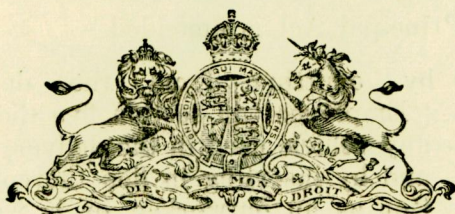


New South Wales.



ANNO SEPTIMO

GEORGI VI REGIS.

Act No 25, 1943.

An Act to provide for the appointment of not more than five conciliation commissioners; for this and other purposes to amend the Industrial Arbitration Act, 1940, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 21st October, 1943.]

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

1. (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1943."

Short title,
citation
and com-
mencement.

(2)

Industrial Arbitration (Amendment).

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

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1943.

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

2. The Principal Act is amended—

(a) (i) by omitting from the definition of “Employee” in section five the words “or any vehicle used in the delivery of goods,” and by inserting in lieu thereof the words “or as an outworker, or is working as a salesman, canvasser, collector, commercial traveller, insurance agent or in any other capacity in which he is paid wholly or partly by commission”;

(ii) by inserting after the definition of “Minister” in the same section the following new definition:—

“Outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired or adapted for sale, in his own home or on other premises not under the control or management of the person who gives out the materials or articles.

(iii) by inserting at the end of the same section the following new subsections:—

(2) A person who is engaged in plying for hire or in the delivery of goods with any vehicle or vessel the use of which is obtained by that person under a contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise shall, where the work in which such

Amendment
of Act No.
2, 1940.
Sec. 5.
(Defini-
tions.)

cf. Act No.
15, 1926,
s. 6 (1).

cf. *Ibid.*
s. 6 (11).

Industrial Arbitration (Amendment).

such person is so engaged is work for which, by an award or industrial agreement, a price or rate has been fixed for persons performing such work, be deemed, for the purposes of this Act, to be an employee employed by the person from whom the use of the vehicle or vessel is so obtained, and such last mentioned person shall, for the purposes of this Act, be deemed to be the employer of such employee unless such persons or either of them establishes to the satisfaction of the tribunal in which proceedings for a breach of the award or industrial agreement are instituted that the contract of bailment was a bona fide contract and was not entered into for the purpose of avoiding the operation of the award or industrial agreement.

(3) (a) Where any person (in this subsection referred to as "the principal") advertises or otherwise notifies that he will accept timber delivered or supplied to him or his agent or other person in accordance with such advertisement or notification or advertises or otherwise notifies to the abovementioned effect and any person (in this subsection hereinafter referred to as the "contractor") gives notice to the principal that he will deliver or supply such timber or any part thereof, then except where the principal forthwith notifies the contractor in writing that his offer to accept timber so delivered or supplied has been withdrawn, the contractor, whilst engaged in or about the work of cutting, delivering or supplying such timber or part thereof shall, for the purposes of this Act, be deemed to be an employee employed by the principal, and the principal shall, for the purposes of this Act, be deemed to be the employer of such contractor.

cf. Act No.
15, 1926,
s. 6 (5) (b).

Notice

Industrial Arbitration (Amendment).

Notice of intention to deliver or supply timber as aforesaid shall be in or to the effect of the prescribed form and shall indicate the nature of the actual work to be undertaken and also the locality where and the time within which the actual work is to be carried out.

The notice may be given personally or by letter posted to the principal at his place of business or usual address.

(b) For the purposes of this subsection:—

“Timber” includes sleepers, piles, poles, girders, logs or pit timber;

“Cutting” includes felling, sawing, obtaining, preparing or doing any work in connection with timber.

(b) by omitting the proviso to subsection three of section eight.

3. The Principal Act is further amended—

(a) (i) by omitting from subsection seven of section fourteen the words “the conciliation commissioner” where firstly occurring and by inserting in lieu thereof the words “a conciliation commissioner”;

(ii) by omitting from the same subsection the words “The conciliation commissioner, committee, or” wherever occurring and by inserting in lieu thereof the words “A conciliation commissioner or committee or the”;

(b) by omitting from subsection ten of the same section the word “commissioner” and by inserting in lieu thereof the word “commissioners”;

(c) by inserting at the end of the same section the following new subsection:—

(13) Where any question or application is referred or any appeal is made to the commission under

Sec. 8.
(Registration
of industrial
union of
employees.)

Further
amendment
of Act No. 2,
1940.

Sec. 14.
(Industrial
com-
mission.)

Industrial Arbitration (Amendment).

under this Act, the commission may, before proceeding with the hearing of such question, application or appeal, call a conference of the parties with a view to effecting a settlement of the matters in dispute.

At such conference the members of the conciliation committee established for the industry or calling concerned shall, if the commission so directs, sit with the commission.

4. (1) The Principal Act is further amended—

- (a) (i) by omitting subsection one of section fifteen and by inserting in lieu thereof the following subsections:—

Further amendment of Act No. 2, 1940.
Sec. 15.
(Conciliation commissioner.)

(1) The Governor may appoint not more than five persons each of whom shall be a conciliation commissioner, and may appoint one of the conciliation commissioners to be the senior conciliation commissioner.

(1A) (a) The conciliation commissioners, other than the senior conciliation commissioner, shall have seniority according to the dates of their appointments, or, where the appointments of two or more of them were made on the same date, according to such order of precedence as may be assigned to them by the Governor.

(b) In the case of the absence of the senior conciliation commissioner or of his inability to perform the duties of his office or in the case of any vacancy in the office of senior conciliation commissioner, all the duties and powers of the senior conciliation commissioner shall devolve upon the conciliation commissioner who is next in order of seniority.

(1B) A conciliation commissioner shall be chairman of each committee.

The

Industrial Arbitration (Amendment).

The commission shall, from time to time, determine the committees of which each conciliation commissioner is to be chairman.

- (ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:—
 - (2) Each conciliation commissioner shall be paid such salary as the Governor may determine.
- (iii) by omitting from subsection three of the same section the word “The” and by inserting in lieu thereof the word “A”;
- (iv) by omitting from subsection four of the same section the word “The” where firstly occurring and by inserting in lieu thereof the word “A”;
- (v) by omitting from paragraph (b) of the same subsection the words “The commissioner suspended” and by inserting in lieu thereof the words “A conciliation commissioner suspended”;
- (vi) by omitting from the same paragraph the words “the commissioner” wherever occurring and by inserting in lieu thereof the words “such conciliation commissioner”;
- (vii) by omitting from subsection five of the same section the word “The” where firstly occurring and by inserting in lieu thereof the word “A”;
- (viii) by omitting subsection six of the same section;
- (ix) by inserting next after subsection seven of the same section the following new subsection:—

(8) Where an officer of a Crown corporation is appointed a conciliation commissioner he shall be entitled to have his service as conciliation commissioner reckoned as service for the purposes of the Act or regulations

Industrial Arbitration (Amendment).

regulations governing his service as such officer, and if, as such officer, he was an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, he shall, while he holds office as conciliation commissioner, be deemed to be an employee within the meaning of the said Act, as so amended. Upon the termination of his appointment as conciliation commissioner, if he has not already attained the age of sixty-five years, he shall be entitled to be reappointed to the service of the Crown corporation in some position corresponding in classification and salary to that which he held at the date of his appointment as conciliation commissioner.

In this subsection the expression "Crown corporation" means any of the following corporations, that is to say:—The Commissioner for Railways, the Commissioner for Road Transport and Tramways, the Commissioner for Main Roads, the Metropolitan Meat Industry Commissioner, the Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, the Hunter District Water Board, and the Hospitals Commission of New South Wales.

- (b) by omitting from section sixteen the words "the conciliation commissioner" wherever occurring and by inserting in lieu thereof the words "a conciliation commissioner"; Sec. 16.
(Additional conciliation commissioners.)
- (c) (i) by inserting next after subsection one of section eighteen the following new subsection:— Sec. 18.
(Conciliation committees.)

(1A) (a) In the establishment of a committee no exception shall be made from the industry or calling or combination, arrangement or grouping of industries or callings

for

Industrial Arbitration (Amendment).

for which the committee is established, which will have the effect of excluding the employees of any one or more specified employers or any one or more specified groups of employers engaged in such industry or calling or combination, arrangement or grouping of industries or callings, unless such employees are engaged in an industry or calling or combination, arrangement or grouping of industries or callings for which some other committee is established.

(b) Where, in the establishment of any committee which is in existence at the commencement of the Industrial Arbitration (Amendment) Act, 1943, any exception was made which contravenes the provisions of paragraph (a) of this subsection, then, as from such commencement, the instrument establishing such committee shall be read and construed as if such exception were omitted therefrom, and the committee shall, after such commencement, be deemed to be established accordingly.

The Minister shall, as soon as practicable after such commencement, make such alterations and amendments of the instrument establishing such committee as may be necessary to give effect to this subsection.

- (ii) by omitting from subsection two of the same section the words "the conciliation commissioner" and by inserting in lieu thereof the words "a chairman, who shall be one of the conciliation commissioners";
- (iii) by inserting in the same subsection after the words "Such representatives" the words and symbols "(in this section hereinafter referred to as 'members')";
- (d) (i) by inserting at the end of subsection one of section nineteen the words "The person so appointed shall be one of the conciliation commissioners";

Industrial Arbitration (Amendment).

- (ii) by omitting subsection two of the same section;
- (iii) by omitting subsections seven and eight of the same section.

(2) (a) The persons who immediately before the commencement of this Act held office as the conciliation commissioner and the apprenticeship commissioner respectively shall as from such commencement cease to hold office but each of such persons shall be eligible for appointment under the Principal Act as amended by this Act, as a conciliation commissioner.

(b) If any such person is not so appointed he shall receive such compensation as he would have been entitled to had his services been dispensed with otherwise than according to law.

(3) The Principal Act is further amended by inserting next after section four the following new section:—

4A. (1) After the commencement of the Industrial Arbitration (Amendment) Act, 1943, a reference in any Act, award, industrial agreement, regulation or other instrument whatsoever, to the conciliation commissioner shall be construed as a reference to a conciliation commissioner appointed under section fifteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943).

(2) Any matter pending or part heard before the conciliation commissioner or a committee or an apprenticeship council at the commencement of the Industrial Arbitration (Amendment) Act, 1943, may be heard or continued before a conciliation commissioner appointed under section fifteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943), or, as the case may be, by a committee constituted in accordance with section eighteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943) or by an apprenticeship council of which the apprenticeship commissioner appointed under section nineteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943) is the chairman.

Further amendment of Act No. 2, 1940.

New sec. 4A.

References in Acts, etc., and matters pending.

cf. Act No. 39, 1932, s. 7 (2) (3).

Industrial Arbitration (Amendment).

Further amendment of Act No. 2, 1940.
 Sec. 20.
 (Original jurisdiction.)

5. The Principal Act is further amended—

- (a) (i) by omitting from paragraph (a) of subsection one of section twenty the words “fifteen pounds” and by inserting in lieu thereof the words “twenty pounds”;
- (ii) by omitting from the same paragraph the words “seven hundred and fifty pounds” and by inserting in lieu thereof the words “one thousand pounds”;
- (iii) by omitting from the same paragraph the words “the Hunter District Water Supply and Sewerage Board” and by inserting in lieu thereof the words “The Hunter District Water Board”;
- (iv) by inserting at the end of the same section the following new subsection:—

(4) In framing any award granting preference in employment a committee shall have regard to the provisions of the Returned Soldiers and Sailors Employment Act, 1919, as amended by subsequent Acts and shall give a like preference in employment to persons who are competent for the work required and who have been members of the Forces during the war.

In this subsection—

“Auxiliary Service” means Army Medical Corps, Nursing Service of the Crown, Australian Army Medical Nursing Service, Australian Women’s Army Service, Women’s Royal Australian Naval Service, Women’s Australian Auxiliary Air Force, or such other organisation as the Governor may by proclamation from time to time declare to be an auxiliary service for the purpose of this subsection.

“Combat

Industrial Arbitration (Amendment).

“Combat Area” means an area prescribed as such for the purposes of the Australian Repatriation Act, 1920-1943, of the Commonwealth of Australia.

“Enlistment” means an engagement whether by appointment, enlistment or otherwise rendering a person liable to be employed on active service abroad or in a combat area as a member of the Forces or of an auxiliary service.

“Member of the Forces” means any person who was at the time of his enlistment a resident in the Commonwealth of Australia or in a mandated territory of the Commonwealth or in any territory under the jurisdiction of the Commonwealth or who was domiciled in any State of the Commonwealth or in any such territory and who during the war served abroad or within a combat area as a member of any Australian Military Force or of the Royal Australian Naval Forces or as a member of the Royal Australian Air Force or as a member of an auxiliary service and who has been duly discharged from such service.

“War” means the war against Germany which commenced on the third day of September one thousand nine hundred and thirty-nine and the subsequent war against Italy and other allies of Germany and the war against Japan.

Save as provided in this subsection nothing contained in this Act shall affect the operation

Industrial Arbitration (Amendment).

operation of the Returned Soldiers and Sailors Employment Act, 1919, as amended by subsequent Acts.

Sec. 24.

(Powers of conciliation commissioner.)

- (b) (i) by omitting subsections one to six inclusive and subsection ten of section twenty-four;
- (ii) by omitting from subsections seven, eight and nine the words "under this section" wherever occurring;

Sec. 25.

(Compulsory conferences.)

- (c) by omitting from subsection one of section twenty-five the word "The" where firstly occurring and by inserting in lieu thereof the word "A";

Sec. 26.

(Powers of conciliation commissioner.)

- (d) (i) by omitting from section twenty-six the word "The" where firstly occurring and by inserting in lieu thereof the word "A";
- (ii) by omitting from the same section the words "but as assessors only and without vote" and by inserting in lieu thereof the words "and when so sitting they, together with the conciliation commissioner as chairman, shall constitute a committee";
- (iii) by omitting from the same section the words "the conciliation commissioner" where lastly occurring and by inserting in lieu thereof the words "a conciliation commissioner or a committee upon any matter referred under this section";

Sec. 27.

(Decision of conciliation commissioner final.)

- (e) (i) by omitting from section twenty-seven the words "the conciliation commissioner" wherever occurring and by inserting in lieu thereof the words "a conciliation commissioner or a committee";
- (ii) by inserting in the same section after the words "upon him" the words "or it";
- (iii) by omitting from the same section the word "twenty-four" where lastly occurring;

(f)

Industrial Arbitration (Amendment).

(f) (i) by inserting next after subsection one of section twenty-eight the following new subsection:—

Sec. 28.
(Jurisdiction of apprenticeship councils.)

(1A) Without prejudice to the generality of subsection one of this section the apprenticeship council shall—

- (a) determine what facilities are available for the training of apprentices and trainee apprentices in any industry;
- (b) where it determines that such facilities are available in any trade, technical or other training school, require that such number of apprentices and trainee apprentices as it may determine, having regard to the facilities available, shall attend thereat for such classes or courses of instruction as may be specified;
- (c) where it determines that no such facilities or no sufficient such facilities as are mentioned in paragraph (b) of this subsection are available, but that facilities are available for providing instruction by correspondence or otherwise, require that such number of apprentices and trainee apprentices as it may determine, having regard to the facilities available, shall obtain such instruction as may be specified;
- (d) determine that the employer of every apprentice or trainee apprentice required to attend any trade, technical or other training school, shall allow him such time as the apprenticeship council may deem reasonable during ordinary working hours to attend such school;

(e)

Industrial Arbitration (Amendment).

- (c) determine that the employer of every apprentice or trainee apprentice who is required to obtain instruction by correspondence or otherwise shall allow him such time as the apprenticeship council may deem reasonable during ordinary working hours for the purpose of taking full advantage of the instruction so obtained.

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

(4A) No employer shall, directly or indirectly or by any pretence or device—

(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 any indenture or other contract 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 council for such industry.

Any person who contravenes any provision of this subsection shall be liable, on conviction, to a penalty not exceeding one hundred pounds.

Upon any such conviction the industrial or other magistrate or justices may also make an order directing the employer to refund such premium, fee, gift, reward, bonus or consideration or the value thereof to the person from whom it was received.

6. The Principal Act is further amended—

- (a) by omitting from section seventy-five the words “conciliation commissioner” and by inserting in lieu thereof the word “chairman”;

(b)

Industrial Arbitration (Amendment).

(b) by omitting from subsection one of section seventy-seven the words "Subject to section twenty-four of this Act";

Sec. 77.
(Evidence on oath.)

(c) by inserting after section seventy-seven the following new sections:—

New secs.
77A-77G.

77A. The chairman of a committee shall keep notes of the proceedings before such committee, which notes shall be forwarded to the registrar with the committee's award, order or determination.

Notes of proceedings.

77B. In every case where an application or reference to a committee is made, it shall be the duty of the chairman to endeavour to bring the parties to an agreement with respect to the matters referred to in such application or reference, and to this end the committee shall, in such manner as it thinks fit, expeditiously and carefully inquire into such matters and anything affecting the merits thereof.

Inquiry by committee.
cf. Act No. 17, 1912, s. 32.

In the course of such inquiry, the chairman may make all such suggestions and do all such things as he deems right and proper for inducing the parties to come to a fair and amicable settlement of such matters.

77c. A committee may confer with any persons as to anything affecting the settlement of an industrial matter and may summon any person before it for the purpose of conference or of giving evidence. Such summons shall be signed by the chairman or by the registrar.

Persons may be summoned.

Every person so summoned shall be bound to attend upon such summons and shall for disobedience thereto be liable to a penalty not exceeding fifty pounds.

77d. A committee may—

(a) conduct its proceedings in public or private as it may think fit;

Conduct of proceedings.
cf. *Ibid.*
s. 34.

(b) adjourn the proceedings to any time or place;

(c)

Industrial Arbitration (Amendment).

- (c) exercise in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as were by section one hundred and thirty-six of the Parliamentary Electorates and Elections Act, 1902, conferred on a committee of elections and qualifications, and the provisions of the said section shall apply in respect of the proceedings of the committee:

Provided that unless a person raises the objection that the profits of an industry are not sufficient to enable him to pay the wages or grant the conditions claimed, no person shall be required without his consent to produce his books, or to give evidence with regard to the trade secrets, profits, losses, receipts, and outgoings of his business, or his financial position.

Where a person raises such objection he may be required, on the order of the chairman, to produce the books used in connection with the carrying on of the industry in respect of which the claim is made, and to give evidence with regard to the profits, losses, receipts, and outgoings in connection with such industry, but he shall not be required to give evidence regarding any trade secret, or, saving as hereinbefore provided, his financial position. No such evidence shall be given without his consent except in the presence of the committee alone, and no person shall inspect such books except the chairman or an accountant appointed by the committee, who may report to the committee whether or not his examination of such books supports the evidence so given,

but

Industrial Arbitration (Amendment).

but shall not otherwise disclose the contents of such books. Such accountant shall, before acting under this paragraph, take an oath not to disclose any matter or evidence before the committee relating to—

trade secrets;

the profits or losses or the receipts and outgoings of any employer;

the books of any employer or witness produced before the committee; or

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 five hundred pounds.

77E. At any meeting of a committee—

- (a) the chairman shall preside;
- (b) a quorum of the committee shall be three comprising the chairman, a representative of the employers and a representative of the employees;
- (c) each member, except the chairman, shall have one vote; and where the votes for and against any matter are equal, the chairman may with the consent of all the members or if so specially authorised by the commission decide the question;
- (d) if any of the members, other than the chairman, are absent from a duly convened meeting of a committee, the chairman may, together with such members as may be present, proceed to hear any matter before the committee.

Proceedings
at meetings.
cf. Act No.
17, 1912,
s. 36.

Industrial Arbitration (Amendment).

Awards as
to part
of claims.

77F. Where agreement has been reached by the members of a committee as to some matters at issue before it an award may, if the committee so decides, be made as to such matters and, unless all the members consent to the chairman deciding any particular matter as to which no agreement can be reached, such matter may be reserved for the further consideration of the committee or may be referred forthwith to the commission for determination or for directions.

Awards and
orders.

77G. Any award or order of a committee shall, after settlement by the registrar in the manner prescribed, be signed by the chairman:

Provided that upon any settlement the registrar may submit any question of law to the commission for its determination.

Subject to this section the registrar shall publish the award or order, when signed, in the Gazette, and shall notify the parties in the prescribed manner.

Sec. 78.
(Interven-
tion by
Crown.)

(d) by omitting from section seventy-eight the words "the conciliation commissioner" and by inserting in lieu thereof the words "a conciliation commissioner";

Subst.
sec. 80.

(e) by omitting section eighty and by inserting in lieu thereof the following section:—

Legal rep-
resentation.

80. (1) In proceedings before the commission, if the matter is an industrial matter no party shall be represented by a barrister or a solicitor except by the consent of the commission.

(2) In proceedings before a conciliation commissioner or a committee no party shall, except by consent of the conciliation commissioner or the committee, as the case may be, and all the parties, be represented by a barrister or a solicitor or by a person who has qualified for admission as a barrister or a solicitor.

(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, a conciliation commissioner

Industrial Arbitration (Amendment).

commissioner or a committee; but in any case where the permanent employee of the Crown so appearing is a barrister or a solicitor, the Crown shall be deemed to have consented to the representation of any other party to the proceedings by a barrister or a solicitor and the consent of the commission, conciliation commissioner, or committee, as the case may be, to such representation shall not be refused.

(f) by omitting section eighty-one;

7. The Principal Act is further amended—

(a) by inserting next after section eighty-eight the following new sections:—

Further
amendment of
Act No. 2,
1940.
New secs.
88A, 88B.

88A. The commission or a committee shall not award any conditions nor fix rates of wages or other payments for employees of the Crown less favourable than the conditions granted or the wages paid or other payments made to employees (other than employees of the Crown) who are doing substantially the same class of work, but the fact that employment is permanent or that additional privileges are allowed to employees of the Crown shall not of itself be regarded as a substantial difference in the nature of the work.

Crown
employees.

In this section the expression “employees of the Crown” includes employees of the Government or of any department of the Government or of any of the following corporations, that is to say—

The Commissioner for Railways.

The Commissioner for Road Transport and Tramways.

The Commissioner for Main Roads,

The Metropolitan Meat Industry Commissioner,

The Maritime Services Board of New South Wales,

The

Industrial Arbitration (Amendment).

The Metropolitan Water, Sewerage and
 Drainage Board,
 The Water Conservation and Irrigation
 Commission,
 Board of Fire Commissioners of New South
 Wales,
 The Hunter District Water Board, and
 The Hospitals Commission of New South
 Wales.

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

Restriction
 as to
 contracts
 in certain
 cases.

88B. (1) Where by an award a price or rate is fixed for persons performing work in any industry the commission or a committee may, on an application or reference to it in that behalf, prescribe by award that no contract to which this section applies shall be valid unless the consent of the commission or the committee is obtained.

(2) If any person acting or purporting to act in the execution of any contract which is rendered invalid by this section, performs any work for which by an award a price or rate has been fixed for persons performing such work, then for the purposes of this Act the person so performing such work shall be deemed to be an employee, and the person with whom the contract so rendered invalid was made shall be deemed to be the employer of such employee.

(3) This section shall apply to any contract made by two or more persons being or alleging themselves to be partners working in association in any industry whereby such persons undertake the performance of work for which by an award a price or rate has been fixed for persons performing such work, and under which such persons or any of them engage personally in the performance of the work whether with or without the assistance of other persons employed by them.

(b)

Industrial Arbitration (Amendment).

- (b) by inserting next after section ninety the following new section:— New sec.
90A.

90A. 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 commencement of the Industrial Arbitration (Amendment) Act, 1943) the Government Printer shall, if and when directed so to do by the registrar, reprint the award in a form certified as correct by the registrar. Incorporation of variation in reprint of awards.

8. The Principal Act is further amended—

- (a) by inserting in subsection one of section ninety-two after the word "Act" the words "or by the conditions of a permit issued under section eighty-nine of this Act"; Further amendment of Act No. 2, 1940.
Sec. 92.
(Recovery of wages.)
- (b) by inserting at the end of the same subsection the words "or permit as the case may be";
- (c) by omitting from subsection two of the same section the words "within six months after such money has become due";
- (d) by omitting from the same subsection the words "to the registrar or";
- (e) by inserting in the same subsection after the words "price or rate" the words "which became due during the period of twelve months immediately preceding the date of the application (where such person is still in the employment of such employer at that date) or within the last twelve months of the employment with such 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 six months after the date of such termination.

- (f) by omitting from the same subsection the words "The registrar or magistrate" and by inserting in lieu thereof the words "The industrial magistrate";

(g)

Industrial Arbitration (Amendment).

- (g) by inserting at the end of the same subsection the following words: "Where, in any proceedings under this section, it is made to appear that the employer has committed a breach of section ninety-three or section ninety-six of this Act, the industrial magistrate may, in addition to any order made under this section, impose any penalty which he might have imposed in proceedings for a penalty under section ninety-three or section ninety-six of this Act as the case may be";
- (h) by omitting from subsection three of the same section the words "within the said period of six months";
- (i) by inserting next after subsection four of the same section the following new subsection:—

(4A) In any case where the person authorised to take proceedings under subsection two or subsection three of this section is a person employed to do any work for which the price or rate has been fixed by an award or by an industrial agreement made under this Act, the proceedings may, with the consent in writing of such person, be taken by the secretary or other officer of an industrial union concerned in the industry to which such award or industrial agreement relates, in the name and on behalf of such person.

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

Any amount so paid to such 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 on whose behalf the proceedings were taken.

(j)

Industrial Arbitration (Amendment).

- (j) by omitting from subsection five of the same section the words "final payment made" and by inserting in lieu thereof the words "each payment made after the commencement of the Industrial Arbitration (Amendment) Act, 1943";
- (k) by inserting at the end of the same section the following new subsections:—

(6) In every case where an employee has left the employment of an employer without being paid the full amount due to him in respect of such employment, and the employer has been unable, during a period of thirty days after the termination of employment, to make such payment because the whereabouts of such employee are unknown to him, and cannot with reasonable diligence be found, such employer shall, forthwith after the expiration of such period, pay the full amount aforesaid to the Under Secretary of the Department of Labour and Industry and Social Services. A receipt issued on behalf of the said Under Secretary for money so paid to him shall be a sufficient discharge to the employer for the amount mentioned in the receipt.

cf. 23 Geo.
V, No. 36
(Qld.), s. 50
(3).

Any amount so paid to the Under Secretary shall be held by him in trust for the employee.

Any employer who fails to comply with this subsection shall be liable to a penalty not exceeding fifty pounds.

(7) Whosoever inserts or causes to be inserted in a newspaper any advertisement in which he offers or seeks employment at a wage lower than the price or rate fixed by any award or industrial agreement applicable to such employment shall be liable to a penalty not exceeding fifty pounds.

The printer or publisher of any newspaper in which any such advertisement is published shall, upon demand, furnish an inspector appointed

Industrial Arbitration (Amendment).

appointed under this Act or the secretary of the industrial union for the industry to which the award or industrial agreement relates, with the name and address of the person who inserted, or caused to be inserted, such advertisement.

(8) (a) In any contract for the performance of any work involving the supply for reward of any musical entertainment, the consideration for such contract shall not be less than a sum sufficient to pay to each person engaged in the performance of such work, or the supply of the musical entertainment, the price or rate fixed by any award or industrial agreement for a person performing such work or so engaged.

(b) Any person who offers, enters into, or is in any way concerned with a contract which does not comply with paragraph (a) of this subsection or who knowingly performs work or engages or takes part in a musical performance in pursuance of a contract which does not comply with that paragraph shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds.

(9) (a) Where any female performs work under any award or industrial agreement, whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1943, which does not prescribe rates of pay for female employees, such female pending variation of such award or industrial agreement in consequence of such female work being performed shall be paid the price or rate prescribed by that award or 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 the award or industrial agreement shall necessarily be made.

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

Industrial Arbitration (Amendment).

9. The Principal Act is further amended—

Further
amendment
of Act No. 2,
1940.
Sec. 93.
(Penalty
for breach
of award.)

- (a) (i) by omitting from subsection one of section ninety-three the words “the registrar or an industrial magistrate may order him to pay a penalty not exceeding fifty pounds” and by inserting in lieu thereof the words “he shall be liable to a penalty not exceeding one hundred pounds. Proceedings for the recovery of any such penalty shall be taken before an industrial magistrate”;
- (ii) by omitting from subsection two of the same section the words “Where on making such order” and by inserting in lieu thereof the words “Where in proceedings for the recovery of any such penalty”;
- (iii) by omitting from the same subsection the words “the registrar or magistrate” and by inserting in lieu thereof the words “the industrial magistrate”;
- (iv) by omitting from subsection three of the same section the words “Where an order is made under subsection one of this section against any person, and the registrar or magistrate” and by inserting in lieu thereof the words “Where a penalty is imposed upon any person under subsection one of this section and the industrial magistrate”;
- (v) by omitting from the same subsection the words “any order made” and by inserting in lieu thereof the words “any penalty imposed”;
- (vi) by omitting from subsection four of the same section the words “The costs of any such proceedings shall be paid by the complainant if the order is not made, and by the defendant if the order is made” and by inserting in lieu thereof the words “The industrial magistrate may award costs to either party and assess the amount of such costs”;

(b)

Industrial Arbitration (Amendment).

New sec.
93A.

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

Proceed-
ings against
unincorpor-
ated clubs.

93A. (1) Any proceedings under section ninety-two or section ninety-three of this Act against an employer which is an unincorporated club may be taken against the secretary or the managing committee of the club as nominal defendants on behalf of the club and its members.

(2) Any property of the club, whether in the hands of trustees or not, shall be available to answer any order made or penalty imposed in such proceedings.

Sec. 95.
(Penalty
for unlawful
dismissal.)

- (c) (i) by inserting after paragraph (b) of section ninety-five the following new paragraphs:—

(b1) has informed any person that a breach or a suspected breach of an award or industrial agreement has been committed by such employer;
or

(b2) has engaged or contemplates being engaged in any public or political activity (not being an activity which interferes with the performance of the duties of his employment);
or

- (ii) by omitting from the same section the words “or a similar position” and by inserting in lieu thereof the words “position or a position not less advantageous to the employee than that held by him prior to such dismissal, injury or prejudice”;

Sec. 96.
(Time
sheets and
pay sheets.)

- (d) (i) by inserting in subsection one of section ninety-six after the word “factory” the words “or place”;

- (ii) by inserting in the same subsection after the words “written up in ink.” the words “It shall be a sufficient compliance with the foregoing provisions of this subsection if such records are kept by means of some
mechanical

Industrial Arbitration (Amendment).

mechanical device of a type approved by the commission; such daily records shall be preserved in good order and condition and kept available for inspection for a period of eighteen months”;

- (iii) by omitting from the same subsection the words “to a penalty not exceeding ten pounds” and by inserting in lieu thereof the words “for the first offence to a penalty not exceeding twenty pounds, and for a second or subsequent offence to a penalty not exceeding fifty pounds”;

- (iv) by inserting after the same subsection the following new subsection:—

cf. Act No.
39, 1912,
s. 97 (5).

(1A) Every person who aids, abets, counsels, or procures or by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence under subsection one of this section, shall be deemed to have committed that offence and shall be liable to the penalty provided in that subsection.

- (v) by inserting at the end of subsection two of the same section the words—

It shall be a sufficient compliance with the provisions of this subsection if the employer exhibits and keeps exhibited the copy of the award as last reprinted under section 90A of this Act.

- (e) by inserting after section ninety-six the following new section:—

New sec.
96A.

96A. (1) Where in any proceedings under section ninety-two, section ninety-three or section ninety-six of this Act it appears that the award or industrial agreement referred to in the application or information, as the case may be, is not the award or industrial agreement appropriate to the proceedings and that some other award or agreement by which the employer is bound is appropriate to such proceedings, the industrial

Power to
amend.
cf. Act No.
27, 1902,
s. 65 (3).

Industrial Arbitration (Amendment).

industrial or other magistrate or justices may amend the application or information and proceed to deal with the matter as though proceedings had been instituted under the application or information as so amended:

Provided that where the defect or variance appears to the industrial or other magistrate or justices before whom such proceedings are taken to be such that the employer has been thereby deceived or misled such industrial or other magistrate or justices may, upon such terms as he or they think fit, adjourn the hearing of the case to some future day.

(2) Nothing in this section shall be construed as limiting the operation of section sixty-five of the Justices Act, 1902-1940.

Sec. 119.
(Enforcement of certain orders.)

- (f) (i) by omitting from subsection one of section one hundred and nineteen the words "or any penalty" and by inserting in lieu thereof the words "or where an order is made under subsection (4A) of section twenty-eight of this Act for the refund of any premium, fee, gift, reward, bonus or consideration or the value thereof";
- (ii) by omitting from the same subsection the words "or of such penalty" and by inserting in lieu thereof the words "or for the amount of the value of such premium, fee, gift, reward, bonus or consideration";

Sec. 121.
(Recovery of penalties.)

- (g) by inserting at the end of section one hundred and twenty-one the following new paragraph:—

The provisions of section eighty-two of the Justices Act, 1902-1940, shall, mutatis mutandis, apply to and in respect of any penalty adjudged to be paid by any such conviction and the persons against whom the conviction is made.

New sec. 121A.

- (h) by inserting next after section one hundred and twenty-one the following new section:—

121A. If any person shall, during any proceeding before an industrial magistrate, be guilty
of

Contempt. cf. Act No. 27, 1902, s. 152.

Industrial Arbitration (Amendment).

of contempt, such person may be punished in a summary way by such industrial magistrate by fine not exceeding forty shillings or by imprisonment for a period not exceeding fourteen days.

- (i) by inserting at the end of section one hundred and twenty-two the following words:—
- Sec. 122.
(Penalties to be paid to Consolidated Revenue.)
- Provided that where such penalty has been recovered upon complaint or information of the secretary or other officer of an industrial union, the commission or an industrial or other magistrate or justices may order that the penalty or any part thereof be paid to such union;
- (j) by omitting from section one hundred and twenty-eight the words "conciliation commissioner" and by inserting in lieu thereof the word "chairman";
- Sec. 128.
(Power of entry and inspection.)
- (k) by omitting section one hundred and twenty-nine and by inserting in lieu thereof the following new section:—
- Subst. sec. 129.

129. (1) The commission or a member thereof and every person authorised in writing by the commission or the registrar or a committee 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 any industry is carried on or any work is being or has been done or commenced or any matter or thing is taking or has taken place in relation to which any industrial dispute is pending, or any award has been made, or any offence against this Act is suspected, and may, to the extent and for the purposes named in the authority, inspect and view any work, material, machinery, appliance, articles, book or document therein.

Power of entry.
cf. Act No. 13 of 1904 (C'wth), s. 41.

(2) No person authorised under subsection one of this section shall have any 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.

Industrial Arbitration (Amendment).

(3) Every person who hinders or obstructs the commission or a member thereof or any person authorised as aforesaid in the exercise of any power conferred by this section shall be liable to a penalty not exceeding fifty pounds.

Further
amendment
of Act No.
2, 1940.
Sec. 131.
(Rural
workers.)

10. The Principal Act is further amended by omitting from subsection one of section one hundred and thirty-one the words "shall not be subject to the provisions of this Act other than Parts XIV and XV" and by inserting in lieu thereof the words "shall be subject to the provisions of this Act other than Part VI" but no award relating to any such rural industry shall take effect unless the commission after public inquiry to which the Crown shall be a party certify to the Governor that the employers generally in the industry are then presently able to pay the wages set out in the award and will in all probability be able to continue to pay such wages during the currency of the award from the proceeds of the sale of the products of the industry together with any subsidy payable in respect thereof after making due allowance for a fair return upon the capital invested therein, a fair remuneration for the work and supervision of the employer, and all other proper outgoings. Upon the publication of such certificate in the Gazette the award shall have effect in such industry but not sooner.

Further
amendment
of Act No. 2,
1940.
(Revision.)

11. The Principal Act is further amended in the manner and to the extent set forth in the Schedule to this Act.

Industrial Arbitration (Amendment).

SCHEDULE.

Sections, headings, etc.	Amendment.
Sec. 2	(a) Omit the figures 77 and insert the the figures and letter 77G. (b) Omit the words "Conciliation Commissioner" wherever appearing and insert the words "Conciliation Commissioners."
Part II, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
Part II, Division 2, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
Sec. 16	Omit the words "subsections six and" and insert the word "subsection."
Part III, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
Part III, Division 2, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."

By Authority:

ALFRED HENRY PETTIFER, Acting Government Printer, Sydney, 1943.

[1s.]

NAME	RESIDENCE
John Smith	New York
James Brown	Boston
William White	Philadelphia
Thomas Black	London
Richard Green	Paris
Henry Gold	Amsterdam
George Silver	Frankfurt
Edward Wood	Hamburg
Robert Stone	Lyon
Joseph King	Brussels
Samuel Hill	Antwerp
Daniel Scott	Ghent
Nathan Adams	Bruges

Continued on next page

I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

W. R. McCOURT,

Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 14 October, 1943.*

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. 25, 1943.

An Act to provide for the appointment of not more than five conciliation commissioners; for this and other purposes to amend the Industrial Arbitration Act, 1940, as amended by subsequent Acts; and for purposes connected therewith. [Assented to, 21st October, 1943.]

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

1. (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1943."
- (2)

Short title,
citation
and com-
mencement.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

G. BOOTH,

Chairman of Committees of the Legislative Assembly.

Industrial Arbitration (Amendment).

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

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1943.

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

Amendment
of Act No.
2, 1940.
Sec. 5.
(Defini-
tions.)

2. The Principal Act is amended—

(a) (i) by omitting from the definition of "Employee" in section five the words "or any vehicle used in the delivery of goods," and by inserting in lieu thereof the words "or as an outworker, or is working as a salesman, canvasser, collector, commercial traveller, insurance agent or in any other capacity in which he is paid wholly or partly by commission";

(ii) by inserting after the definition of "Minister" in the same section the following new definition:—

cf. Act No.
15, 1926,
s. 6 (1).

"Outworker" means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired or adapted for sale, in his own home or on other premises not under the control or management of the person who gives out the materials or articles.

cf. *Ibid.*
s. 6 (11).

(iii) by inserting at the end of the same section the following new subsections:—

(2) A person who is engaged in plying for hire or in the delivery of goods with any vehicle or vessel the use of which is obtained by that person under a contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise shall, where the work in which
such

Industrial Arbitration (Amendment).

such person is so engaged is work for which, by an award or industrial agreement, a price or rate has been fixed for persons performing such work, be deemed, for the purposes of this Act, to be an employee employed by the person from whom the use of the vehicle or vessel is so obtained, and such last mentioned person shall, for the purposes of this Act, be deemed to be the employer of such employee unless such persons or either of them establishes to the satisfaction of the tribunal in which proceedings for a breach of the award or industrial agreement are instituted that the contract of bailment was a bona fide contract and was not entered into for the purpose of avoiding the operation of the award or industrial agreement.

(3) (a) Where any person (in this subsection referred to as "the principal") advertises or otherwise notifies that he will accept timber delivered or supplied to him or his agent or other person in accordance with such advertisement or notification or advertises or otherwise notifies to the abovementioned effect and any person (in this subsection hereinafter referred to as the "contractor") gives notice to the principal that he will deliver or supply such timber or any part thereof, then except where the principal forthwith notifies the contractor in writing that his offer to accept timber so delivered or supplied has been withdrawn, the contractor, whilst engaged in or about the work of cutting, delivering or supplying such timber or part thereof shall, for the purposes of this Act, be deemed to be an employee employed by the principal, and the principal shall, for the purposes of this Act, be deemed to be the employer of such contractor.

cf. Act No.
15, 1926,
s. 6 (5) (b).

Notice

Industrial Arbitration (Amendment).

Notice of intention to deliver or supply timber as aforesaid shall be in or to the effect of the prescribed form and shall indicate the nature of the actual work to be undertaken and also the locality where and the time within which the actual work is to be carried out.

The notice may be given personally or by letter posted to the principal at his place of business or usual address.

(b) For the purposes of this subsection:—

“Timber” includes sleepers, piles, poles, girders, logs or pit timber;

“Cutting” includes felling, sawing, obtaining, preparing or doing any work in connection with timber.

(b) by omitting the proviso to subsection three of section eight.

3. The Principal Act is further amended—

(a) (i) by omitting from subsection seven of section fourteen the words “the conciliation commissioner” where firstly occurring and by inserting in lieu thereof the words “a conciliation commissioner”;

(ii) by omitting from the same subsection the words “The conciliation commissioner, committee, or” wherever occurring and by inserting in lieu thereof the words “A conciliation commissioner or committee or the”;

(b) by omitting from subsection ten of the same section the word “commissioner” and by inserting in lieu thereof the word “commissioners”;

(c) by inserting at the end of the same section the following new subsection:—

(13) Where any question or application is referred or any appeal is made to the commission
under

Sec. 3.
(Registration
of industrial
union of
employees.)

Further
amendment
of Act No. 2,
1940.

Sec. 14.
(Industrial
com-
mission.)

Industrial Arbitration (Amendment).

under this Act, the commission may, before proceeding with the hearing of such question, application or appeal, call a conference of the parties with a view to effecting a settlement of the matters in dispute.

At such conference the members of the conciliation committee established for the industry or calling concerned shall, if the commission so directs, sit with the commission.

4. (1) The Principal Act is further amended—

- (a) (i) by omitting subsection one of section fifteen and by inserting in lieu thereof the following subsections:—

Further
amendment
of Act No. 2,
1940.
Sec. 15.
(Concilia-
tion com-
missioner.)

(1) The Governor may appoint not more than five persons each of whom shall be a conciliation commissioner, and may appoint one of the conciliation commissioners to be the senior conciliation commissioner.

(1A) (a) The conciliation commissioners, other than the senior conciliation commissioner, shall have seniority according to the dates of their appointments, or, where the appointments of two or more of them were made on the same date, according to such order of precedence as may be assigned to them by the Governor.

(b) In the case of the absence of the senior conciliation commissioner or of his inability to perform the duties of his office, or in the case of any vacancy in the office of senior conciliation commissioner, all the duties and powers of the senior conciliation commissioner shall devolve upon the conciliation commissioner who is next in order of seniority.

(1B) A conciliation commissioner shall be chairman of each committee.

The

Industrial Arbitration (Amendment).

The commission shall, from time to time, determine the committees of which each conciliation commissioner is to be chairman.

- (ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:—

(2) Each conciliation commissioner shall be paid such salary as the Governor may determine.

- (iii) by omitting from subsection three of the same section the word "The" and by inserting in lieu thereof the word "A";
- (iv) by omitting from subsection four of the same section the word "The" where firstly occurring and by inserting in lieu thereof the word "A";
- (v) by omitting from paragraph (b) of the same subsection the words "The commissioner suspended" and by inserting in lieu thereof the words "A conciliation commissioner suspended";
- (vi) by omitting from the same paragraph the words "the commissioner" wherever occurring and by inserting in lieu thereof the words "such conciliation commissioner";
- (vii) by omitting from subsection five of the same section the word "The" where firstly occurring and by inserting in lieu thereof the word "A";
- (viii) by omitting subsection six of the same section;
- (ix) by inserting next after subsection seven of the same section the following new subsection:—

(8) Where an officer of a Crown corporation is appointed a conciliation commissioner he shall be entitled to have his service as conciliation commissioner reckoned as service for the purposes of the Act or regulations

Industrial Arbitration (Amendment).

regulations governing his service as such officer, and if, as such officer, he was an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, he shall, while he holds office as conciliation commissioner, be deemed to be an employee within the meaning of the said Act, as so amended. Upon the termination of his appointment as conciliation commissioner, if he has not already attained the age of sixty-five years, he shall be entitled to be reappointed to the service of the Crown corporation in some position corresponding in classification and salary to that which he held at the date of his appointment as conciliation commissioner.

In this subsection the expression "Crown corporation" means any of the following corporations, that is to say:—The Commissioner for Railways, the Commissioner for Road Transport and Tramways, the Commissioner for Main Roads, the Metropolitan Meat Industry Commissioner, the Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, the Hunter District Water Board, and the Hospitals Commission of New South Wales.

- (b) by omitting from section sixteen the words "the conciliation commissioner" wherever occurring and by inserting in lieu thereof the words "a conciliation commissioner"; Sec. 16.
(Additional conciliation commissioners.)
- (c) (i) by inserting next after subsection one of section eighteen the following new subsection:— Sec. 18.
(Conciliation committees.)
- (1A) (a) In the establishment of a committee no exception shall be made from the industry or calling or combination, arrangement or grouping of industries or callings
for

Industrial Arbitration (Amendment).

for which the committee is established, which will have the effect of excluding the employees of any one or more specified employers or any one or more specified groups of employers engaged in such industry or calling or combination, arrangement or grouping of industries or callings, unless such employees are engaged in an industry or calling or combination, arrangement or grouping of industries or callings for which some other committee is established.

(b) Where, in the establishment of any committee which is in existence at the commencement of the Industrial Arbitration (Amendment) Act, 1943, any exception was made which contravenes the provisions of paragraph (a) of this subsection, then, as from such commencement, the instrument establishing such committee shall be read and construed as if such exception were omitted therefrom, and the committee shall, after such commencement, be deemed to be established accordingly.

The Minister shall, as soon as practicable after such commencement, make such alterations and amendments of the instrument establishing such committee as may be necessary to give effect to this subsection.

- (ii) by omitting from subsection two of the same section the words "the conciliation commissioner" and by inserting in lieu thereof the words "a chairman, who shall be one of the conciliation commissioners";
- (iii) by inserting in the same subsection after the words "Such representatives" the words and symbols "(in this section hereinafter referred to as 'members')";
- (d) (i) by inserting at the end of subsection one of section nineteen the words "The person so appointed shall be one of the conciliation commissioners";

(ii)

Industrial Arbitration (Amendment).

- (ii) by omitting subsection two of the same section;
- (iii) by omitting subsections seven and eight of the same section.

(2) (a) The persons who immediately before the commencement of this Act held office as the conciliation commissioner and the apprenticeship commissioner respectively shall as from such commencement cease to hold office but each of such persons shall be eligible for appointment under the Principal Act as amended by this Act, as a conciliation commissioner.

(b) If any such person is not so appointed he shall receive such compensation as he would have been entitled to had his services been dispensed with otherwise than according to law.

(3) The Principal Act is further amended by inserting next after section four the following new section:—

4A. (1) After the commencement of the Industrial Arbitration (Amendment) Act, 1943, a reference in any Act, award, industrial agreement, regulation or other instrument whatsoever, to the conciliation commissioner shall be construed as a reference to a conciliation commissioner appointed under section fifteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943).

(2) Any matter pending or part heard before the conciliation commissioner or a committee or an apprenticeship council at the commencement of the Industrial Arbitration (Amendment) Act, 1943, may be heard or continued before a conciliation commissioner appointed under section fifteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943), or, as the case may be, by a committee constituted in accordance with section eighteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943) or by an apprenticeship council of which the apprenticeship commissioner appointed under section nineteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943) is the chairman.

Further amendment of Act No. 2, 1940.

New sec. 4A.

References in Acts, etc., and matters pending.

cf. Act No. 39, 1932, s. 7 (2) (3).

Industrial Arbitration (Amendment).

Further
amendment
of Act No. 2,
1940.

Sec. 20.
(Original
jurisdic-
tion.)

5. The Principal Act is further amended—

- (a) (i) by omitting from paragraph (a) of subsection one of section twenty the words “fifteen pounds” and by inserting in lieu thereof the words “twenty pounds”;
- (ii) by omitting from the same paragraph the words “seven hundred and fifty pounds” and by inserting in lieu thereof the words “one thousand pounds”;
- (iii) by omitting from the same paragraph the words “the Hunter District Water Supply and Sewerage Board” and by inserting in lieu thereof the words “The Hunter District Water Board”;
- (iv) by inserting at the end of the same section the following new subsection:—

(4) In framing any award granting preference in employment a committee shall have regard to the provisions of the Returned Soldiers and Sailors Employment Act, 1919, as amended by subsequent Acts and shall give a like preference in employment to persons who are competent for the work required and who have been members of the Forces during the war.

In this subsection—

“Auxiliary Service” means Army Medical Corps, Nursing Service of the Crown, Australian Army Medical Nursing Service, Australian Women’s Army Service, Women’s Royal Australian Naval Service, Women’s Australian Auxiliary Air Force, or such other organisation as the Governor may by proclamation from time to time declare to be an auxiliary service for the purpose of this subsection.

“**Combat**

Industrial Arbitration (Amendment).

“Combat Area” means an area prescribed as such for the purposes of the Australian Repatriation Act, 1920-1943, of the Commonwealth of Australia.

“Enlistment” means an engagement whether by appointment, enlistment or otherwise rendering a person liable to be employed on active service abroad or in a combat area as a member of the Forces or of an auxiliary service.

“Member of the Forces” means any person who was at the time of his enlistment a resident in the Commonwealth of Australia or in a mandated territory of the Commonwealth or in any territory under the jurisdiction of the Commonwealth or who was domiciled in any State of the Commonwealth or in any such territory and who during the war served abroad or within a combat area as a member of any Australian Military Force or of the Royal Australian Naval Forces or as a member of the Royal Australian Air Force or as a member of an auxiliary service and who has been duly discharged from such service.

“War” means the war against Germany which commenced on the third day of September one thousand nine hundred and thirty-nine and the subsequent war against Italy and other allies of Germany and the war against Japan.

Save as provided in this subsection nothing contained in this Act shall affect the
operation

Industrial Arbitration (Amendment).

operation of the Returned Soldiers and Sailors Employment Act, 1919, as amended by subsequent Acts.

Sec. 24.
(Powers of conciliation commissioner.)

- (b) (i) by omitting subsections one to six inclusive and subsection ten of section twenty-four;
- (ii) by omitting from subsections seven, eight and nine the words "under this section" wherever occurring;

Sec. 25.
(Compulsory conferences.)

- (c) by omitting from subsection one of section twenty-five the word "The" where firstly occurring and by inserting in lieu thereof the word "A";

Sec. 26.
(Powers of conciliation commissioner.)

- (d) (i) by omitting from section twenty-six the word "The" where firstly occurring and by inserting in lieu thereof the word "A";
- (ii) by omitting from the same section the words "but as assessors only and without vote" and by inserting in lieu thereof the words "and when so sitting they, together with the conciliation commissioner as chairman, shall constitute a committee";
- (iii) by omitting from the same section the words "the conciliation commissioner" where lastly occurring and by inserting in lieu thereof the words "a conciliation commissioner or a committee upon any matter referred under this section";

Sec. 27.
(Decision of conciliation commissioner final.)

- (e) (i) by omitting from section twenty-seven the words "the conciliation commissioner" wherever occurring and by inserting in lieu thereof the words "a conciliation commissioner or a committee";
- (ii) by inserting in the same section after the words "upon him" the words "or it";
- (iii) by omitting from the same section the word "twenty-four" where lastly occurring;

(f)

Industrial Arbitration (Amendment).

(f) (i) by inserting next after subsection one of section twenty-eight the following new subsection:—

Sec. 28.
(Jurisdiction of apprenticeship councils.)

(1A) Without prejudice to the generality of subsection one of this section the apprenticeship council shall—

- (a) determine what facilities are available for the training of apprentices and trainee apprentices in any industry;
- (b) where it determines that such facilities are available in any trade, technical or other training school, require that such number of apprentices and trainee apprentices as it may determine, having regard to the facilities available, shall attend thereat for such classes or courses of instruction as may be specified;
- (c) where it determines that no such facilities or no sufficient such facilities as are mentioned in paragraph (b) of this subsection are available, but that facilities are available for providing instruction by correspondence or otherwise, require that such number of apprentices and trainee apprentices as it may determine, having regard to the facilities available, shall obtain such instruction as may be specified;
- (d) determine that the employer of every apprentice or trainee apprentice required to attend any trade, technical or other training school, shall allow him such time as the apprenticeship council may deem reasonable during ordinary working hours to attend such school;
- (e)

Industrial Arbitration (Amendment).

- (e) determine that the employer of every apprentice or trainee apprentice who is required to obtain instruction by correspondence or otherwise shall allow him such time as the apprenticeship council may deem reasonable during ordinary working hours for the purpose of taking full advantage of the instruction so obtained.
- (ii) by inserting after subsection four of the same section the following new subsection:—
- (4A) No employer shall, directly or indirectly or by any pretence or device—

(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 any indenture or other contract 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 council for such industry.

Any person who contravenes any provision of this subsection shall be liable, on conviction, to a penalty not exceeding one hundred pounds.

Upon any such conviction the industrial or other magistrate or justices may also make an order directing the employer to refund such premium, fee, gift, reward, bonus or consideration or the value thereof to the person from whom it was received.

6. The Principal Act is further amended—

- (a) by omitting from section seventy-five the words “conciliation commissioner” and by inserting in lieu thereof the word “chairman”;

(b)

Industrial Arbitration (Amendment).

(b) by omitting from subsection one of section seventy-seven the words "Subject to section twenty-four of this Act";

Sec. 77.
(Evidence on oath.)

(c) by inserting after section seventy-seven the following new sections:—

New secs.
77A-77G.

77A. The chairman of a committee shall keep notes of the proceedings before such committee, which notes shall be forwarded to the registrar with the committee's award, order or determination.

Notes of proceedings.

77B. In every case where an application or reference to a committee is made, it shall be the duty of the chairman to endeavour to bring the parties to an agreement with respect to the matters referred to in such application or reference, and to this end the committee shall, in such manner as it thinks fit, expeditiously and carefully inquire into such matters and anything affecting the merits thereof.

Inquiry by committee.
cf. Act No. 17, 1912, s. 32.

In the course of such inquiry, the chairman may make all such suggestions and do all such things as he deems right and proper for inducing the parties to come to a fair and amicable settlement of such matters.

77C. A committee may confer with any persons as to anything affecting the settlement of an industrial matter and may summon any person before it for the purpose of conference or of giving evidence. Such summons shall be signed by the chairman or by the registrar.

Persons may be summoned.

Every person so summoned shall be bound to attend upon such summons and shall for disobedience thereto be liable to a penalty not exceeding fifty pounds.

77D. A committee may—

(a) conduct its proceedings in public or private as it may think fit;

Conduct of proceedings.
cf. *Ibid.*
s. 34.

(b) adjourn the proceedings to any time or place;

(c)

Industrial Arbitration (Amendment).

- (c) exercise in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as were by section one hundred and thirty-six of the Parliamentary Electorates and Elections Act, 1902, conferred on a committee of elections and qualifications, and the provisions of the said section shall apply in respect of the proceedings of the committee:

Provided that unless a person raises the objection that the profits of an industry are not sufficient to enable him to pay the wages or grant the conditions claimed, no person shall be required without his consent to produce his books, or to give evidence with regard to the trade secrets, profits, losses, receipts, and outgoings of his business, or his financial position.

Where a person raises such objection he may be required, on the order of the chairman, to produce the books used in connection with the carrying on of the industry in respect of which the claim is made, and to give evidence with regard to the profits, losses, receipts, and outgoings in connection with such industry, but he shall not be required to give evidence regarding any trade secret, or, saving as hereinbefore provided, his financial position. No such evidence shall be given without his consent except in the presence of the committee alone, and no person shall inspect such books except the chairman or an accountant appointed by the committee, who may report to the committee whether or not his examination of such books supports the evidence so given,
but

Industrial Arbitration (Amendment).

but shall not otherwise disclose the contents of such books. Such accountant shall, before acting under this paragraph, take an oath not to disclose any matter or evidence before the committee relating to—

trade secrets;

the profits or losses or the receipts and outgoings of any employer;

the books of any employer or witness produced before the committee; or

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 five hundred pounds.

77E. At any meeting of a committee—

(a) the chairman shall preside;

(b) a quorum of the committee shall be three comprising the chairman, a representative of the employers and a representative of the employees;

(c) each member, except the chairman, shall have one vote; and where the votes for and against any matter are equal, the chairman may with the consent of all the members or if so specially authorised by the commission decide the question;

(d) if any of the members, other than the chairman, are absent from a duly convened meeting of a committee, the chairman may, together with such members as may be present, proceed to hear any matter before the committee.

Proceedings
at meetings.
cf. Act No.
17, 1912,
s. 36.

77F.

Industrial Arbitration (Amendment).

Awards as
to part
of claims.

77F. Where agreement has been reached by the members of a committee as to some matters at issue before it an award may, if the committee so decides, be made as to such matters and, unless all the members consent to the chairman deciding any particular matter as to which no agreement can be reached, such matter may be reserved for the further consideration of the committee or may be referred forthwith to the commission for determination or for directions.

Awards and
orders.

77G. Any award or order of a committee shall, after settlement by the registrar in the manner prescribed, be signed by the chairman:

Provided that upon any settlement the registrar may submit any question of law to the commission for its determination.

Subject to this section the registrar shall publish the award or order, when signed, in the Gazette, and shall notify the parties in the prescribed manner.

Sec. 78.
(Interven-
tion by
Crown.)

(d) by omitting from section seventy-eight the words "the conciliation commissioner" and by inserting in lieu thereof the words "a conciliation commissioner";

Subst.
sec. 80.

(e) by omitting section eighty and by inserting in lieu thereof the following section:—

Legal rep-
resentation.

80. (1) In proceedings before the commission, if the matter is an industrial matter no party shall be represented by a barrister or a solicitor except by the consent of the commission.

(2) In proceedings before a conciliation commissioner or a committee no party shall, except by consent of the conciliation commissioner or the committee, as the case may be, and all the parties, be represented by a barrister or a solicitor or by a person who has qualified for admission as a barrister or a solicitor.

(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, a conciliation commissioner

Industrial Arbitration (Amendment).

commissioner or a committee; but in any case where the permanent employee of the Crown so appearing is a barrister or a solicitor, the Crown shall be deemed to have consented to the representation of any other party to the proceedings by a barrister or a solicitor and the consent of the commission, conciliation commissioner, or committee, as the case may be, to such representation shall not be refused.

(f) by omitting section eighty-one;

7. The Principal Act is further amended—

(a) by inserting next after section eighty-eight the following new sections:—

88A. The commission or a committee shall not award any conditions nor fix rates of wages or other payments for employees of the Crown less favourable than the conditions granted or the wages paid or other payments made to employees (other than employees of the Crown) who are doing substantially the same class of work, but the fact that employment is permanent or that additional privileges are allowed to employees of the Crown shall not of itself be regarded as a substantial difference in the nature of the work.

Further
amendment of
Act No. 2,
1940.

New secs.
88A, 88B.

Crown
employees.

In this section the expression "employees of the Crown" includes employees of the Government or of any department of the Government or of any of the following corporations, that is to say—

The Commissioner for Railways.

The Commissioner for Road Transport and Tramways.

The Commissioner for Main Roads,

The Metropolitan Meat Industry Commissioner,

The Maritime Services Board of New South Wales,

The

Industrial Arbitration (Amendment).

The Metropolitan Water, Sewerage and
 Drainage Board,
 The Water Conservation and Irrigation
 Commission,
 Board of Fire Commissioners of New South
 Wales,
 The Hunter District Water Board, and
 The Hospitals Commission of New South
 Wales.

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

Restriction
 as to
 contracts
 in certain
 cases.

88B. (1) Where by an award a price or rate is fixed for persons performing work in any industry the commission or a committee may, on an application or reference to it in that behalf, prescribe by award that no contract to which this section applies shall be valid unless the consent of the commission or the committee is obtained.

(2) If any person acting or purporting to act in the execution of any contract which is rendered invalid by this section, performs any work for which by an award a price or rate has been fixed for persons performing such work, then for the purposes of this Act the person so performing such work shall be deemed to be an employee, and the person with whom the contract so rendered invalid was made shall be deemed to be the employer of such employee.

(3) This section shall apply to any contract made by two or more persons being or alleging themselves to be partners working in association in any industry whereby such persons undertake the performance of work for which by an award a price or rate has been fixed for persons performing such work, and under which such persons or any of them engage personally in the performance of the work whether with or without the assistance of other persons employed by them.

(b)

Industrial Arbitration (Amendment).

- (b) by inserting next after section ninety the following new section:—

New sec.
90A.

90A. 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 commencement of the Industrial Arbitration (Amendment) Act, 1943) the Government Printer shall, if and when directed so to do by the registrar, reprint the award in a form certified as correct by the registrar.

Incorporation of variation in reprint of awards.

8. The Principal Act is further amended—

Further amendment of Act No. 2, 1940. Sec. 92. (Recovery of wages.)

- (a) by inserting in subsection one of section ninety-two after the word "Act" the words "or by the conditions of a permit issued under section eighty-nine of this Act";
- (b) by inserting at the end of the same subsection the words "or permit as the case may be";
- (c) by omitting from subsection two of the same section the words "within six months after such money has become due";
- (d) by omitting from the same subsection the words "to the registrar or";
- (e) by inserting in the same subsection after the words "price or rate" the words "which became due during the period of twelve months immediately preceding the date of the application (where such person is still in the employment of such employer at that date) or within the last twelve months of the employment with such 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 six months after the date of such termination.

- (f) by omitting from the same subsection the words "The registrar or magistrate" and by inserting in lieu thereof the words "The industrial magistrate";

(g)

Industrial Arbitration (Amendment).

- (g) by inserting at the end of the same subsection the following words: "Where, in any proceedings under this section, it is made to appear that the employer has committed a breach of section ninety-three or section ninety-six of this Act, the industrial magistrate may, in addition to any order made under this section, impose any penalty which he might have imposed in proceedings for a penalty under section ninety-three or section ninety-six of this Act as the case may be";
- (h) by omitting from subsection three of the same section the words "within the said period of six months";
- (i) by inserting next after subsection four of the same section the following new subsection:—

(4A) In any case where the person authorised to take proceedings under subsection two or subsection three of this section is a person employed to do any work for which the price or rate has been fixed by an award or by an industrial agreement made under this Act, the proceedings may, with the consent in writing of such person, be taken by the secretary or other officer of an industrial union concerned in the industry to which such award or industrial agreement relates, in the name and on behalf of such person.

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

Any amount so paid to such 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 on whose behalf the proceedings were taken.

(j)

Industrial Arbitration (Amendment).

(j) by omitting from subsection five of the same section the words "final payment made" and by inserting in lieu thereof the words "each payment made after the commencement of the Industrial Arbitration (Amendment) Act, 1943";

(k) by inserting at the end of the same section the following new subsections:—

(6) In every case where an employee has left the employment of an employer without being paid the full amount due to him in respect of such employment, and the employer has been unable, during a period of thirty days after the termination of employment, to make such payment because the whereabouts of such employee are unknown to him, and cannot with reasonable diligence be found, such employer shall, forthwith after the expiration of such period, pay the full amount aforesaid to the Under Secretary of the Department of Labour and Industry and Social Services. A receipt issued on behalf of the said Under Secretary for money so paid to him shall be a sufficient discharge to the employer for the amount mentioned in the receipt.

cf. 23 Geo.
V, No. 36
(Qld.), s. 50
(3).

Any amount so paid to the Under Secretary shall be held by him in trust for the employee.

Any employer who fails to comply with this subsection shall be liable to a penalty not exceeding fifty pounds.

(7) Whosoever inserts or causes to be inserted in a newspaper any advertisement in which he offers or seeks employment at a wage lower than the price or rate fixed by any award or industrial agreement applicable to such employment shall be liable to a penalty not exceeding fifty pounds.

The printer or publisher of any newspaper in which any such advertisement is published shall, upon demand, furnish an inspector appointed

Industrial Arbitration (Amendment).

appointed under this Act or the secretary of the industrial union for the industry to which the award or industrial agreement relates, with the name and address of the person who inserted, or caused to be inserted, such advertisement.

(8) (a) In any contract for the performance of any work involving the supply for reward of any musical entertainment, the consideration for such contract shall not be less than a sum sufficient to pay to each person engaged in the performance of such work, or the supply of the musical entertainment, the price or rate fixed by any award or industrial agreement for a person performing such work or so engaged.

(b) Any person who offers, enters into, or is in any way concerned with a contract which does not comply with paragraph (a) of this subsection or who knowingly performs work or engages or takes part in a musical performance in pursuance of a contract which does not comply with that paragraph shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds.

(9) (a) Where any female performs work under any award or industrial agreement, whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1943, which does not prescribe rates of pay for female employees, such female pending variation of such award or industrial agreement in consequence of such female work being performed shall be paid the price or rate prescribed by that award or 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 the award or industrial agreement shall necessarily be made.

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

Industrial Arbitration (Amendment).

9. The Principal Act is further amended—

Further
amendment
of Act No. 2,
1940.
Sec. 93.
(Penalty
for breach
of award.)

- (a) (i) by omitting from subsection one of section ninety-three the words "the registrar or an industrial magistrate may order him to pay a penalty not exceeding fifty pounds" and by inserting in lieu thereof the words "he shall be liable to a penalty not exceeding one hundred pounds. Proceedings for the recovery of any such penalty shall be taken before an industrial magistrate";
- (ii) by omitting from subsection two of the same section the words "Where on making such order" and by inserting in lieu thereof the words "Where in proceedings for the recovery of any such penalty";
- (iii) by omitting from the same subsection the words "the registrar or magistrate" and by inserting in lieu thereof the words "the industrial magistrate";
- (iv) by omitting from subsection three of the same section the words "Where an order is made under subsection one of this section against any person, and the registrar or magistrate" and by inserting in lieu thereof the words "Where a penalty is imposed upon any person under subsection one of this section and the industrial magistrate";
- (v) by omitting from the same subsection the words "any order made" and by inserting in lieu thereof the words "any penalty imposed";
- (vi) by omitting from subsection four of the same section the words "The costs of any such proceedings shall be paid by the complainant if the order is not made, and by the defendant if the order is made" and by inserting in lieu thereof the words "The industrial magistrate may award costs to either party and assess the amount of such costs";

(b)

Industrial Arbitration (Amendment).

New sec.
93A.

Proceed-
ings against
unincorpor-
ated clubs.

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

93A. (1) Any proceedings under section ninety-two or section ninety-three of this Act against an employer which is an unincorporated club may be taken against the secretary or the managing committee of the club as nominal defendants on behalf of the club and its members.

(2) Any property of the club, whether in the hands of trustees or not, shall be available to answer any order made or penalty imposed in such proceedings.

Sec. 95.
(Penalty
for unlawful
dismissal.)

(c) (i) by inserting after paragraph (b) of section ninety-five the following new paragraphs:—

(b1) has informed any person that a breach or a suspected breach of an award or industrial agreement has been committed by such employer;
or

(b2) has engaged or contemplates being engaged in any public or political activity (not being an activity which interferes with the performance of the duties of his employment);
or

(ii) by omitting from the same section the words “or a similar position” and by inserting in lieu thereof the words “position or a position not less advantageous to the employee than that held by him prior to such dismissal, injury or prejudice”;

Sec. 96.
(Time
sheets and
pay sheets.)

(d) (i) by inserting in subsection one of section ninety-six after the word “factory” the words “or place”;

(ii) by inserting in the same subsection after the words “written up in ink.” the words “It shall be a sufficient compliance with the foregoing provisions of this subsection if such records are kept by means of some **mechanical**”

Industrial Arbitration (Amendment).

mechanical device of a type approved by the commission; such daily records shall be preserved in good order and condition and kept available for inspection for a period of eighteen months”;

- (iii) by omitting from the same subsection the words “to a penalty not exceeding ten pounds” and by inserting in lieu thereof the words “for the first offence to a penalty not exceeding twenty pounds, and for a second or subsequent offence to a penalty not exceeding fifty pounds”;

- (iv) by inserting after the same subsection the following new subsection:—

cf. Act No.
39, 1912,
s. 97 (5).

(1A) Every person who aids, abets, counsels, or procures or by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence under subsection one of this section, shall be deemed to have committed that offence and shall be liable to the penalty provided in that subsection.

- (v) by inserting at the end of subsection two of the same section the words—

It shall be a sufficient compliance with the provisions of this subsection if the employer exhibits and keeps exhibited the copy of the award as last reprinted under section 90A of this Act.

- (e) by inserting after section ninety-six the following new section:—

New sec.
96A.

96A. (1) Where in any proceedings under section ninety-two, section ninety-three or section ninety-six of this Act it appears that the award or industrial agreement referred to in the application or information, as the case may be, is not the award or industrial agreement appropriate to the proceedings and that some other award or agreement by which the employer is bound is appropriate to such proceedings, the industrial

Power to
amend.
cf. Act No.
27, 1902,
s. 65 (3).

Industrial Arbitration (Amendment).

industrial or other magistrate or justices may amend the application or information and proceed to deal with the matter as though proceedings had been instituted under the application or information as so amended:

Provided that where the defect or variance appears to the industrial or other magistrate or justices before whom such proceedings are taken to be such that the employer has been thereby deceived or misled such industrial or other magistrate or justices may, upon such terms as he or they think fit, adjourn the hearing of the case to some future day.

(2) Nothing in this section shall be construed as limiting the operation of section sixty-five of the Justices Act, 1902-1940.

Sec. 119.
(Enforcement of certain orders.)

- (f) (i) by omitting from subsection one of section one hundred and nineteen the words "or any penalty" and by inserting in lieu thereof the words "or where an order is made under subsection (4A) of section twenty-eight of this Act for the refund of any premium, fee, gift, reward, bonus or consideration or the value thereof";
- (ii) by omitting from the same subsection the words "or of such penalty" and by inserting in lieu thereof the words "or for the amount of the value of such premium, fee, gift, reward, bonus or consideration";

Sec. 121.
(Recovery of penalties.)

- (g) by inserting at the end of section one hundred and twenty-one the following new paragraph:—

The provisions of section eighty-two of the Justices Act, 1902-1940, shall, mutatis mutandis, apply to and in respect of any penalty adjudged to be paid by any such conviction and the persons against whom the conviction is made.

New sec.
121A.

- (h) by inserting next after section one hundred and twenty-one the following new section:—

121A. If any person shall, during any proceeding before an industrial magistrate, be guilty of

Contempt.
cf. Act No.
27, 1902,
s. 152.

Industrial Arbitration (Amendment).

of contempt, such person may be punished in a summary way by such industrial magistrate by fine not exceeding forty shillings or by imprisonment for a period not exceeding fourteen days.

- (i) by inserting at the end of section one hundred and twenty-two the following words:—
- Sec. 122.
(Penalties to be paid to Consolidated Revenue.)
- Provided that where such penalty has been recovered upon complaint or information of the secretary or other officer of an industrial union, the commission or an industrial or other magistrate or justices may order that the penalty or any part thereof be paid to such union;
- (j) by omitting from section one hundred and twenty-eight the words "conciliation commissioner" and by inserting in lieu thereof the word "chairman";
- Sec. 128.
(Power of entry and inspection.)
- (k) by omitting section one hundred and twenty-nine and by inserting in lieu thereof the following new section:—
- Subst. sec. 129.

129. (1) The commission or a member thereof and every person authorised in writing by the commission or the registrar or a committee 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 any industry is carried on or any work is being or has been done or commenced or any matter or thing is taking or has taken place in relation to which any industrial dispute is pending, or any award has been made, or any offence against this Act is suspected, and may, to the extent and for the purposes named in the authority, inspect and view any work, material, machinery, appliance, articles, book or document therein.

Power of entry.
cf. Act No. 13 of 1904 (C'wth), s. 41.

(2) No person authorised under subsection one of this section shall have any 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.

Industrial Arbitration (Amendment).

(3) Every person who hinders or obstructs the commission or a member thereof or any person authorised as aforesaid in the exercise of any power conferred by this section shall be liable to a penalty not exceeding fifty pounds.

Further
amendment
of Act No.
2, 1940.
Sec. 131.
(Rural
workers.)

10. The Principal Act is further amended by omitting from subsection one of section one hundred and thirty-one the words "shall not be subject to the provisions of this Act other than Parts XIV and XV" and by inserting in lieu thereof the words "shall be subject to the provisions of this Act other than Part VI" but no award relating to any such rural industry shall take effect unless the commission after public inquiry to which the Crown shall be a party certify to the Governor that the employers generally in the industry are then presently able to pay the wages set out in the award and will in all probability be able to continue to pay such wages during the currency of the award from the proceeds of the sale of the products of the industry together with any subsidy payable in respect thereof after making due allowance for a fair return upon the capital invested therein, a fair remuneration for the work and supervision of the employer, and all other proper outgoings. Upon the publication of such certificate in the Gazette the award shall have effect in such industry but not sooner.

Further
amendment
of Act No. 2,
1940.
(Revision.)

11. The Principal Act is further amended in the manner and to the extent set forth in the Schedule to this Act.

SCHEDULE.

Industrial Arbitration (Amendment).

SCHEDULE.

Sections, headings, etc.	Amendment.
Sec. 2	(a) Omit the figures 77 and insert the the figures and letter 77g. (b) Omit the words "Conciliation Commissioner" wherever appearing and insert the words "Conciliation Commissioners."
Part II, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
Part II, Division 2, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
Sec. 16	Omit the words "subsections six and" and insert the word "subsection."
Part III, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
Part III, Division 2, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."

In the name and on behalf of His Majesty I assent to this Act.

WAKEHURST,
Governor.

*Government House,
Sydney, 21st October, 1943.*

Industrial Hygiene (Amendment)

SCHEDULE

Industry	Hazardous substances
(a) Coal mines, underground	Coal dust, gas, and steam
(b) Coal mines, surface	Coal dust, gas, and steam
Cement works	Cement dust
Glass works	Glass dust
Iron works	Iron dust
Lime works	Lime dust
Lead works	Lead dust
Mercury works	Mercury vapor
Sulphur works	Sulphur dust

In the case of any of the above named industries, the following provisions shall apply:

W. K. WALKER
Governor

Department of Health
Sydney, 21st October, 1913.

JOP

INDUSTRIAL ARBITRATION (AMENDMENT) BILL.

*Schedule of the Legislative Council's Amendments referred to in Message
of 16th June, 1943.*

- No. 1.—Page 2, clause 2, lines 20 to 35 inclusive. *Omit* all words on these lines.
- No. 2.—Page 4, clause 2, line 5. *Omit* “such” *insert* “**except where the principal forthwith notifies the contractor in writing that his offer to accept timber so delivered or supplied has been withdrawn, the**”
- No. 3.—Page 4, clause 2, line 19. *After* “shall” *insert* “**be in or to the effect of the prescribed form and shall**”
- No. 4.—Page 4, clause 2, line 22. *After* “undertaken” *insert* “**and also the locality where and the time within which the actual work is to be carried out**”
- No. 5.—Pages 4 and 5, clause 3, lines 38 to 40 inclusive on page 4 and lines 1 to 13 inclusive on page 5. *Omit* all words on these lines.
- No. 6.—Pages 5 and 6, clause 3, lines 25 to 41 inclusive on page 5 and lines 1 to 15 inclusive on page 6. *Omit* all words on these lines.
- No. 7.—Pages 6, 7 and 8, clause 3, lines 32 to 41 inclusive on page 6, lines 1 to 41 inclusive on page 7, and lines 1 to 33 inclusive on page 8. *Omit* all words on these lines.
- No. 8.—Page 9, clause 4, line 23. *Omit* “senior conciliation commissioner” *insert* “commission.”
- No. 9.—Page 9, clause 4, lines 27 and 28. *Omit* all words on these lines.
- No. 10.—Page 10, clause 4. *After* line 15 *insert*—

(ix) **by inserting next after subsection seven of the same section the following new subsection:—**

(8) **Where an officer of a Crown corporation is appointed a conciliation commissioner he shall be entitled to have his service as conciliation commissioner reckoned as service for the purposes of the Act or regulations governing his service as such officer, and if, as such officer, he was an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, he shall, while he holds office as conciliation commissioner, be deemed to be an employee within the meaning of the said Act, as so amended. Upon the termination of his appointment as conciliation commissioner, if he has not already attained the age of sixty-five years, he shall be entitled to be reappointed to the service of the Crown corporation in some position corresponding in classification and salary to that which he held at the date of his appointment as conciliation commissioner.**

In this subsection the expression “Crown corporation” means any of the following corporations that is to say:—The Commissioner for Railways, the Commissioner for Road Transport and Tramways, the Commissioner for Main Roads, the Metropolitan Meat Industry Commissioner, the Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, the Hunter District Water Board, and the Hospitals Commission of New South Wales.

No. 11.—Page 11, clause 4, lines 19 to 34 inclusive. *Omit* all words on these lines.

No. 12.—Page 14, clause 5, lines 18 to 26 inclusive. *Omit* all words on these lines,
insert—

(iv) by inserting at the end of the same section the following new subsection:—

(4) In framing any award granting preference in employment a committee shall have regard to the provisions of the Returned Soldiers and Sailors Employment Act, 1919, as amended by subsequent Acts and shall give a like preference in employment to persons who are competent for the work required and who have been members of the Forces during the war.

In this subsection:—

“Auxiliary Service” means Army Medical Corps, Nursing Service of the Crown, Australian Army Medical Nursing Service, Australian Women’s Army Service, Women’s Royal Australian Naval Service, Women’s Australian Auxiliary Air Force, or such other organisation as the Governor may by proclamation from time to time declare to be an auxiliary service for the purpose of this subsection.

“Combat Area” means an area prescribed as such for the purposes of the Australian Repatriation Act, 1920-1943, of the Commonwealth of Australia.

“Enlistment” means an engagement whether by appointment enlistment or otherwise rendering a person liable to be employed on active service abroad or in a combat area as a member of the Forces or of an auxiliary service.

“Member of the Forces” means any person who was at the time of his enlistment a resident in the Commonwealth of Australia or in a mandated territory of the Commonwealth or in any territory under the jurisdiction of the Commonwealth or who was domiciled in any State of the Commonwealth or in any such territory and who during the war served abroad or within a combat area as a member of any Australian Military Force or of the Royal Australian Naval Forces or as a member of the Royal Australian Air Force or as a member of an auxiliary service and who has been duly discharged from such service.

“War” means the war against Germany which commenced on the third day of September one thousand nine hundred and thirty-nine and the subsequent war against Italy and other allies of Germany and the war against Japan.

Save as provided in this subsection nothing contained in this Act shall affect the operation of the Returned Soldiers and Sailors Employment Act, 1919, as amended by subsequent Acts.

No. 13.—Pages 16 and 17, clause 5, lines 15 to 39 inclusive on page 16 and lines 1 and 2 inclusive on page 17. *Omit* all words on these lines.

No. 14.—Page 17, clause 5, lines 6 to 8 inclusive. *Omit* all words on these lines.

No. 15.—Page 19, clause 5, lines 26 to 38 inclusive. *Omit* all words on these lines.

No. 16.—Pages 20 to 24, clause 6. *Omit* clause.

- No. 17.—Pages 24 and 25, clause 7. *Omit* clause.
- No. 18.—Page 28, clause 6. *After* line 13 *insert*—
“(b) a quorum of the committee shall be three comprising the chairman, a representative of the employers, and a representative of the employees”;
- No. 19.—Page 28, clause 6, line 21. *Omit* “shall” *insert* **“may with the consent of all the members or if so specially authorised by the commission.”**
- No. 20.—Page 28, clause 6, line 30. *Omit* the words “and determine”
- No. 21.—Page 28, clause 6, lines 31 to 33 inclusive. *After* “committee” on line 31 *omit* all words on these lines.
- No. 22.—Page 28, clause 6. *After* line 33 *insert*—
77F. Where agreement has been reached by the members of a committee as to some matters at issue before it an award may, if the committee so decides, be made as to such matters and, unless all the members consent to the chairman deciding any particular matter as to which no agreement can be reached, such matter may be reserved for the further consideration of the committee or may be referred forthwith to the commission for determination or for directions.
- No. 23.—Page 29, clause 6, lines 24 to 28 inclusive. *After* “commission” on line 24 *omit* all words on these lines.
- No. 24.—Page 30, clause 6, lines 10 to 13. *Omit* all words on these lines, *insert*—
“(f) by omitting section eighty-one”;
- No. 25.—Page 30, clause 6, lines 15 to 28 inclusive. *Omit* all words on these lines.
- No. 26.—Page 31, clause 7. *After* line 27 *insert*—
“This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.”
- No. 27.—Page 31, clause 7, lines 31 to 40 inclusive. *Omit* all words on these lines.
- No. 28.—Pages 35 and 36, clause 8, line 41 on page 35, and line 1 on page 36. *Omit* “the payment of wages or the supply of” *insert* **“the supply for reward of any”**
- No. 29.—Page 36, clause 8, line 23. *After* “female” where secondly occurring *insert* **“pending variation of such award or industrial agreement in consequence of such female work being performed”**
- No. 30.—Page 36, clause 8, line 28. *After* “her” *insert* **“Nothing in the foregoing provisions of this subsection shall be construed as a direction that any variation of the award or industrial agreement shall necessarily be made.”**
- No. 31.—Page 37, clause 9, lines 3 and 4. *Omit* “of not less than two pounds and”
- No. 32.—Page 38, clause 9, lines 29 to 32 inclusive. *Omit* all words on these lines.
- No. 33.—Page 38, clause 9, line 37. *After* “words” where secondly occurring *insert* **“It shall be a sufficient compliance with the foregoing provisions of this subsection if such records are kept by means of some mechanical device of a type approved by the commission;”**
- No. 34.—Page 39, clause 9, lines 10 and 11. *Omit* “of not less than two pounds and”

- No. 35.—Page 35, clause 9, lines 13 and 14. *Omit* “of not less than five pounds and”
- No. 36.—Page 40, clause 9, line 21. After “from” insert **“subsection one of”**
- No. 37.—Pages 41 to 43, inclusive, clause 9, lines 17 to 40 inclusive on page 41, lines 1 to 39 inclusive on page 42, and lines 1 to 7 inclusive on page 43. *Omit* all words on these lines.
- No. 38.—Page 44, clause 10, line 6. After “Part VI” insert **“but no award relating to any such rural industry shall take effect unless the commission after public inquiry to which the Crown shall be a party certify to the Governor that the employers generally in the industry are then presently able to pay the wages set out in the award and will in all probability be able to continue to pay such wages during the currency of the award from the proceeds of the sale of the products of the industry together with any subsidy payable in respect thereof after making due allowance for a fair return upon the capital invested therein, a fair remuneration for the work and supervision of the employer, and all other proper outgoings. Upon the publication of such certificate in the Gazette the award shall have effect in such industry but not sooner.”**
- No. 39.—Title.—*Omit* “for the reconstitution of the Industrial Commission of New South Wales, and”
- No. 40.—Title.—*Omit* “these” insert **“this”**
-

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. R. McCOURT,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 6 April, 1943.*

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

W. K. CHARLTON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 16th June, 1943.*

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. , 1943.

An Act to provide for the reconstitution of the Industrial Commission of New South Wales and for the appointment of not more than five conciliation commissioners; for these this and other purposes to amend the Industrial Arbitration Act, 1940, as amended by subsequent Acts; and for purposes connected therewith.

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

1. (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1943."

14961

46—A

(2)

Short title,
citation
and com-
mencement.

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

Industrial Arbitration (Amendment).

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

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1943.

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

10 **2.** The Principal Act is amended—

Amendment
of Act No.
2, 1940.
Sec. 5.
(Definitions.)

(a) (i) by omitting from the definition of "Employee" in section five the words "or any vehicle used in the delivery of goods," and by inserting in lieu thereof the words "or as an outworker, or is working as a salesman, canvasser, collector, commercial traveller, insurance agent or in any other capacity in which he is paid wholly or partly by commission";

(ii) by omitting from paragraph (e) of the definition of "Industrial matters" in the same section, the words "but not so as to give preference of employment to members of industrial unions, except in accordance with the provisions of paragraph (g) of subsection one of section twenty of this Act";

(iii) by inserting after the same paragraph the following new paragraph:—

(e1) a claim that as between members of any industrial union or unions of employees and other persons offering or desiring service or employment at the same time preference shall be given to such members;

(iv) (ii) by inserting after the definition of "Minister" in the same section the following new definition:—

"Outworker" means a person to whom articles or materials are given out to be made

cf. Act No.
15, 1926,
s. 6 (1).

Industrial Arbitration (Amendment).

made up, cleaned, washed, altered, ornamented, finished, or repaired or adapted for sale, in his own home or on other premises not under the control or management of the person who gives out the materials or articles.

5

(v) (iii) by inserting at the end of the same section the following new subsections:—

(2) A person who is engaged in plying for hire or in the delivery of goods with any vehicle or vessel the use of which is obtained by that person under a contract of bailment (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise shall, where the work in which such person is so engaged is work for which, by an award or industrial agreement, a price or rate has been fixed for persons performing such work, be deemed, for the purposes of this Act, to be an employee employed by the person from whom the use of the vehicle or vessel is so obtained, and such last mentioned person shall, for the purposes of this Act, be deemed to be the employer of such employee unless such persons or either of them establishes to the satisfaction of the tribunal in which proceedings for a breach of the award or industrial agreement are instituted that the contract of bailment was a bona fide contract and was not entered into for the purpose of avoiding the operation of the award or industrial agreement.

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(3) (a) Where any person (in this subsection referred to as "the principal") advertises or otherwise notifies that he will accept timber delivered or supplied to him or his agent or other person in accordance with such advertisement or notification or advertises or otherwise notifies to the abovementioned

cf. Act No.
15, 1926,
s. 6 (11).

cf. *Ibid.*
s. 6 (5) (b).

Industrial Arbitration (Amendment).

5 above-mentioned effect and any person (in
 this subsection hereinafter referred to as
 the "contractor") gives notice to the prin-
 cipal that he will deliver or supply such
 timber or any part thereof, then ~~such~~
 10 **except where the principal forthwith**
notifies the contractor in writing that his
offer to accept timber so delivered or
supplied has been withdrawn, the con-
 tractor, whilst engaged in or about the
 work of cutting, delivering or supplying
 such timber or part thereof shall, for the
 purposes of this Act, be deemed to be an
 15 employee employed by the principal, and
 the principal shall, for the purposes of this
 Act, be deemed to be the employer of such
 contractor.

20 Notice of intention to deliver or supply
 timber as aforesaid shall **be in or to the**
effect of the prescribed form and shall
 indicate the nature of the actual work to
 be undertaken **and also the locality where**
and the time within which the actual work
is to be carried out.

25 The notice may be given personally or
 by letter posted to the principal at his place
 of business or usual address.

(b) For the purposes of this subsec-
 tion:—

30 "Timber" includes sleepers, piles, poles,
 girders, logs or pit timber;

"Cutting" includes felling, sawing,
 obtaining, preparing or doing any
 work in connection with timber.

35 (b) by omitting the proviso to subsection three of
 section eight.

3. (1) The Principal Act is further amended—

40 (a) by omitting from subsection one of section
 fourteen the words "not more than six" and by
 inserting in lieu thereof the word "three";

Sec. 8.
 (Registration
 of industrial
 union of
 employees.)

Further
 amendment
 of Act No. 2,
 1940.

Sec. 14.
 (Industrial
 com-
 mission.)

(b)

Industrial Arbitration (Amendment).

- (b) by omitting from the same subsection the words "by his commission";
- 5 (c) by omitting from subsection two of the same section the words "The persons who, immediately before the commencement of this Act, were President and other members of the industrial commission of New South Wales as constituted immediately before the commencement of this Act shall continue to hold office as President and members of the commission under this Act";
- 10 (d) by omitting from subsection six of the same section the words "of two or more of them";
- 15 (e) (a) (i) by omitting from subsection seven of section fourteen the words "the conciliation commissioner" where firstly occurring and by inserting in lieu thereof the words "a conciliation commissioner";
- 20 (ii) by omitting from the same subsection the words "The conciliation commissioner, committee, or" wherever occurring and by inserting in lieu thereof the words "A conciliation commissioner or committee or the";
- 25 (f) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—
- 30 (8) (a) Except as provided by paragraph (b) of this subsection the commission shall be constituted by three members.
- At sittings of the commission at which three members are present any question shall be decided according to the opinion of the majority.
- 35 (b) Where the commission directs that any matter shall be heard and determined by one member the commission shall, for all purposes of or relating to the hearing and determination of that matter, be duly constituted by any one member.
- 40 More than one sitting of the commission may be held at the same time. (e)

Industrial Arbitration (Amendment).

(e) Where the commission is duly constituted by any one member, such member may state any case or reserve any question for the consideration of the commission as constituted by all three members or direct any case or question to be argued before the commission as so constituted:

Provided that such member shall not, where a request in that behalf is made by any party to the proceedings, refuse to exercise his powers under this section where the request is made in relation to a question of law which arises in the proceedings:

(d) Sittings of the Commission shall be arranged by the President.

(g) (b) by omitting from subsection ten of the same section the word "commissioner" and by inserting in lieu thereof the word "commissioners";

(h) (c) by inserting at the end of the same section the following new subsection:—

(13) Where any question or application is referred or any appeal is made to the commission under this Act, the commission may, before proceeding with the hearing of such question, application or appeal, call a conference of the parties with a view to effecting a settlement of the matters in dispute.

At such conference the members of the conciliation committee established for the industry or calling concerned shall, if the commission so directs, sit with the commission.

(2) The Principal Act is further amended by omitting from subsection three of section forty two all words after the words "three members".

(3) (a) The persons who, immediately before the commencement of this Act, were President and other members of the industrial commission of New South Wales shall, as from such commencement, cease to hold office as such President and members, but shall be eligible for appointment under the Principal Act as amended by this Act as President and members respectively.

Where

Further
amendment
of Act No. 2,
1940, s. 42.
(Consequential.)

Industrial Arbitration (Amendment).

Where any such person is so appointed any period during which he has served as President or member before the commencement of this Act shall be computed as portion of his service for the purpose of ascertaining
5 his pension rights under the Principal Act as amended by this Act.

(b) Any such person who is not so appointed shall be eligible for appointment to any other office in the State having the like rank, title, status and precedence
10 and the like salary, pension and other rights as those attaching to his office immediately before the commencement of this Act.

Where any such person is appointed to any such office any period during which he has served as President or
15 member before the commencement of this Act shall be computed as portion of his service for the purpose of ascertaining his pension rights in respect of the office to which he is so appointed.

(c) If any such person is not appointed pursuant to paragraph (a) or paragraph (b) of this subsection he shall retain the rank, title, status and precedence and the salary, pension and other rights to which he would have been entitled if this Act had not been enacted, and shall so retain the same for the like period
20 as if he had continued to be a member of the industrial commission of New South Wales.

Any such person shall, at all times, hold himself available for appointment to act temporarily as a member of the commission or for appointment as an acting judge
30 of the Supreme Court.

Any period during which such person has served as President or member before the commencement of this Act, and any period after such commencement and before the day upon which he attains the age of seventy years
35 (whether or not during such period he acts temporarily as a member of the commission or as an acting judge of the Supreme Court) shall count as service for the purpose of ascertaining his pension rights under this paragraph.

40 This paragraph shall not apply to and in respect of any such person who refuses, without just cause, to accept
appointment

Industrial Arbitration (Amendment).

appointment pursuant to paragraph (a) or paragraph (b) of this subsection.

(4) (a) Nothing in this Act shall prejudice or affect the continuity of the commission, but the same shall continue notwithstanding the provisions of this Act.

(b) Without prejudice to the generality of paragraph (a) of this subsection the commission shall continue notwithstanding that there are at any time or times vacancies in the offices of all the members or of any one or more of them.

(5) The Principal Act is further amended by inserting next after section four the following new section:—

Further amendment of Act No. 2, 1940. New sec 4A.

15 4A. (1) Any matter pending or part heard before the commission at the commencement of the Industrial Arbitration (Amendment) Act, 1943, may be heard and continued before the commission as reconstituted under section fourteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943).

Matters pending and part heard before commission.

20 (2) Any matter pending or part heard before any member of the commission at the commencement of the Industrial Arbitration (Amendment) Act, 1943, may be heard and continued before the commission as reconstituted under section fourteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943):

25 Provided that, where the commission directs that such matter be heard and continued before one member, the commission shall, for all purposes of or relating to the hearing and continuation of such matter, be duly constituted by any one member.

30 4. (1) The Principal Act is further amended—

35 (a) (i) by omitting subsection one of section fifteen and by inserting in lieu thereof the following subsections:—

Further amendment of Act No. 2, 1940. Sec. 15. (Conciliation commissioner.)

(1) The Governor may appoint not more than five persons each of whom shall be a conciliation

Industrial Arbitration (Amendment).

conciliation commissioner, and may appoint one of the conciliation commissioners to be the senior conciliation commissioner.

5 (1A) (a) The conciliation commissioners, other than the senior conciliation commissioner, shall have seniority according to the dates of their appointments, or, where the appointments of two or more of them were
10 made on the same date, according to such order of precedence as may be assigned to them by the Governor.

(b) In the case of the absence of the senior conciliation commissioner or of his inability to perform the duties of his office, or in the case of any vacancy in the office of senior conciliation commissioner, all the duties and powers of the senior
15 conciliation commissioner shall devolve upon the conciliation commissioner who is next in order of seniority.

20 (1B) A conciliation commissioner shall be chairman of each committee.

The ~~senior conciliation commissioner~~ **commission** shall, from time to time, determine the committees of which each conciliation commissioner is to be chairman.
25

~~Every such determination shall be subject to the approval of the Minister.~~

(ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:—
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(2) Each conciliation commissioner shall be paid such salary as the Governor may determine.

(iii) by omitting from subsection three of the same section the word "The" and by inserting in lieu thereof the word "A";
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(iv) by omitting from subsection four of the same section the word "The" where firstly occurring and by inserting in lieu thereof the word "A";
40

(v)

Industrial Arbitration (Amendment).

- 5 (v) by omitting from paragraph (b) of the same subsection the words "The commissioner suspended" and by inserting in lieu thereof the words "A conciliation commissioner suspended";
- (vi) by omitting from the same paragraph the words "the commissioner" wherever occurring and by inserting in lieu thereof the words "such conciliation commissioner";
- 10 (vii) by omitting from subsection five of the same section the word "The" where firstly occurring and by inserting in lieu thereof the word "A";
- 15 (viii) by omitting subsection six of the same section;
- (ix) by inserting next after subsection seven of the same section the following new subsection:—
- 20 (8) Where an officer of a Crown corporation is appointed a conciliation commissioner he shall be entitled to have his service as conciliation commissioner reckoned as service for the purposes of the Act or regulations governing his service as such
- 25 officer, and if, as such officer, he was an employee within the meaning of the Superannuation Act, 1916, as amended by subsequent Acts, he shall, while he holds office as conciliation commissioner, be deemed to be
- 30 an employee within the meaning of the said Act, as so amended. Upon the termination of his appointment as conciliation commissioner, if he has not already attained the age of sixty-five years, he shall be entitled
- 35 to be reappointed to the service of the Crown corporation in some position corresponding in classification and salary to that which he held at the date of his appointment as conciliation commissioner.

In

Industrial Arbitration (Amendment).

In this subsection the expression "Crown corporation" means any of the following corporations, that is to say:—The Commissioner for Railways, the Commissioner for Road Transport and Tramways, the Commissioner for Main Roads, the Metropolitan Meat Industry Commissioner, the Maritime Services Board of New South Wales, the Metropolitan Water, Sewerage and Drainage Board, the Water Conservation and Irrigation Commission, the Board of Fire Commissioners of New South Wales, the Hunter District Water Board, and the Hospitals Commission of New South Wales.

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(b) by omitting from section sixteen the words "the conciliation commissioner" wherever occurring and by inserting in lieu thereof the words "a conciliation commissioner";

Sec. 16.
(Additional conciliation commissioners.)

(c) by inserting after section seventeen the following new section:—

New sec. 17A.

17A. (1) The Minister may appoint any person to be a special conciliation commissioner.

Special conciliation commissioner.

(2) Where a special conciliation commissioner is of the opinion that an industrial dispute has arisen or is threatened or impending he may require the attendance of any persons to meet in conference. At such conference the special conciliation commissioner shall preside and endeavour to induce the parties to come to an agreement.

(3) If any person so required to attend does not attend in conference as aforesaid he shall be liable to a penalty not exceeding fifty pounds.

(d) (c) (i) by inserting next after subsection one of section eighteen the following new subsection:—

Sec. 18.
(Conciliation committees.)

(1A) (a) In the establishment of a committee no exception shall be made from the industry or calling or combination, arrangement or grouping of industries or callings for

Industrial Arbitration (Amendment).

5 for which the committee is established,
 which will have the effect of excluding the
 employees of any one or more specified
 employers or any one or more specified
 10 groups of employers engaged in such
 industry or calling or combination, arrange-
 ment or grouping of industries or callings,
 unless such employees are engaged in an
 industry or calling or combination, arrange-
 15 ment or grouping of industries or callings
 for which some other committee is
 established.

(b) Where, in the establishment of
 any committee which is in existence at the
 20 commencement of the Industrial Arbitration
 (Amendment) Act, 1943, any exception was
 made which contravenes the provisions of
 paragraph (a) of this subsection, then, as
 from such commencement, the instrument
 25 establishing such committee shall be read
 and construed as if such exception were
 omitted therefrom, and the committee shall,
 after such commencement, be deemed to be
 established accordingly.

The Minister shall, as soon as practicable
 after such commencement, make such
 alterations and amendments of the instru-
 30 ment establishing such committee as may be
 necessary to give effect to this subsection.

(ii) by omitting from subsection two of the same
 section the words "the conciliation commis-
 sioner" and by inserting in lieu thereof the
 words "a chairman, who shall be one of the
 35 conciliation commissioners";

(iii) by inserting in the same subsection after the
 words "Such representatives" the words
 and symbols "(in this section hereinafter
 referred to as 'members')";

(e) (d) (i) by inserting at the end of subsection one of
 40 section nineteen the words "The person so
 appointed shall be one of the conciliation
 commissioners";

Sec. 19.
 (Appren-
 ticeship
 commis-
 sioners.)

(ii)

Industrial Arbitration (Amendment).

(ii) by omitting subsection two of the same section;

(iii) by omitting subsections seven and eight of the same section.

5 (2) (a) The persons who immediately before the commencement of this Act held office as the conciliation commissioner and the apprenticeship commissioner respectively shall as from such commencement cease to hold office but each of such persons shall be eligible for
10 appointment under the Principal Act as amended by this Act, as a conciliation commissioner.

(b) If any such person is not so appointed he shall receive such compensation as he would have been entitled to had his services been dispensed with other-
15 wise than according to law.

(3) The Principal Act is further amended by inserting next after section 4A (as inserted by subsection five of section three of this Act) the following new section:—

Further amendment of Act No. 2, 1940. New sec. 4B.

20 4B. (1) After the commencement of the Industrial Arbitration (Amendment) Act, 1943, a reference in any Act, award, industrial agreement, regulation or other instrument whatsoever, to the conciliation commissioner shall be construed as a reference to
25 a conciliation commissioner appointed under section fifteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943).

References in Acts, etc., and matters pending. cf. Act No. 39, 1932, s. 7 (2) (3).

(2) Any matter pending or part heard before
30 the conciliation commissioner or a committee or an apprenticeship council at the commencement of the Industrial Arbitration (Amendment) Act, 1943, may be heard or continued before a conciliation commissioner appointed under section fifteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943), or, as the case may be, by a
35 committee constituted in accordance with section eighteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943) or by an apprenticeship council of which the apprenticeship commissioner

Industrial Arbitration (Amendment).

commissioner appointed under section nineteen of this Act (as amended by the Industrial Arbitration (Amendment) Act, 1943) is the chairman.

5. The Principal Act is further amended—

of Act No. 2,
1940.
Further
amendment
Sec. 20.
(Original
jurisdic-
tion.)

- 5 (a) (i) by omitting from paragraph (a) of sub-
section one of section twenty the words
“fifteen pounds” and by inserting in lieu
thereof the words “twenty pounds”;
- 10 (ii) by omitting from the same paragraph the
words “seven hundred and fifty pounds”
and by inserting in lieu thereof the words
“one thousand pounds”;
- 15 (iii) by omitting from the same paragraph the
words “the Hunter District Water Supply
and Sewerage Board” and by inserting in
lieu thereof the words “The Hunter District
Water Board”;
- (iv) ~~by omitting paragraph (g) of the same
subsection;~~
- 20 (v) ~~by omitting from the first proviso to
the same subsection the words “(g) and
(h)” and by inserting in lieu thereof the
words “and (h) of this subsection and in
section 88B of this Act”;~~
- 25 (vi) ~~by omitting subsection two of the same
section;~~
- (iv) by inserting at the end of the same section
the following new subsection:—
- 30 (4) In framing any award granting pref-
erence in employment a committee shall
have regard to the provisions of the
Returned Soldiers and Sailors Employment
Act, 1919, as amended by subsequent Acts
and shall give a like preference in employ-
ment to persons who are competent for the
work required and who have been members
of the Forces during the war.

In this subsection—

- 40 “Auxiliary Service” means Army
Medical Corps, Nursing Service of the
Crown

Industrial Arbitration (Amendment).

5 Crown, Australian Army Medical Nursing Service, Australian Women's Army Service, Women's Royal Australian Naval Service, Women's Australian Auxiliary Air Force, or such other organisation as the Governor may by proclamation from time to time declare to be an auxiliary service for the purpose of this subsection.

10 "Combat Area" means an area prescribed as such for the purposes of the Australian Repatriation Act, 1920-1943, of the Commonwealth of Australia.

15 "Enlistment" means an engagement whether by appointment, enlistment or otherwise rendering a person liable to be employed on active service abroad or in a combat area as a member of the Forces or of an auxiliary service.

20 "Member of the Forces" means any person who was at the time of his enlistment a resident in the Commonwealth of Australia or in a mandated territory of the Commonwealth or in any territory under the jurisdiction of the Commonwealth or who was domiciled in any State of the Commonwealth or in any such territory and who during the war served abroad or within a combat area as a member of any Australian Military Force or of the Royal Australian Naval Forces or as a member of the Royal Australian Air Force or as a member of an auxiliary service and who has been duly discharged from such service.

35 "War" means the war against Germany which commenced on the third day of September one thousand nine hundred and thirty-nine and the subsequent war against Italy and other allies of Germany and the war against Japan.

Save

Industrial Arbitration (Amendment).

5 Save as provided in this subsection nothing contained in this Act shall affect the operation of the Returned Soldiers and Sailors Employment Act, 1919, as amended by subsequent Acts.

- (b) (i) by omitting subsections one to six inclusive and subsection ten of section twenty-four; Sec. 24. (Powers of conciliation commissioner.)
- (ii) by omitting from subsections seven, eight and nine the words "under this section" wherever occurring;
- (c) (i) by omitting from subsection one of section twenty-five the word "The" where firstly occurring and by inserting in lieu thereof the word "A"; Sec. 25. (Compulsory conferences.)

15 (ii) ~~by omitting subsection four of the same section and by inserting in lieu thereof the following subsection:—~~

20 (1) ~~If the parties are unable to come to an agreement the following provisions shall have effect:—~~

25 (a) ~~where the conciliation commissioner is sitting alone he may make an order or award in relation to the question, dispute or difficulty, or may refer the question, dispute or difficulty to the commission; and any award so made shall have the like effect as an award made by a committee;~~

30 (b) ~~where the members of the conciliation committee established for the particular industry concerned are summoned to sit with the conciliation commissioner they, together with the conciliation commissioner as chairman, may sit as a committee and may make an order or award in relation to the question, dispute or difficulty or~~
may

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~~may refer the question, dispute or difficulty to the commission.~~

- 5 (d) (i) by omitting from section twenty-six the word "The" where firstly occurring and by inserting in lieu thereof the word "A";
- (ii) ~~by omitting from the same section the words "at the request of any party he shall, or, of his own motion";~~
- 10 ~~(iii)~~ (ii) by omitting from the same section the words "but as assessors only and without vote" and by inserting in lieu thereof the words "and when so sitting they, together with the conciliation commissioner as chairman, shall constitute a committee";
- 15 ~~(iv)~~ (iii) by omitting from the same section the words "the conciliation commissioner" where lastly occurring and by inserting in lieu thereof the words "a conciliation commissioner or a committee upon any matter referred under this section";
- 20 (e) (i) by omitting from section twenty-seven the words "the conciliation commissioner" wherever occurring and by inserting in lieu thereof the words "a conciliation commissioner or a committee";
- 25 (ii) by inserting in the same section after the words "upon him" the words "or it";
- (iii) by omitting from the same section the word "twenty-four" where lastly occurring;
- 30 (f) (i) by inserting next after subsection one of section twenty-eight the following new subsection:—
- (1A) Without prejudice to the generality of subsection one of this section the apprenticeship council shall—
- 35 (a) determine what facilities are available for the training of apprentices and trainee apprentices in any industry;

Sec. 26.
(Powers of conciliation commissioner.)

Sec. 27.
(Decision of conciliation commissioner final.)

Sec. 28.
(Jurisdiction of apprenticeship councils.)

Industrial Arbitration (Amendment).

- 5 (b) where it determines that such facilities are available in any trade, technical or other training school, require that such number of apprentices and trainee apprentices as it may determine, having regard to the facilities available, shall attend thereat for such classes or courses of instruction as may be specified;
- 10
- 15 (c) where it determines that no such facilities or no sufficient such facilities as are mentioned in paragraph (b) of this subsection are available, but that facilities are available for providing instruction by correspondence or otherwise, require that such number of apprentices and trainee apprentices as it may determine, having regard to the facilities available, shall obtain such instruction as may be specified;
- 20
- 25 (d) determine that the employer of every apprentice or trainee apprentice required to attend any trade, technical or other training school, shall allow him such time as the apprenticeship council may deem reasonable during ordinary working hours to attend such school;
- 30
- 35 (e) determine that the employer of every apprentice or trainee apprentice who is required to obtain instruction by correspondence or otherwise shall allow him such time as the apprenticeship council may deem reasonable during ordinary working hours for the purpose of taking full advantage of the instruction so obtained.
- 40 (ii)

Industrial Arbitration (Amendment).

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

(4A) No employer shall, directly or indirectly or by any pretence or device—

5 (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 any indenture or other contract 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 council for such industry.

15 Any person who contravenes any provision of this subsection shall be liable, on conviction, to a penalty not exceeding one hundred pounds.

20 Upon any such conviction the industrial or other magistrate or justices may also make an order directing the employer to refund such premium, fee, gift, reward, bonus or consideration or the value thereof to the person from whom it was received.

25 (g) by inserting next after section thirty the following new section:—

New sec. 30A.

30 30A. Notwithstanding anything contained in this Act the commission shall not entertain an application for a new award or for the variation or renewal of an award relating to any industry for which a committee has been established unless the commission is satisfied that proceedings before such committee have failed to result in the making of an award.

Certain matters to be dealt with by committee in first instance. of. C'with Conciliation and Arbitration Act 190-1934, s. 33.

35 This section shall not be construed as limiting the jurisdiction of the commission in respect of any appeal or reference made under this Act.

Industrial Arbitration (Amendment).

6. The Principal Act is further amended—

(a) by inserting next after section fifty-four the following new section:—

51A. (1) This section shall apply to and in respect of—

(a) all awards and industrial agreements made or deemed to have been made under this Act which were in force at the commencement of the Industrial Arbitration (Amendment) Act, 1943, and which—

(i) fix rates of wages for employees by reference to the needs basic wage assessed on the index number for Sydney contained in the Retail Price Index Numbers, but with the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment, and the fixed loading addition determined in the Commonwealth Judgment as being applicable to the needs basic wage so assessed; or

(ii) fix rates of wages exclusively for employees of the Crown (as defined in section fifty-four of this Act) and for such employees only whether or not such rates are fixed on an annual basis; and

(b) any other award or industrial agreement (not being an award or industrial agreement which fixes rates of wages exclusively for employees within the county of Yancowinna and for such employees

Further amendment of Act No. 1940. New s. 51A.

Awards and agreements existing at commencement of Industrial Arbitration (Amendment) Act, 1943.

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5 employees only) made or deemed to have been made under this Act, which is in force at the commencement of the Industrial Arbitration (Amendment) Act, 1943, and which the Commission, upon application made as prescribed, declares to be an award or industrial agreement to which this section applies.

10 In dealing with any such application the commission shall, as far as practicable, adopt the principles which, under subsection one of section fifty-seven of this Act, are applicable to and in respect of awards made after the commencement of the Industrial Arbitration (Amendment) Act, 1943.

15 (2) Every award or industrial agreement to which this section applies shall be deemed to be varied so as to provide that the needs basic wage which shall apply to that award or industrial agreement shall be the needs basic wage assessed on the index number for Sydney contained in the Retail Price Index Numbers (but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment) and the fixed loading addition determined in the Commonwealth Judgment as being applicable to the needs basic wage so assessed.

20 Such variation shall—

25 (a) in the case of awards and industrial agreements of the nature referred to in paragraph (a) of subsection one of this section take effect as from the commencement of the first pay period to commence after the commencement of the Industrial Arbitration (Amendment) Act, 1943; and

(b)

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5 (b) in the case of any awards or industrial agreements of the nature referred to in paragraph (b) of subsection one of this section as from such date as the commission may specify in the declaration made under that paragraph in respect of the award or industrial agreement.

10 (2) As soon as practicable after the commencement of the Industrial Arbitration (Amendment) Act, 1943, the registrar shall vary the terms of each award to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award as he may think necessary or desirable to enable full effect to be given to the provisions of this Act.

20 Upon application made as prescribed the registrar may vary the terms of any industrial agreement to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such industrial agreement as he may think necessary or desirable to enable full effect to be given to the provisions of this Act.

25 The registrar may refer any matter arising out of this subsection to the commission for direction.

30 (b) (i) by omitting paragraph (a) of subsection one of section fifty five;

35 (ii) by omitting from paragraph (a) of subsection two of the same section the words "paragraph (a) or";

(iii) by omitting paragraph (b) of the same subsection;

(c) (i) by omitting section fifty six;

(ii)

Sec. 55
(Unifor-
mitv.)

Sec. 56.
(Power to
alter basis of
awards.)

Industrial Arbitration (Amendment).

(ii) by omitting from subsection eight of section fifty four the words "or section fifty six";

Sec. 54
(Consol.
quanti.)

(d) (i) by omitting subsection one of section fifty-seven and by inserting in lieu thereof the following subsection:—

Sec. 57
(Future
award and
industrial
agree-
ments.)

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(1) (a) This subsection shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Amendment) Act, 1943.

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(b) Subject to paragraph (d) of this subsection all awards and industrial agreements to which this subsection applies (other than awards or industrial agreements which fix rates of wages exclusively for employees within the county of Yancowinna and for such employees only), shall, insofar as they fix rates of wages by reference or in relation to a needs basic wage with the appropriate fixed loading, be made by reference or in relation to the needs basic wage assessed on the index number for Sydney contained in the Retail Price Index Numbers (but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment) and the fixed loading addition determined in the Commonwealth Judgment as being applicable to the needs basic wage so assessed.

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(c) Subject to paragraph (d) of this subsection all awards or industrial agreements to which this subsection applies which fix rates of wages exclusively for employees within the county of Yancowinna and for such employees only shall, insofar as they fix rates of wages by reference or in relation to a needs basic wage with the appropriate fixed loading, be made

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by

Industrial Arbitration (Amendment).

5 by reference or in relation to the needs
basic wage assessed on the index number
for Broken Hill contained in the Retail
Price Index Numbers and the fixed loading
addition determined in the Commonwealth
Judgment as being applicable to the needs
basic wage so assessed.

10 (d) Notwithstanding anything con-
tained in paragraph (b) or paragraph (c)
of this subsection the parties to any award
or industrial agreement to which this sub-
section applies and which fixes rates of
wages by reference or in relation to a needs
15 basic wage with the appropriate fixed load-
ing addition, may by consent, at the time
the award or industrial agreement is made
or upon any application for a variation of
the award or industrial agreement, adopt
20 the needs basic wage assessed on the index
number for such place within New South
Wales or such combination of places (of
which Sydney or some other town in New
South Wales is one) contained in the Retail
Price Index Numbers as may be specified
25 in the award or industrial agreement with
the fixed loading addition determined by
the Commonwealth Court of Conciliation
and arbitration as being applicable to the
needs basic wage assessed on the index
30 number for such place or combination of
places.

(e) by omitting section fifty-nine.

7. The Principal Act is further amended—

35 (a) by inserting next after paragraph (c) of section
sixty-three the following new paragraph:—

(e1) The commission or a committee may, in
any case where the parties agree, reduce the
ordinary

Sec. 59.
(Provision for
applying s. 54
to certain
awards and
agreements.)

Further
amendment of
Act No. 2
1940.

Sec. 63.
(Directions
re hours.)

Industrial Arbitration (Amendment).

ordinary working hours of employees below the number of hours specified in this section.

- (b) (i) by inserting next after paragraph (c) of subsection one of section sixty-four the following new paragraph:—

Sec. 64
(Standard hours.)

(c1) The commission may, in respect of any employees or class of employees who are bound by an award made by agreement in accordance with paragraph (c1) of section sixty-three of this Act—

(i) declare a lesser number of ordinary working hours than the standard hours about to be declared; or

(ii) declare a lesser number of ordinary working hours than the standard hours already declared;

- (ii) by inserting at the end of the same section the following new subsection:—

(11) Notwithstanding anything contained in this section, an award or industrial agreement may be made, where the parties agree, prescribing a lesser number of ordinary working hours for employees bound by such award or industrial agreement than the standard hours determined and declared under this section and applicable with respect to such employees.

8. 6. The Principal Act is further amended—

- (a) by omitting from section seventy-five the words “conciliation commissioner” and by inserting in lieu thereof the word “chairman”;
- (b) by omitting from subsection one of section seventy-seven the words “Subject to section twenty-four of this Act”;
- (c) by inserting after section seventy-seven the following new sections:—

Further amendment of Act No. 2, 1940.
Sec. 75.
(Convening of meetings of committees.)

Sec. 77.
(Evidence on oath.)

New secs 77A-77F.

77A. The chairman of a committee shall keep notes of the proceedings before such committee, which

Notes of proceedings.

Industrial Arbitration (Amendment).

which notes shall be forwarded to the registrar with the committee's award, order or determination.

5 77B. In every case where an application or reference to a committee is made, it shall be the duty of the chairman to endeavour to bring the parties to an agreement with respect to the matters referred to in such application or refer-
10 ence, and to this end the committee shall, in such manner as it thinks fit, expeditiously and carefully inquire into such matters and anything affecting the merits thereof.

15 In the course of such inquiry, the chairman may make all such suggestions and do all such things as he deems right and proper for inducing the parties to come to a fair and amicable settle-
20 ment of such matters.

25 77c. A committee may confer with any persons as to anything affecting the settlement of an industrial matter and may summon any person before it for the purpose of conference or of giving evidence. Such summons shall be signed by the chairman or by the registrar.

30 Every person so summoned shall be bound to attend upon such summons and shall for disobedience thereto be liable to a penalty not exceeding fifty pounds.

35 77d. A committee may—
40 (a) conduct its proceedings in public or private as it may think fit;
(b) adjourn the proceedings to any time or place;
(c) exercise in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as were by section one hundred and thirty-six of the Parliamentary Electorates and Elections Act, 1902, conferred on a committee of elections and qualifications, and the

Inquiry by committee.
cf. Act No. 17, 1912, s. 32.

Persons may be summoned.

Conduct of proceedings.
cf. *Ibid.* s. 34.

Industrial Arbitration (Amendment).

the provisions of the said section shall apply in respect of the proceedings of the committee:

5 Provided that unless a person raises
the objection that the profits of an in-
dustry are not sufficient to enable him
to pay the wages or grant the conditions
claimed, no person shall be required
10 without his consent to produce his
books, or to give evidence with regard
to the trade secrets, profits, losses,
receipts, and outgoings of his business,
or his financial position.

15 Where a person raises such objection
he may be required, on the order of the
chairman, to produce the books used in
connection with the carrying on of the
industry in respect of which the claim
is made, and to give evidence with re-
20 gard to the profits, losses, receipts, and
outgoings in connection with such in-
dustry, but he shall not be required to
give evidence regarding any trade
secret, or, saving as hereinbefore pro-
25 vided, his financial position. No such
evidence shall be given without his
consent except in the presence of the
committee alone, and no person shall
inspect such books except the chairman
30 or an accountant appointed by the com-
mittee, who may report to the committee
whether or not his examination of such
books supports the evidence so given,
but shall not otherwise disclose the con-
35 tents of such books. Such accountant
shall, before acting under this para-
graph, take an oath not to disclose any
matter or evidence before the commit-
tee relating to—

40 trade secrets;

the

Industrial Arbitration (Amendment).

the profits or losses or the receipts
and outgoings of any em-
ployer;

5 the books of any employer or wit-
ness produced before the com-
mittee; or

the financial position of any em-
ployer or of any witness,
and if he violates his oath he shall be
10 liable to a penalty not exceeding five
hundred pounds.

77E. At any meeting of a committee—

(a) the chairman shall preside;

15 (b) **a quorum of the committee shall be
three comprising the chairman, a rep-
resentative of the employers and a
representative of the employees;**

20 ~~(b)~~ (c) each member, except the chairman,
shall have one vote; and where the
votes for and against any matter are
equal, the chairman ~~shall~~ **may with the
consent of all the members or if so
specially authorised by the commission
decide the question;**

25 ~~(c)~~ (d) if any of the members, other than the
chairman, are absent from a duly con-
vened meeting of a committee, the
chairman may, together with such mem-
bers as may be present, proceed to
30 hear ~~and determine~~ any matter before
the committee. ~~Such determination
shall be deemed to be a decision of the
committee.~~

35 77F. Where agreement has been reached by
the members of a committee as to some matters
at issue before it an award may, if the com-
mittee so decides, be made as to such matters
and, unless all the members consent to the chair-
man deciding any particular matter as to which

Proceedings
at meetings.
cf. Act No.
17, 1912,
s. 36.

Awards as
to part
of claims.

Industrial Arbitration (Amendment).

no agreement can be reached, such matter may be reserved for the further consideration of the committee or may be referred forthwith to the commission for determination or for directions.

5 77~~F~~.G. Any award or order of a committee shall, after settlement by the registrar in the manner prescribed, be signed by the chairman: Awards and orders.

10 Provided that upon any settlement the registrar may submit any question of law to the commission for its determination.

Subject to this section the registrar shall publish the award or order, when signed, in the Gazette, and shall notify the parties in the prescribed manner.

15 (d) by omitting from section seventy-eight the words "the conciliation commissioner" and by inserting in lieu thereof the words "a conciliation commissioner"; Sec. 78. (Intervention by Crown.)

20 (e) by omitting section eighty and by inserting in lieu thereof the following section— Subst. sec. 80.

25 80. (1) In proceedings before the commission, if the matter is an industrial matter no party shall be represented by a barrister or a solicitor except by the consent of the commission; but such consent shall not be given in any case where, in the opinion of the commission, the questions to be determined in such proceedings are exclusively questions of fact. Legal representation.

30 (2) In proceedings before a conciliation commissioner or a committee no party shall, except by consent of the conciliation commissioner or the committee, as the case may be, and all the parties, be represented by a barrister or a solicitor or by a person who has qualified for admission as a barrister or a solicitor.

35 (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, a conciliation commissioner

Industrial Arbitration (Amendment).

5 commissioner or a committee; but in any case where the permanent employee of the Crown so appearing is a barrister or a solicitor, the Crown shall be deemed to have consented to the representation of any other party to the proceedings by a barrister or a solicitor and the consent of the commission, conciliation commissioner, or committee, as the case may be, to such representation shall not be refused.

10 ~~(f) by omitting from section eighty-one the words "the conciliation commissioner" where firstly occurring and by inserting in lieu thereof the words "a conciliation commissioner";~~ Sec. 81 (Appearance of parties by advocate or agent.)

(f) by omitting section eighty-one;

15 ~~(g) (i) by omitting from paragraph (a) of subsection one of section eighty-four the words "or of any member thereof in the exercise of any power or function delegated to him by the commission" and by inserting in lieu thereof the words and symbols "(whether constituted by three members or by any one member)";~~ Sec. 84 (Decision of commission or member final.)

20

25 ~~(ii) by omitting subparagraphs (i) and (ii) of paragraph (b) of the same subsection and by inserting in lieu thereof the words and symbols "the commission (whether constituted by three members or by any one member)";~~

9. 7. The Principal Act is further amended—

30 (a) by inserting next after section eighty-eight the following new sections:—

Further amendment of Act No. 2, 1940. New secs. 88A, 88B.

35 88A. The commission or a committee shall not award any conditions nor fix rates of wages or other payments for employees of the Crown less favourable than the conditions granted or the wages paid or other payments made to employees (other than employees of the Crown) who are doing substantially the same class of work

Crown employees.

Industrial Arbitration (Amendment).

work, but the fact that employment is permanent or that additional privileges are allowed to employees of the Crown shall not of itself be regarded as a substantial difference in the nature of the work.

In this section the expression "employees of the Crown" includes employees of the Government or of any department of the Government or of any of the following corporations, that is to say—

The Commissioner for Railways,
 The Commissioner for Road Transport and Tramways,
 The Commissioner for Main Roads,
 The Metropolitan Meat Industry Commissioner,
 The Maritime Services Board of New South Wales,
 The Metropolitan Water, Sewerage and Drainage Board,
 The Water Conservation and Irrigation Commission,
 Board of Fire Commissioners of New South Wales,
 The Hunter District Water Board, and
 The Hospitals Commission of New South Wales.

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

~~88b.~~ The commission or a committee may on an application or reference to it in that behalf prescribe by award that absolute preference of employment shall be given to the financial members of the industrial union or unions specified in the award.

Absolute preference to unionists.

Nothing in this section shall affect the operation of the Returned Soldiers and Sailors Employment Act, 1919, as amended by subsequent Acts.

Industrial Arbitration (Amendment).

5 88e.B. (1) Where by an award a price or rate is fixed for persons performing work in any industry the commission or a committee may, on an application or reference to it in that behalf, prescribe by award that no contract to which this section applies shall be valid unless the consent of the commission or the committee is obtained.

Restriction
as to
contracts
in certain
cases.

10 (2) If any person acting or purporting to act in the execution of any contract which is rendered invalid by this section, performs any work for which by an award a price or rate has been fixed for persons performing such work, then for the purposes of this Act the person so performing such work shall be deemed to be an employee, and the person with whom the contract so rendered invalid was made shall be deemed to be the employer of such employee.

15 (3) This section shall apply to any contract made by two or more persons being or alleging themselves to be partners working in association in any industry whereby such persons undertake the performance of work for which by an award a price or rate has been fixed for persons performing such work, and under which such persons or any of them engage personally in the performance of the work whether with or without the assistance of other persons employed by them.

20 (b) by inserting next after section ninety the following new section:—

New sec.
90A.

25 90A. 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 commencement of the Industrial Arbitration (Amendment) Act, 1943) the Government Printer shall, if and when directed so to do by the registrar, reprint the award in a form certified as correct by the registrar.

Incorporation
of
variation in
reprint of
awards.

Industrial Arbitration (Amendment).

10. 8. The Principal Act is further amended—

Further
amendment
of Act No. 2,
1940.

Sec. 92.
(Recovery
of wages.)

- 5 (a) by inserting in subsection one of section ninety-two after the word "Act" the words "or by the conditions of a permit issued under section eighty-nine of this Act";
- (b) by inserting at the end of the same subsection the words "or permit as the case may be";
- 10 (c) by omitting from subsection two of the same section the words "within six months after such money has become due";
- (d) by omitting from the same subsection the words "to the registrar or";
- 15 (e) by inserting in the same subsection after the words "price or rate" the words "which became due during the period of twelve months immediately preceding the date of the application (where such person is still in the employment of such employer at that date) or within the last twelve months of the employment with such employer (where the employment was terminated before the date of the application).
- 20 An application under this subsection made after the termination of the employment shall be made not later than six months after the
- 25 date of such termination.
- (f) by omitting from the same subsection the words "The registrar or magistrate" and by inserting in lieu thereof the words "The industrial magistrate";
- 30 (g) by inserting at the end of the same subsection the following words: "Where, in any proceedings under this section, it is made to appear that the employer has committed a breach of section ninety-three or section ninety-six of this Act, the industrial magistrate may, in addition to
- 35 any order made under this section, impose any penalty

Industrial Arbitration (Amendment).

penalty which he might have imposed in proceedings for a penalty under section ninety-three or section ninety-six of this Act as the case may be”;

5 (h) by omitting from subsection three of the same section the words “within the said period of six months”;

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

10 (4A) In any case where the person authorised to take proceedings under subsection two or subsection three of this section is a person employed to do any work for which the price or rate has been fixed by an award or by an industrial agreement made under this Act, the proceedings may,
15 with the consent in writing of such person, be taken by the secretary or other officer of an industrial union concerned in the industry to which such award or industrial agreement relates, in the name and on behalf of such
20 person.

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

Any amount so paid to such 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 on whose behalf the proceedings were taken.
30

35 (j) by omitting from subsection five of the same section the words “final payment made” and by inserting in lieu thereof the words “each payment made after the commencement of the Industrial Arbitration (Amendment) Act, 1943”;

(k)

Industrial Arbitration (Amendment).

(k) by inserting at the end of the same section the following new subsections:—

5 (6) In every case where an employee has left the employment of an employer without being paid the full amount due to him in respect of such employment, and the employer has been unable, during a period of thirty days after the termination of employment, to make such payment because the whereabouts of such employee are unknown to him, and cannot with reasonable diligence be found, such employer shall, forthwith after the expiration of such period, pay the full amount aforesaid to the Under Secretary of the Department of Labour and Industry and Social Services. A receipt issued on behalf of the said Under Secretary for money so paid to him shall be a sufficient discharge to the employer for the amount mentioned in the receipt.

cf. 23 Geo.
V, No. 36
(Qld.), s. 50
(3).

20 Any amount so paid to the Under Secretary shall be held by him in trust for the employee.

Any employer who fails to comply with this subsection shall be liable to a penalty not exceeding fifty pounds.

25 (7) Whosoever inserts or causes to be inserted in a newspaper any advertisement in which he offers or seeks employment at a wage lower than the price or rate fixed by any award or industrial agreement applicable to such employment shall be liable to a penalty not exceeding fifty pounds.

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

35 40 (8) (a) In any contract for the performance of any work involving the payment of wages or the

Industrial Arbitration (Amendment).

5 the supply of the supply for reward of any musical entertainment, the consideration for such contract shall not be less than a sum sufficient to pay to each person engaged in the performance of such work, or the supply of the musical entertainment, the price or rate fixed by any award or industrial agreement for a person performing such work or so engage^d

10 (b) Any person who offers, enters into, or is in any way concerned with a contract which does not comply with paragraph (a) of this subsection or who knowingly performs work or engages or takes part in a musical performance in pursuance of a contract which does not comply with that paragraph shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding twenty pounds.

15 (9) (a) Where any female performs work under any award or industrial agreement, whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1943, which does not prescribe rates of pay for female employees, such female pending variation of such award or industrial agreement in consequence of such female work being performed shall be paid the price or rate prescribed by that award or 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 the award or industrial agreement shall necessarily be made.

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

25 30 35 **11. 9.** The Principal Act is further amended—

- (a) (i) by omitting from subsection one of section ninety-three the words "the registrar or an industrial magistrate may order him to pay a

Further amendment of Act No. 2, 1943. Sec. 93. (Penalty for breach of award.)

Industrial Arbitration (Amendment).

- a penalty not exceeding fifty pounds” and by inserting in lieu thereof the words “he shall be liable to a penalty of ~~not less than two pounds~~ and not exceeding one hundred pounds. Proceedings for the recovery of any such penalty shall be taken before an industrial magistrate”;
- 5
- (ii) by omitting from subsection two of the same section the words “Where on making such order” and by inserting in lieu thereof the words “Where in proceedings for the recovery of any such penalty”;
- 10
- (iii) by omitting from the same subsection the words “the registrar or magistrate” and by inserting in lieu thereof the words “the industrial magistrate”;
- 15
- (iv) by omitting from subsection three of the same section the words “Where an order is made under subsection one of this section against any person, and the registrar or magistrate” and by inserting in lieu thereof the words “Where a penalty is imposed upon any person under subsection one of this section and the industrial magistrate”;
- 20
- (v) by omitting from the same subsection the words “any order made” and by inserting in lieu thereof the words “any penalty imposed”;
- 25
- (vi) by omitting from subsection four of the same section the words “The costs of any such proceedings shall be paid by the complainant if the order is not made, and by the defendant if the order is made” and by inserting in lieu thereof the words “The industrial magistrate may award costs to either party and assess the amount of such costs”;
- 30
- (b) by inserting next after section ninety-three the following new section:—
- 35
- 40
- 93A. (1) Any proceedings under section ninety-two or section ninety-three of this Act against
- New sec. 93A.
Proceedings against unincorporated clubs.

Industrial Arbitration (Amendment).

5 against an employer which is an unincorporated club may be taken against the secretary or the managing committee of the club as nominal defendants on behalf of the club and its members.

(2) Any property of the club, whether in the hands of trustees or not, shall be available to answer any order made or penalty imposed in such proceedings.

10 (c) (i) by inserting after paragraph (b) of section ninety-five the following new paragraphs:— Sec. 95.
(Penalty for unlawful dismissal.)

(b1) has informed any person that a breach or a suspected breach of an award or industrial agreement has been committed by such employer;
or

(b2) has engaged or contemplates being engaged in any public or political activity (not being an activity which interferes with the performance of the duties of his employment);
or

25 (ii) by omitting from the same section the words "or a similar position" and by inserting in lieu thereof the words "position or a position not less advantageous to the employee than that held by him prior to such dismissal, injury or prejudice";

30 ~~(iii) by omitting from the same section the words "No prosecution for an offence under this section shall be commenced except by leave of the commission";~~

35 (d) (i) by inserting in subsection one of section ninety-six after the word "factory" the words "or place"; Sec. 96.
(Time sheets and pay sheets.)

(ii) by inserting in the same subsection after the words "written up in ink" the words "It shall be a sufficient compliance with the foregoing provisions of this subsection if such

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5 such records are kept by means of some mechanical device of a type approved by the commission; such daily records shall be preserved in good order and condition and kept available for inspection for a period of eighteen months”;

10 (iii) by omitting from the same subsection the words “to a penalty not exceeding ten pounds” and by inserting in lieu thereof the words “for the first offence to a penalty of not less than two pounds and not exceeding twenty pounds, and for a second or subsequent offence to a penalty of not less than five pounds and not exceeding fifty pounds”;

15 (iv) by inserting after the same subsection the following new subsection:— cf. Act No. 39, 1912, s. 97 (5).

20 (1A) Every person who aids, abets, counsels, or procures or by act or omission is in any way directly or indirectly knowingly concerned in the commission of any offence under subsection one of this section, shall be deemed to have committed that offence and shall be liable to the penalty provided in that subsection.

25 (v) by inserting at the end of subsection two of the same section the words—

30 It shall be a sufficient compliance with the provisions of this subsection if the employer exhibits and keeps exhibited the copy of the award as last reprinted under section 90A of this Act.

35 (e) by inserting after section ninety-six the following new section:— New sec. 96A.

96A. (1) Where in any proceedings under section ninety-two, section ninety-three or section ninety-six of this Act it appears that the award or industrial agreement referred to in the application or information, as the case may be, is Power to amend. cf. Act No. 27, 1902, s. 65 (3).

Industrial Arbitration (Amendment).

is not the award or industrial agreement appropriate to the proceedings and that some other award or agreement by which the employer is bound is appropriate to such proceedings, the industrial or other magistrate or justices may amend the application or information and proceed to deal with the matter as though proceedings had been instituted under the application or information as so amended:

Provided that where the defect or variance appears to the industrial or other magistrate or justices before whom such proceedings are taken to be such that the employer has been thereby deceived or misled such industrial or other magistrate or justices may, upon such terms as he or they think fit, adjourn the hearing of the case to some future day.

(2) Nothing in this section shall be construed as limiting the operation of section sixty-five of the Justices Act, 1902-1940.

- (f) (i) by omitting from **subsection one of** section one hundred and nineteen the words "or any penalty" and by inserting in lieu thereof the words "or where an order is made under subsection (4A) of section twenty-eight of this Act for the refund of any premium, fee, gift, reward, bonus or consideration or the value thereof";
- (ii) by omitting from the same subsection the words "or of such penalty" and by inserting in lieu thereof the words "or for the amount of the value of such premium, fee, gift, reward, bonus or consideration";
- (g) by inserting at the end of section one hundred and twenty-one the following new paragraph:—
- The provisions of section eighty-two of the Justices Act, 1902-1940, shall, mutatis mutandis, apply to and in respect of any penalty adjudged to be paid by any such conviction and the persons against whom the conviction is made.
- (h)

Sec. 119.
(Enforcement of certain orders.)

Sec. 121.
(Recovery of penalties.)

Industrial Arbitration (Amendment).

(h) by inserting next after section one hundred and twenty-one the following new section:—

New sec.
121A.

5 121A. If any person shall, during any proceeding before an industrial magistrate, be guilty of contempt, such person may be punished in a summary way by such industrial magistrate by fine not exceeding forty shillings or by imprisonment for a period not exceeding fourteen days.

Contempt.
cf. Act No.
27, 1902,
s. 152.

10 (i) by inserting at the end of section one hundred and twenty-two the following words:—

Sec. 122.
(Penalties
to be paid
to Consol-
idated
Revenue.)

15 Provided that where such penalty has been recovered upon complaint or information of the secretary or other officer of an industrial union, the commission or an industrial or other magistrate or justices may order that the penalty or any part thereof be paid to such union;

20 ~~(j) (i) by omitting from subsection one of section one hundred and twenty-seven all words after the words "powers and duties prescribed" down to and including the words "section ninety-three of this Act" and by inserting in lieu thereof the following words: "An inspector may—~~

Sec. 127.
(Appoint-
ment and
power of
inspectors.)

25 ~~(a) at any reasonable time enter, inspect and examine any premises where he has reasonable cause to believe that any person is employed therein or any work is being done therein;~~

30 ~~(b) examine either alone or in the presence of any other person as he thinks fit with respect to matters arising under this Act or any award or industrial agreement, any person whom he finds in such premises and require any person so examined to sign a statement of the truth of his answers to any question asked of him on such examination;~~

cf. Act No.
39, 1912,
s. 123. 1

40

(e)

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- 5 ~~(e)~~ conceals or attempts to conceal any person from an inspector or prevents or attempts to prevent any person from appearing before or being examined by an inspector, shall be liable to a penalty not exceeding twenty pounds.
- 10 ~~(k)~~ (j) by omitting from section one hundred and twenty-eight the words "conciliation commissioner" and by inserting in lieu thereof the word "chairman"; Sec. 128.
(Power of entry and inspection.)
- 15 ~~(l)~~ (k) by omitting section one hundred and twenty-nine and by inserting in lieu thereof the following new section:— Subst. sec. 129.
- 20 129. (1) The commission or a member thereof and every person authorised in writing by the commission or the registrar or a committee 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 any industry is carried on or any work is being or has been done or commenced or any matter or thing is taking or has taken place in relation to which any industrial dispute is pending, or any award has been made, or any offence against this Act is suspected, and may, to the extent and for the purposes named in the authority, inspect and view any work, material, machinery, appliance, articles, book or document therein. Power of entry.
cf. Act No. 13 of 1904 (C'wth), s. 41.
- 25 (2) No person authorised under subsection one of this section shall have any 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.
- 30 (3) Every person who hinders or obstructs the commission or a member thereof or any person authorised as aforesaid in the exercise of any power conferred by this section shall be liable to a penalty not exceeding fifty pounds.

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~~12.~~ **10.** The Principal Act is further amended by omitting from subsection one of section one hundred and thirty-one the words "shall not be subject to the provisions of this Act other than Parts XIV and XV" and by inserting in lieu thereof the words "shall be subject to the provisions of this Act other than Part VI" but no award relating to any such rural industry shall take effect unless the commission after public inquiry to which the Crown shall be a party certify to the Governor that the employers generally in the industry are then presently able to pay the wages set out in the award and will in all probability be able to continue to pay such wages during the currency of the award from the proceeds of the sale of the products of the industry together with any subsidy payable in respect thereof after making due allowance for a fair return upon the capital invested therein, a fair remuneration for the work and supervision of the employer, and all other proper outgoings. Upon the publication of such certificate in the Gazette the award shall have effect in such industry but not sooner.

Further amendment of Act No. 2, 1940. Sec. 131. (Rural workers.)

~~13.~~ **11.** The Principal Act is further amended in the manner and to the extent set forth in the Schedule to this Act.

Further amendment of Act No. 2, 1940. (Revision.)

Industrial Arbitration (Amendment).

SCHEDULE.

Sections, headings, etc.	Amendment.
5 Sec. 2	(a) Omit the figures 17 and 77, and insert the figures and letters 17A and 77F respectively 77F. (b) Omit the words "Conciliation Commissioner" wherever appearing and insert the words "Conciliation Commissioners."
10 Part II, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
Part II, Division 2, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
15 Sec. 16	Omit the words "subsections six and" and insert the word "subsection."
Part III, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."
20 Part III, Division 2, Heading	Omit the words "Conciliation Commissioner" and insert the words "Conciliation Commissioners."

