribed any time-sheet, pay-sheet, record, or return required of him under this Act ; or
- 10 (b) refuses or neglects to answer or untruly answers any inquiry relating to the matters in respect of which the Government Statistician is directed to report under this Act, whether made by the Government Statistician or any person appointed by him for that purpose ; or any inquiry made by any inspector or other officer in the exercise of his duties and powers under this Act ; or
- 15 (c) wilfully or negligently signs or delivers, or causes to be made, signed, or delivered any false return or statement of any particular relating to the matters aforesaid, or obstructs any person in the performance of his duty under this Act ; or
- 20 (d) fails to produce any book, time-sheet, wages-sheet, record, list, or document which he is required by an inspector to produce ; or
- 25 (e) directly or indirectly prevents any person from appearing before or being questioned by an inspector or attempts so to do ;

such person so offending shall on conviction be liable to a penalty not exceeding twenty pounds.

- 30 **15.** (1) Subject to the provisions hereinafter mentioned, each mother shall be entitled to be paid out of the fund a monthly sum for a single child equal to the monthly cost of support of such child as ascertained by the determination of the board for the time being in force, and a further monthly sum for each additional
- 35 child equal to the monthly cost of support of such additional child as so ascertained.

- (2) All payments in respect of a single child and of each additional child shall be reduced by one-twelfth of the cost of maintenance ascertained by the board in
- 40 respect of a single child and each additional child respectively for each five shillings or part thereof by which the
- the

Payment
from fund to
mothers.

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the wages of the parent of such single child or additional child exceeds the living wage for an adult male or adult female respectively as declared by the Board of Trade.

16. All applications for payment shall be made Applications for payment.
 5 within the time, at the place, and in the manner prescribed, and shall be accompanied by such proof or verified in such manner as shall be prescribed.

The decision of the Minister upon any application shall be final.

10 **17.** All payments to which any person may be entitled from the fund in respect of a child shall be made Time and manner of payment.
 monthly at such times and in such manner as may be prescribed.

15 **18.** No payments shall be made out of the fund in respect of the child of an employee— No payment in certain cases.

- (a) who shall not have been a bona fide resident of the State for a period of one month; or
- 20 (b) during the continuance of any strike in the industry in which the employee shall be employed, or in respect of the period of duration of such a strike, unless it shall be established to the satisfaction of the Minister that the employee in respect of whose child the payment is claimed has not taken part in the strike: Provided that the Minister shall, at
- 25 the request of any person aggrieved by his decision, refer for determination by the Court of Industrial Arbitration any question relative to the existence or duration of a strike or the participation therein of any person in respect
- 30 of whose child payment is claimed. The Court of Industrial Arbitration shall, upon any such reference, have and exercise all or any of the powers conferred by the Industrial Arbitration Act, 1912; or
- 35 (c) whose net income exceeds the sum of eight pounds per week, or four hundred pounds per annum; or
- 40 (d) in excess of an amount which will when added to the income of the employee in respect of whose

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- whose child the payment is claimed bring the total income and payment to eight pounds per week or four hundred pounds per annum ; or
- 5 (e) except in the case of an illegitimate child an amount equal to the difference between the payments made or ordered by any court of competent jurisdiction to be made by the putative father for the support of the child and the amount which would, if the child had been
- 10 born in wedlock, have been payable out of the fund in respect of the child ; or
- (f) whose wages and conditions of employment are regulated by an award of the Commonwealth Court of Conciliation and Arbitration, and who
- 15 is paid in accordance therewith.
- 19.** For any month in which a child is born, or attains fourteen years of age, or in the case of a female child who is not in employment, fifteen years of age, or dies, payment out of the fund shall only be made for
- 20 the portion of the month in which the child is supported or maintained.
- 20.** (1) The Governor may, subject to this Act, make rules, regulations, or orders providing for all or any purpose, whether general or to meet particular cases,
- 25 that may be convenient for the administration of this Act, or that may be necessary or expedient to carry out the objects and purposes of this Act, or, where there may be under this Act insufficient provision in respect of any matter or thing necessary or expedient to give
- 30 effect to this Act, providing for and supplying such omission or insufficiency.
- (2) The rules, orders, or regulations may fix a penalty not exceeding in any case twenty pounds for any breach thereof.
- 35 (3) All such rules, orders, or regulations shall be published in the Government Gazette, and if not disallowed as hereinafter provided shall have the force of law.
- (4) All such rules, orders, or regulations on
- 40 being gazetted shall be laid before both Houses of Parliament within fourteen days if Parliament is then sitting

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sitting, and if not sitting, then within fourteen days after the next meeting of Parliament. But if either House of Parliament passes a resolution, of which notice has been given, at any time within fifteen sitting days after such rules, orders, or regulations have been laid before such House disallowing any rule, order, or regulation, such rule, order, or regulation shall thereupon cease to have effect.

THE SCHEDULE.

10	Group.	Wage Classification of Employees.			
	2 (males)...	Not more than 10s. in excess of living wage.	$\frac{11}{12}$	of declared cost of maintenance of single child.	
	2 (females)	10s.	$\frac{11}{12}$	"	"
15	3 (males)...	15s.	$\frac{10}{12}$	"	"
	3 (females)	15s.	$\frac{10}{12}$	"	"
	4 (males)...	20s.	$\frac{9}{12}$	"	"
	4 (females)	20s.	$\frac{9}{12}$	"	"
	5 (males)...	25s.	$\frac{8}{12}$	"	"
20	5 (females)	25s.	$\frac{8}{12}$	"	"
	6 (males)...	30s.	$\frac{7}{12}$	"	"
	6 (females)	30s.	$\frac{7}{12}$	"	"
	7 (males)...	35s.	$\frac{6}{12}$	"	"
	7 (females)	35s.	$\frac{6}{12}$	"	"
25	8 (males)...	40s.	$\frac{5}{12}$	"	"
	8 (females)	40s.	$\frac{5}{12}$	"	"
	9 (males)...	45s.	$\frac{4}{12}$	"	"
	9 (females)	45s.	$\frac{4}{12}$	"	"
	10 (males)...	50s.	$\frac{3}{12}$	"	"
30	10 (females)	50s.	$\frac{3}{12}$	"	"
	11 (males)...	55s.	$\frac{2}{12}$	"	"
	11 (females)	55s.	$\frac{2}{12}$	"	"
	12 (males)...	60s.	$\frac{1}{12}$	"	"
	12 (females)	60s.	$\frac{1}{12}$	"	"

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