*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.*

ALLAN PICKERING,
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,*
*Sydney,* 30 *November,* 1966.

# New South Wales


ANNO QUINTO DECIMO

# ELIZABETHÆ II REGINÆ

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

## Act No. , 1966.

An Act to make further provision with respect to appeals to the Industrial Commission in Court Session, the conduct of elections for offices in trade unions, the right of entry to premises and certain other industrial matters; for these and other purposes to amend the Industrial Arbitration Act, 1940, and certain other Acts; to validate certain matters; and for purposes connected therewith.

BE

64037 55—A

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

**1.** (1) This Act may be cited as the "Industrial Arbitration (Further Amendment) Act, 1966". Short title, commencement and citation.

(2) The provisions of paragraph (b) of section five, section seven and paragraph (d) of section eight shall commence on such day or days as may be appointed in respect thereof by the Governor and notified in the Gazette.

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

(4) The Principal Act, as amended by this Act, may be cited as the Industrial Arbitration Act, 1940-1966.

**2.** (1) The Principal Act is amended— Amendment of Part II of Act No. 2, 1940.

(a) by omitting from subsection one of section fourteen the words "One of such persons shall be by his commission appointed President." and by inserting in lieu thereof the following words:— Sec. 14. (Industrial commission.)

The Governor may appoint a member of the commission to be President of the commission, and any such appointment may be made at the time of the member's appointment as a member of the commission or at any time thereafter.

(b) by omitting paragraph (b) of subsection eight of the same section and by inserting in lieu thereof the following paragraph:—

(b) From any order, award, ruling or decision made by a member of the commission sitting alone, an appeal shall only lie to the commission in court session—

(i) where any question of jurisdiction is involved; or

(ii)

(ii) by leave of the commission in court session, where the commission in court session is of the opinion that the matter raised on appeal is of such importance that an appeal should lie.

(c) by inserting next after section fourteen the following new section :— New sec. 14A.

14A. The President shall furnish to the Minister, for presentation to Parliament, an annual report with regard to the functioning of the commission, including the commission in court session, and the working of this Act. Annual report.

(2) Paragraph (a) of subsection one of this section shall be deemed to have commenced on the first day of September, one thousand nine hundred and sixty-six.

**3.** The Principal Act is further amended— Amendment of Part III of Act No. 2, 1940.

(a) by omitting from paragraph (a) of subsection one of section 30B the words "any question of jurisdiction is involved" and by inserting in lieu thereof the words "such an appeal is authorised by paragraph (b) of subsection eight of section fourteen of this Act"; Sec. 30B. (Jurisdiction of the commission.)

(b) by inserting at the end of paragraph (d) of the same subsection the words "where a member of the commission sitting alone considers that the appeal ought to be removed to the commission in court session";

(c) by omitting from paragraph (i) of the same subsection the words "and the removal of which to the commission in court session the Minister approves".

**4.** The Principal Act is further amended by inserting next after section eighty-three the following new section :—

Amendment of Part VII of Act No. 2, 1940.

New sec. 83A.

83A. The commission, a committee, an apprenticeship council or the registrar shall have, and be deemed always to have had, power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise.

Compliance with procedural regulations may be waived.

**5.** The Principal Act is further amended—

Amendment of Part VIII of Act No. 2, 1940.

(a) (i) by omitting from section 88F the words "or a committee";

Sec. 88F. (Power of commission or committee to declare certain contracts void.)

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

(2) The commission, in making an order or award pursuant to subsection one of this section, may make such order as to the payment of money in connection with any contract, arrangement, condition or collateral arrangement declared void, in whole or in part, or varied in whole or in part, as may appear to the commission to be just in the circumstances of the case.

(3) The commission may make such order as to the payment of costs in any proceedings under this section, as may appear to it to be just and may assess the amount of such costs.

(b)

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

90B. (1) The registrar, after such inquiry as he deems sufficient, may notify in the Gazette his intention to declare that an award or order, made under this Act and specified or described in the notification, is obsolete. Obsolete awards.

(2) Any person or industrial union may, in the prescribed manner and within the prescribed time, lodge with the commission notice of objection to any such award or order being declared obsolete, and the commission shall hear and determine the objection.

(3) Where no such objection is so lodged, or the commission dismisses any such objection, the registrar may notify in the Gazette that the award or order is obsolete.

(4) On the publication of any notification under subsection three of this section, any award or order specified or described therein shall cease to have any effect.

**6.** The Principal Act is further amended— Amendment of Part IX of Act No. 2, 1940.

(a) by inserting next after subsection five of section ninety-two the following new subsection :— Sec. 92. (Recovery of wages.)

(5A) The provisions of subsection five of this section do not apply in respect of a payment made, in relation to a contract, to the official receiver or the trustee of the estate of a bankrupt contractor or to the liquidator of a contractor, being a company, that is being wound up.

(b) (i) by omitting from subsection three of section ninety-six the words "the registrar or"; Sec. 96. (Time-sheets and pay-sheets to be kept.)

(ii)

(ii) by inserting next after the same subsection the following new subsection :—

(4) Proceedings in respect of any offence under this section may be commenced at any time within twelve months after the date on which the offence was committed.

**7.** The Principal Act is further amended by omitting section 111J and by inserting in lieu thereof the following section :—

Amendment of Part XI of Act No. 2, 1940.

Subst. sec. 111J.

Registrar to conduct elections on request.

cf. Commonwealth Act No. 13, 1904, ss. 170, 170A.

111J. (1) A trade union or a branch of a trade union may in writing request the registrar to conduct an election under this section for an office in the trade union or in the branch, as the case may be, with a view to ensuring that no irregularity occurs in or in connection with the election.

(2) For the purposes of subsection one of this section a request by a trade union or a branch of a trade union may be made—

(a) by or on behalf of the committee of management of the trade union or of the branch, as the case may be; or

(b) by a number of the members of the trade union or of the branch, as the case may be, being not less than five hundred or five per centum, whichever is the lesser, of the members of the trade union or branch making the request.

(3) The regulations may make provision with respect to the times at which requests may be made under this section.

(4) Where a request is made, or purports to be made under this section, the registrar shall, after making such inquiries (if any) as he considers necessary, decide whether or not the request has been duly made.

(5) Where the registrar decides that the request has been duly made and considers it to be practicable for the election to be conducted under this section, he shall inform the trade union or branch accordingly and arrange for the election to be conducted by the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts, or by a Returning Officer under that Act, as so amended.

(6) A person conducting an election under this section for an office in a trade union or a branch of a trade union may, notwithstanding anything contained in the rules of the trade union or of the branch, take such action and give such directions as he considers necessary, in or in connection with the conduct of the election or in order to ensure that no irregularities occur in or in connection with the election or to remedy any procedural defects in the rules of the trade union or of the branch which may appear to him to exist.

(7) An election conducted under this section shall not be invalidated by reason only of—

(a) a breach of the rules of the trade union or of the branch involved in—

(i) an act done under this section; or

(ii) an act done in compliance with a direction given under this section; or

(b) an irregularity in the request in pursuance of which the election is conducted.

(8) A person shall not—

(a) fail to comply with a direction given under subsection six of this section; or

(b) obstruct or hinder the person conducting an election under this section or carrying out a direction given under subsection six of this section.

Any

Any person contravening the provisions of this subsection shall be liable to a penalty not exceeding two hundred dollars or imprisonment for twelve months or both.

5 (9) Where a person conducting an election under this section—

(a) dies or becomes unable to complete the conduct of the election; or

(b) ceases to be a person qualified to conduct the
10 election,

the registrar shall make arrangements or give directions for the completion of the conduct of the election by another person who is so qualified.

(10) Subject to subsections eleven and twelve
15 of this section the expenses of an election conducted under this section shall be borne by the trade union or the branch of the trade union concerned.

(11) The expenses to which subsection ten of this section applies do not include—

20 (a) the salary or other remuneration of any officer or employee of the State, performing any duty in relation to the election, including any person appointed solely for the purposes of the election;

(b) the cost of travel of such an officer or employee,
25 including any travelling or similar allowance, incurred in connection with the performance of any such duty; or

(c) expenses in connection with the provision or use of premises provided by the State for the
30 purposes of the election, including premises obtained solely for such purposes.

(12) Where an election is conducted under this section, not being an election conducted in consequence of a request pursuant to the rules of a trade
35 union or a branch of a trade union, and the expenses of the election (other than the expenses referred to in

subsection

subsection eleven of this section) exceed the amount that, in the opinion of the Minister, would have been the expenses of conducting the election if it had not been conducted under this section, the Minister may, on application by the trade union or branch concerned, determine that an amount not exceeding the excess shall be borne by the State.

(13) Where an election is being conducted, or has been conducted under this section, the provisions of sections 111A to 111I (both sections inclusive) of this Act shall not apply in relation to the election.

**8.** The Principal Act is further amended—

Amendment of Part XII of Act No. 2, 1940.

(a) by omitting from section one hundred and eighteen the words "The registrar or an" and by inserting in lieu thereof the word "An";

Sec. 118. (Fines and subscriptions payable to unions.)

(b) by omitting from subsection one of section one hundred and nineteen the word "sections" and by inserting in lieu thereof the words "subsection two of section 88F, section";

Sec. 119. (Enforcement of certain orders.)

(c) (i) by omitting subsection one of section one hundred and twenty and by inserting in lieu thereof the following subsection:—

Sec. 120. (Appeal from registrar or magistrate.)

(1) From any order of an industrial or other magistrate or justices under this Act, imposing a penalty or ordering the payment of any sum of money or penalty or ordering that any proceeding be dismissed for any reason, an appeal shall lie to the commission.

On any such appeal the commission may make such order, ruling or decision as to it may seem fit in the circumstances of the case or remit the matter to the magistrate or justices with the opinion of the commission thereon; and, in any case, the commission may

may make such order as to the costs of the appeal, and of the proceedings before the magistrate, or justices, as it thinks just.

(ii) by omitting from subsection two of the same section the words "The registrar, or any" and by inserting in lieu thereof the word "Any";

(d) (i) by inserting next after subsection one of section 129A the following new subsections :— **Sec. 129A. (Right of entry.)**

(1A) An authority issued by the registrar under this section—

(a) shall remain in force until it expires in accordance with paragraph (b) of this subsection or it is revoked under the provisions of this section;

(b) shall expire when the person to whom it was issued ceases to be an officer of the industrial union; and

(c) may, upon an application made to the registrar as prescribed, be revoked by the registrar if he is satisfied that the person to whom it was issued has wilfully hampered or hindered employees during their working time or has otherwise acted in an improper manner in the exercise or the purported exercise of any power conferred upon him by this section.

(1B) An appeal against the registrar's decision on any such application shall lie to the commission as prescribed.

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

(5) A person to whom an authority has been issued pursuant to this section shall,

within

within fourteen days after the expiry or revocation of such authority, return such authority to the registrar for cancellation. Any person failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred dollars.

5

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966
[10c]

No. , 1966.

# A BILL

To make further provision with respect to appeals to the Industrial Commission in Court Session, the conduct of elections for offices in trade unions, the right of entry to premises and certain other industrial matters; for these and other purposes to amend the Industrial Arbitration Act, 1940, and certain other Acts; to validate certain matters; and for purposes connected therewith.

[MR WILLIS—28 *September*, 1966.]

BE

64037 55—A

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

**1.** (1) This Act may be cited as the "Industrial Arbitration (Further Amendment) Act, 1966". Short title, commencement and citation.

(2) The provisions of paragraph (b) of section five, section seven and paragraph (d) of section eight shall commence on such day or days as may be appointed in respect thereof by the Governor and notified in the Gazette.

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

(4) The Principal Act, as amended by this Act, may be cited as the Industrial Arbitration Act, 1940-1966.

**2.** (1) The Principal Act is amended— Amendment of Part II of Act No. 2, 1940.

(a) by omitting from subsection one of section fourteen the words "One of such persons shall be by his commission appointed President." and by inserting in lieu thereof the following words:— Sec. 14. (Industrial commission.)

The Governor may appoint a member of the commission to be President of the commission, and any such appointment may be made at the time of the member's appointment as a member of the commission or at any time thereafter.

(b) by omitting paragraph (b) of subsection eight of the same section and by inserting in lieu thereof the following paragraph:—

(b) From any order, award, ruling or decision made by a member of the commission sitting alone, an appeal shall only lie to the commission in court session—

(i) where any question of jurisdiction is involved; or

(ii)

(ii) by leave of the commission in court session, where the commission in court session is of the opinion that the matter raised on appeal is of such importance that an appeal should lie.

(c) by inserting next after section fourteen the following new section :— New sec. 14A.

14A. The President shall furnish to the Minister, for presentation to Parliament, an annual report with regard to the functioning of the commission, including the commission in court session, and the working of this Act. Annual report.

(2) Paragraph (a) of subsection one of this section shall be deemed to have commenced on the first day of September, one thousand nine hundred and sixty-six.

**3.** The Principal Act is further amended— Amendment of Part III of Act No. 2, 1940.

(a) by omitting from paragraph (a) of subsection one of section 30B the words "any question of jurisdiction is involved" and by inserting in lieu thereof the words "such an appeal is authorised by paragraph (b) of subsection eight of section fourteen of this Act"; Sec. 30B. (Jurisdiction of the commission.)

(b) by inserting at the end of paragraph (d) of the same subsection the words "where a member of the commission sitting alone considers that the appeal ought to be removed to the commission in court session";

(c) by omitting from paragraph (i) of the same subsection the words "and the removal of which to the commission in court session the Minister approves".

**4.** The Principal Act is further amended by inserting next after section eighty-three the following new section :—

Amendment of Part VII of Act No. 2, 1940.

New sec. 83A.

83A. The commission, a committee, an apprenticeship council or the registrar shall have, and be deemed always to have had, power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise.

Compliance with procedural regulations may be waived.

**5.** The Principal Act is further amended—

Amendment of Part VIII of Act No. 2, 1940.

Sec. 88F. (Power of commission or committee to declare certain contracts void.)

(a) (i) by omitting from section 88F the words "or a committee";

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

(2) The commission, in making an order or award pursuant to subsection one of this section, may make such order as to the payment of money in connection with any contract, arrangement, condition or collateral arrangement declared void, in whole or in part, or varied in whole or in part, as may appear to the commission to be just in the circumstances of the case.

(3) The commission may make such order as to the payment of costs in any proceedings under this section, as may appear to it to be just and may assess the amount of such costs.

(b)

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

90B. (1) The registrar, after such inquiry as he deems sufficient, may notify in the Gazette his intention to declare that an award or order, made under this Act and specified or described in the notification, is obsolete. Obsolete awards.

(2) Any person or industrial union may, in the prescribed manner and within the prescribed time, lodge with the commission notice of objection to any such award or order being declared obsolete, and the commission shall hear and determine the objection.

(3) Where no such objection is so lodged, or the commission dismisses any such objection, the registrar may notify in the Gazette that the award or order is obsolete.

(4) On the publication of any notification under subsection three of this section, any award or order specified or described therein shall cease to have any effect.

**6.** The Principal Act is further amended— Amendment of Part IX of Act No. 2, 1940.

(a) by inserting next after subsection five of section ninety-two the following new subsection :— Sec. 92. (Recovery of wages.)

(5A) The provisions of subsection five of this section do not apply in respect of a payment made, in relation to a contract, to the official receiver or the trustee of the estate of a bankrupt contractor or to the liquidator of a contractor, being a company, that is being wound up.

(b) (i) by omitting from subsection three of section ninety-six the words "the registrar or"; Sec. 96. (Time-sheets and pay-sheets to be kept.)

(ii)

(ii) by inserting next after the same subsection the following new subsection :—

(4) Proceedings in respect of any offence under this section may be commenced at any time within twelve months after the date on which the offence was committed.

**7.** The Principal Act is further amended by omitting section 111J and by inserting in lieu thereof the following section :—

Amendment of Part XI of Act No. 2, 1940.

Subst. sec. 111J.

Registrar to conduct elections on request.

cf. Commonwealth Act No. 13, 1904, ss. 170, 170A.

111J. (1) A trade union or a branch of a trade union may in writing request the registrar to conduct an election under this section for an office in the trade union or in the branch, as the case may be, with a view to ensuring that no irregularity occurs in or in connection with the election.

(2) For the purposes of subsection one of this section a request by a trade union or a branch of a trade union may be made—

(a) by or on behalf of the committee of management of the trade union or of the branch, as the case may be; or

(b) by a number of the members of the trade union or of the branch, as the case may be, being not less than five hundred or five per centum, whichever is the lesser, of the members of the trade union or branch making the request.

(3) The regulations may make provision with respect to the times at which requests may be made under this section.

(4) Where a request is made, or purports to be made under this section, the registrar shall, after making such inquiries (if any) as he considers necessary, decide whether or not the request has been duly made.

(5) Where the registrar decides that the request has been duly made and considers it to be practicable for the election to be conducted under this section, he shall inform the trade union or branch accordingly and arrange for the election to be conducted by the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts, or by a Returning Officer under that Act, as so amended.

(6) A person conducting an election under this section for an office in a trade union or a branch of a trade union may, notwithstanding anything contained in the rules of the trade union or of the branch, take such action and give such directions as he considers necessary, in or in connection with the conduct of the election or in order to ensure that no irregularities occur in or in connection with the election or to remedy any procedural defects in the rules of the trade union or of the branch which may appear to him to exist.

(7) An election conducted under this section shall not be invalidated by reason only of—

(a) a breach of the rules of the trade union or of the branch involved in—

(i) an act done under this section; or

(ii) an act done in compliance with a direction given under this section; or

(b) an irregularity in the request in pursuance of which the election is conducted.

(8) A person shall not—

(a) fail to comply with a direction given under subsection six of this section; or

(b) obstruct or hinder the person conducting an election under this section or carrying out a direction given under subsection six of this section.

Any

Any person contravening the provisions of this subsection shall be liable to a penalty not exceeding two hundred dollars or imprisonment for twelve months or both.

5 (9) Where a person conducting an election under this section—

(a) dies or becomes unable to complete the conduct of the election; or

(b) ceases to be a person qualified to conduct the
10 election,

the registrar shall make arrangements or give directions for the completion of the conduct of the election by another person who is so qualified.

(10) Subject to subsections eleven and twelve
15 of this section the expenses of an election conducted under this section shall be borne by the trade union or the branch of the trade union concerned.

(11) The expenses to which subsection ten of this section applies do not include—

20 (a) the salary or other remuneration of any officer or employee of the State, performing any duty in relation to the election, including any person appointed solely for the purposes of the election;

(b) the cost of travel of such an officer or employee,
25 including any travelling or similar allowance, incurred in connection with the performance of any such duty; or

(c) expenses in connection with the provision or use of premises provided by the State for the
30 purposes of the election, including premises obtained solely for such purposes.

(12) Where an election is conducted under this section, not being an election conducted in consequence of a request pursuant to the rules of a trade
35 union or a branch of a trade union, and the expenses of the election (other than the expenses referred to in

subsection

subsection eleven of this section) exceed the amount that, in the opinion of the Minister, would have been the expenses of conducting the election if it had not been conducted under this section, the Minister may, on application by the trade union or branch concerned, determine that an amount not exceeding the excess shall be borne by the State.

(13) Where an election is being conducted, or has been conducted under this section, the provisions of sections 111A to 111I (both sections inclusive) of this Act shall not apply in relation to the election.

**8.** The Principal Act is further amended—

Amendment of Part XII of Act No. 2, 1940.

(a) by omitting from section one hundred and eighteen the words "The registrar or an" and by inserting in lieu thereof the word "An";

Sec. 118. (Fines and subscriptions payable to unions.)

(b) by omitting from subsection one of section one hundred and nineteen the word "sections" and by inserting in lieu thereof the words "subsection two of section 88F, section";

Sec. 119. (Enforcement of certain orders.)

(c) (i) by omitting subsection one of section one hundred and twenty and by inserting in lieu thereof the following subsection:—

Sec. 120. (Appeal from registrar or magistrate.)

(1) From any order of an industrial or other magistrate or justices under this Act, imposing a penalty or ordering the payment of any sum of money or penalty or ordering that any proceeding be dismissed for any reason, an appeal shall lie to the commission.

On any such appeal the commission may make such order, ruling or decision as to it may seem fit in the circumstances of the case or remit the matter to the magistrate or justices with the opinion of the commission thereon; and, in any case, the commission may

may make such order as to the costs of the appeal, and of the proceedings before the magistrate, or justices, as it thinks just.

(ii) by omitting from subsection two of the same section the words "The registrar, or any" and by inserting in lieu thereof the word "Any";

(d) (i) by inserting next after subsection one of section 129A the following new subsections :— **Sec. 129A. (Right of entry.)**

(1A) An authority issued by the registrar under this section—

(a) shall remain in force until it expires in accordance with paragraph (b) of this subsection or it is revoked under the provisions of this section;

(b) shall expire when the person to whom it was issued ceases to be an officer of the industrial union; and

(c) may, upon an application made to the registrar as prescribed, be revoked by the registrar if he is satisfied that the person to whom it was issued has wilfully hampered or hindered employees during their working time or has otherwise acted in an improper manner in the exercise or the purported exercise of any power conferred upon him by this section.

(1B) An appeal against the registrar's decision on any such application shall lie to the commission as prescribed.

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

(5) A person to whom an authority has been issued pursuant to this section shall,

within

within fourteen days after the expiry or revocation of such authority, return such authority to the registrar for cancellation. Any person failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred dollars.

5

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966
[10c]

*PROOF*

# INDUSTRIAL ARBITRATION (FURTHER AMENDMENT) BILL, 1966

## EXPLANATORY NOTE

THE objects of this Bill are—

(a) to make further provisions with respect to the appointment of the President of the industrial commission;

(b) to make provisions with respect to the jurisdiction of the industrial commission in court session;

(c) to provide for the submission of annual reports by the President of the industrial commission;

(d) to empower the various industrial tribunals to waive strict compliance with procedural regulations, either subject to conditions or otherwise;

(e) to enable the industrial commission, when exercising its powers to declare certain contracts void, to make orders for the payment of money in connection therewith and for costs;

(f) to provide that awards or orders declared obsolete by the industrial registrar shall cease to have effect;

(g) to provide that the provisions of section 92 (5) of the Industrial Arbitration Act, 1940, as amended, shall not apply to payments made where the contractor is bankrupt or being wound up;

(h) to extend the time limit for instituting proceedings for failure to keep time-sheets or pay-sheets to that applicable to proceedings for the recovery of wages;

(i) to provide for elections for an office in a trade union or branch to be conducted by the industrial registrar upon a request by the trade union or branch;

(j) to provide for an appeal to the industrial commission where proceedings under the Industrial Arbitration Act, 1940-1966, before an industrial or other magistrate or before justices, are dismissed;

(k) to specify the circumstances in which authorities, granted to officers of industrial unions of employees, to enter on premises shall expire or may, subject to appeal to the industrial commission, be revoked by the industrial registrar;

(l) to make provisions consequential upon and ancillary to the foregoing.

64037 55—

*PROOF*

No. , 1966.

# A BILL

To make further provision with respect to appeals to the Industrial Commission in Court Session, the conduct of elections for offices in trade unions, the right of entry to premises and certain other industrial matters; for these and other purposes to amend the Industrial Arbitration Act, 1940, and certain other Acts; to validate certain matters; and for purposes connected therewith.

[MR WILLIS—28 *September*, 1966.]

BE

64037 55—A

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

**1.** (1) This Act may be cited as the "Industrial Arbitration (Further Amendment) Act, 1966". Short title, commencement and citation.

(2) The provisions of paragraph (b) of section five, section seven and paragraph (d) of section eight shall commence on such day or days as may be appointed in respect thereof by the Governor and notified in the Gazette.

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

(4) The Principal Act, as amended by this Act, may be cited as the Industrial Arbitration Act, 1940-1966.

**2.** (1) The Principal Act is amended— Amendment of Part II of Act No. 2, 1940.

(a) by omitting from subsection one of section fourteen the words "One of such persons shall be by his commission appointed President." and by inserting in lieu thereof the following words:— Sec. 14. (Industrial commission.)

The Governor may appoint a member of the commission to be President of the commission, and any such appointment may be made at the time of the member's appointment as a member of the commission or at any time thereafter.

(b) by omitting paragraph (b) of subsection eight of the same section and by inserting in lieu thereof the following paragraph:—

(b) From any order, award, ruling or decision made by a member of the commission sitting alone, an appeal shall only lie to the commission in court session—

(i) where any question of jurisdiction is involved; or

(ii)

(ii) by leave of the commission in court session, where the commission in court session is of the opinion that the matter raised on appeal is of such importance that an appeal should lie.

(c) by inserting next after section fourteen the following new section : — New sec. 14A.

14A. The President shall furnish to the Minister, for presentation to Parliament, an annual report with regard to the functioning of the commission, including the commission in court session, and the working of this Act. Annual report.

(2) Paragraph (a) of subsection one of this section shall be deemed to have commenced on the first day of September, one thousand nine hundred and sixty-six.

**3.** The Principal Act is further amended— Amendment of Part III of Act No. 2, 1940.

(a) by omitting from paragraph (a) of subsection one of section 30B the words "any question of jurisdiction is involved" and by inserting in lieu thereof the words "such an appeal is authorised by paragraph (b) of subsection eight of section fourteen of this Act"; Sec. 30B. (Jurisdiction of the commission.)

(b) by inserting at the end of paragraph (d) of the same subsection the words "where a member of the commission sitting alone considers that the appeal ought to be removed to the commission in court session";

(c) by omitting from paragraph (i) of the same subsection the words "and the removal of which to the commission in court session the Minister approves".

**4.** The Principal Act is further amended by inserting next after section eighty-three the following new section :— Amendment of Part VII of Act No. 2, 1940.

New sec. 83A.

83A. The commission, a committee, an apprenticeship council or the registrar shall have, and be deemed always to have had, power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise. Compliance with procedural regulations may be waived.

**5.** The Principal Act is further amended— Amendment of Part VIII of Act No. 2, 1940.

(a) (i) by omitting from section 88F the words "or a committee"; Sec. 88F. (Power of commission or committee to declare certain contracts void.)

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

(2) The commission, in making an order or award pursuant to subsection one of this section, may make such order as to the payment of money in connection with any contract, arrangement, condition or collateral arrangement declared void, in whole or in part, or varied in whole or in part, as may appear to the commission to be just in the circumstances of the case.

(3) The commission may make such order as to the payment of costs in any proceedings under this section, as may appear to it to be just and may assess the amount of such costs.

(b)

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

90B. (1) The registrar, after such inquiry as he deems sufficient, may notify in the Gazette his intention to declare that an award or order, made under this Act and specified or described in the notification, is obsolete. Obsolete awards.

(2) Any person or industrial union may, in the prescribed manner and within the prescribed time, lodge with the commission notice of objection to any such award or order being declared obsolete, and the commission shall hear and determine the objection.

(3) Where no such objection is so lodged, or the commission dismisses any such objection, the registrar may notify in the Gazette that the award or order is obsolete.

(4) On the publication of any notification under subsection three of this section, any award or order specified or described therein shall cease to have any effect.

6. The Principal Act is further amended— Amendment of Part IX of Act No. 2, 1940.

(a) by inserting next after subsection five of section ninety-two the following new subsection :— Sec. 92. (Recovery of wages.)

(5A) The provisions of subsection five of this section do not apply in respect of a payment made, in relation to a contract, to the official receiver or the trustee of the estate of a bankrupt contractor or to the liquidator of a contractor, being a company, that is being wound up.

(b) (i) by omitting from subsection three of section ninety-six the words "the registrar or"; Sec. 96. (Time-sheets and pay-sheets to be kept.)

(ii)

(ii) by inserting next after the same subsection the following new subsection :—

(4) Proceedings in respect of any offence under this section may be commenced at any time within twelve months after the date on which the offence was committed.

**7.** The Principal Act is further amended by omitting section 111J and by inserting in lieu thereof the following section :—

Amendment of Part XI of Act No. 2, 1940.

Subst. sec. 111J.

Registrar to conduct elections on request.

cf. Commonwealth Act No. 13, 1904, ss. 170, 170A.

111J. (1) A trade union or a branch of a trade union may in writing request the registrar to conduct an election under this section for an office in the trade union or in the branch, as the case may be, with a view to ensuring that no irregularity occurs in or in connection with the election.

(2) For the purposes of subsection one of this section a request by a trade union or a branch of a trade union may be made—

(a) by or on behalf of the committee of management of the trade union or of the branch, as the case may be; or

(b) by a number of the members of the trade union or of the branch, as the case may be, being not less than five hundred or five per centum, whichever is the lesser, of the members of the trade union or branch making the request.

(3) The regulations may make provision with respect to the times at which requests may be made under this section.

(4) Where a request is made, or purports to be made under this section, the registrar shall, after making such inquiries (if any) as he considers necessary, decide whether or not the request has been duly made.

(5) Where the registrar decides that the request has been duly made and considers it to be practicable for the election to be conducted under this section, he shall inform the trade union or branch accordingly and arrange for the election to be conducted by the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts, or by a Returning Officer under that Act, as so amended.

(6) A person conducting an election under this section for an office in a trade union or a branch of a trade union may, notwithstanding anything contained in the rules of the trade union or of the branch, take such action and give such directions as he considers necessary, in or in connection with the conduct of the election or in order to ensure that no irregularities occur in or in connection with the election or to remedy any procedural defects in the rules of the trade union or of the branch which may appear to him to exist.

(7) An election conducted under this section shall not be invalidated by reason only of—

(a) a breach of the rules of the trade union or of the branch involved in—

(i) an act done under this section; or

(ii) an act done in compliance with a direction given under this section; or

(b) an irregularity in the request in pursuance of which the election is conducted.

(8) A person shall not—

(a) fail to comply with a direction given under subsection six of this section; or

(b) obstruct or hinder the person conducting an election under this section or carrying out a direction given under subsection six of this section.

Any

Any person contravening the provisions of this subsection shall be liable to a penalty not exceeding two hundred dollars or imprisonment for twelve months or both.

5 (9) Where a person conducting an election under this section—

(a) dies or becomes unable to complete the conduct of the election; or

(b) ceases to be a person qualified to conduct the
10 election,

the registrar shall make arrangements or give directions for the completion of the conduct of the election by another person who is so qualified.

(10) Subject to subsections eleven and twelve
15 of this section the expenses of an election conducted under this section shall be borne by the trade union or the branch of the trade union concerned.

(11) The expenses to which subsection ten of this section applies do not include—

20 (a) the salary or other remuneration of any officer or employee of the State, performing any duty in relation to the election, including any person appointed solely for the purposes of the election;

(b) the cost of travel of such an officer or employee,
25 including any travelling or similar allowance, incurred in connection with the performance of any such duty; or

(c) expenses in connection with the provision or use of premises provided by the State for the
30 purposes of the election, including premises obtained solely for such purposes.

(12) Where an election is conducted under this section, not being an election conducted in consequence of a request pursuant to the rules of a trade
35 union or a branch of a trade union, and the expenses of the election (other than the expenses referred to in

subsection

subsection eleven of this section) exceed the amount that, in the opinion of the Minister, would have been the expenses of conducting the election if it had not been conducted under this section, the Minister may, on application by the trade union or branch concerned, determine that an amount not exceeding the excess shall be borne by the State.

(13) Where an election is being conducted, or has been conducted under this section, the provisions of sections 111A to 111I (both sections inclusive) of this Act shall not apply in relation to the election.

**8.** The Principal Act is further amended—

Amendment of Part XII of Act No. 2, 1940.

(a) by omitting from section one hundred and eighteen the words "The registrar or an" and by inserting in lieu thereof the word "An";

Sec. 118. (Fines and subscriptions payable to unions.)

(b) by omitting from subsection one of section one hundred and nineteen the word "sections" and by inserting in lieu thereof the words "subsection two of section 88F, section";

Sec. 119. (Enforcement of certain orders.)

(c) (i) by omitting subsection one of section one hundred and twenty and by inserting in lieu thereof the following subsection:—

Sec. 120. (Appeal from registrar or magistrate.)

(1) From any order of an industrial or other magistrate or justices under this Act, imposing a penalty or ordering the payment of any sum of money or penalty or ordering that any proceeding be dismissed for any reason, an appeal shall lie to the commission.

On any such appeal the commission may make such order, ruling or decision as to it may seem fit in the circumstances of the case or remit the matter to the magistrate or justices with the opinion of the commission thereon; and, in any case, the commission may

may make such order as to the costs of the appeal, and of the proceedings before the magistrate, or justices, as it thinks just.

(ii) by omitting from subsection two of the same section the words "The registrar, or any" and by inserting in lieu thereof the word "Any";

(d) (i) by inserting next after subsection one of section 129A the following new subsections:— Sec. 129A. (Right of entry.)

(1A) An authority issued by the registrar under this section—

(a) shall remain in force until it expires in accordance with paragraph (b) of this subsection or it is revoked under the provisions of this section;

(b) shall expire when the person to whom it was issued ceases to be an officer of the industrial union; and

(c) may, upon an application made to the registrar as prescribed, be revoked by the registrar if he is satisfied that the person to whom it was issued has wilfully hampered or hindered employees during their working time or has otherwise acted in an improper manner in the exercise or the purported exercise of any power conferred upon him by this section.

(1B) An appeal against the registrar's decision on any such application shall lie to the commission as prescribed.

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

(5) A person to whom an authority has been issued pursuant to this section shall.

within

within fourteen days after the expiry or revocation of such authority, return such authority to the registrar for cancellation. Any person failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred dollars.

5

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, SYDNEY, NEW SOUTH WALES—1966

# New South Wales

ANNO QUINTO DECIMO

# ELIZABETHÆ II REGINÆ

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

## Act No. 51, 1966.

An Act to make further provision with respect to appeals to the Industrial Commission in Court Session, the conduct of elections for offices in trade unions, the right of entry to premises and certain other industrial matters; for these and other purposes to amend the Industrial Arbitration Act, 1940, and certain other Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 9th December, 1966.]

BE

P 79527—1 [10c]

*Industrial Arbitration (Further Amendment).*

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

Short title, commencement and citation.

**1.** (1) This Act may be cited as the "Industrial Arbitration (Further Amendment) Act, 1966".

(2) The provisions of paragraph (b) of section five, section seven and paragraph (d) of section eight shall commence on such day or days as may be appointed in respect thereof by the Governor and notified in the Gazette.

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

(4) The Principal Act, as amended by this Act, may be cited as the Industrial Arbitration Act, 1940-1966.

Amendment of Part II of Act No. 2, 1940.

Sec. 14. (Industrial commission.)

**2.** (1) The Principal Act is amended—

(a) by omitting from subsection one of section fourteen the words "One of such persons shall be by his commission appointed President." and by inserting in lieu thereof the following words:—

The Governor may appoint a member of the commission to be President of the commission, and any such appointment may be made at the time of the member's appointment as a member of the commission or at any time thereafter.

(b) by omitting paragraph (b) of subsection eight of the same section and by inserting in lieu thereof the following paragraph:—

(b) From any order, award, ruling or decision made by a member of the commission sitting alone, an appeal shall only lie to the commission in court session—

(i) where any question of jurisdiction is involved; or

(ii)

(ii) by leave of the commission in court session, where the commission in court session is of the opinion that the matter raised on appeal is of such importance that an appeal should lie.

(c) by inserting next after section fourteen the following new section :— New sec. 14A.

14A. The President shall furnish to the Minister, for presentation to Parliament, an annual report with regard to the functioning of the commission, including the commission in court session, and the working of this Act. Annual report.

(2) Paragraph (a) of subsection one of this section shall be deemed to have commenced on the first day of September, one thousand nine hundred and sixty-six.

**3.** The Principal Act is further amended— Amendment of Part III of Act No. 2, 1940.

(a) by omitting from paragraph (a) of subsection one of section 30B the words "any question of jurisdiction is involved" and by inserting in lieu thereof the words "such an appeal is authorised by paragraph (b) of subsection eight of section fourteen of this Act"; Sec. 30B. (Jurisdiction of the commission.)

(b) by inserting at the end of paragraph (d) of the same subsection the words "where a member of the commission sitting alone considers that the appeal ought to be removed to the commission in court session";

(c) by omitting from paragraph (i) of the same subsection the words "and the removal of which to the commission in court session the Minister approves".

Amendment of Part VII of Act No. 2, 1940.

New sec. 83A.

Compliance with procedural regulations may be waived.

**4.** The Principal Act is further amended by inserting next after section eighty-three the following new section:—

83A. The commission, a committee, an apprenticeship council or the registrar shall have, and be deemed always to have had, power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise.

Amendment of Part VIII of Act No. 2, 1940.

Sec. 88F. (Power of commission or committee to declare certain contracts void.)

**5.** The Principal Act is further amended—

(a) (i) by omitting from section 88F the words "or a committee";

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

(2) The commission, in making an order or award pursuant to subsection one of this section, may make such order as to the payment of money in connection with any contract, arrangement, condition or collateral arrangement declared void, in whole or in part, or varied in whole or in part, as may appear to the commission to be just in the circumstances of the case.

(3) The commission may make such order as to the payment of costs in any proceedings under this section, as may appear to it to be just and may assess the amount of such costs.

(b)

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

90B. (1) The registrar, after such inquiry as he deems sufficient, may notify in the Gazette his intention to declare that an award or order, made under this Act and specified or described in the notification, is obsolete. Obsolete awards.

(2) Any person or industrial union may, in the prescribed manner and within the prescribed time, lodge with the commission notice of objection to any such award or order being declared obsolete, and the commission shall hear and determine the objection.

(3) Where no such objection is so lodged, or the commission dismisses any such objection, the registrar may notify in the Gazette that the award or order is obsolete.

(4) On the publication of any notification under subsection three of this section, any award or order specified or described therein shall cease to have any effect.

**6.** The Principal Act is further amended— Amendment of Part IX of Act No. 2, 1940.

(a) by inserting next after subsection five of section ninety-two the following new subsection :— Sec. 92. (Recovery of wages.)

(5A) The provisions of subsection five of this section do not apply in respect of a payment made, in relation to a contract, to the official receiver or the trustee of the estate of a bankrupt contractor or to the liquidator of a contractor, being a company, that is being wound up.

(b) (i) by omitting from subsection three of section ninety-six the words "the registrar or"; Sec. 96. (Time-sheets and pay-sheets to be kept.)

(ii)

(ii) by inserting next after the same subsection the following new subsection :—

(4) Proceedings in respect of any offence under this section may be commenced at any time within twelve months after the date on which the offence was committed.

Amendment of Part XI of Act No. 2, 1940.

Subst. sec. 111J.

Registrar to conduct elections on request.

cf. Commonwealth Act No. 13, 1904, ss. 170, 170A.

**7.** The Principal Act is further amended by omitting section 111J and by inserting in lieu thereof the following section :—

111J. (1) A trade union or a branch of a trade union may in writing request the registrar to conduct an election under this section for an office in the trade union or in the branch, as the case may be, with a view to ensuring that no irregularity occurs in or in connection with the election.

(2) For the purposes of subsection one of this section a request by a trade union or a branch of a trade union may be made—

(a) by or on behalf of the committee of management of the trade union or of the branch, as the case may be; or

(b) by a number of the members of the trade union or of the branch, as the case may be, being not less than five hundred or five per centum, whichever is the lesser, of the members of the trade union or branch making the request.

(3) The regulations may make provision with respect to the times at which requests may be made under this section.

(4) Where a request is made, or purports to be made under this section, the registrar shall, after making such inquiries (if any) as he considers necessary, decide whether or not the request has been duly made.

(5) Where the registrar decides that the request has been duly made and considers it to be practicable for the election to be conducted under this section, he shall inform the trade union or branch accordingly and arrange for the election to be conducted by the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts, or by a Returning Officer under that Act, as so amended.

(6) A person conducting an election under this section for an office in a trade union or a branch of a trade union may, notwithstanding anything contained in the rules of the trade union or of the branch, take such action and give such directions as he considers necessary, in or in connection with the conduct of the election or in order to ensure that no irregularities occur in or in connection with the election or to remedy any procedural defects in the rules of the trade union or of the branch which may appear to him to exist.

(7) An election conducted under this section shall not be invalidated by reason only of—

(a) a breach of the rules of the trade union or of the branch involved in—

(i) an act done under this section; or

(ii) an act done in compliance with a direction given under this section; or

(b) an irregularity in the request in pursuance of which the election is conducted.

(8) A person shall not—

(a) fail to comply with a direction given under subsection six of this section; or

(b) obstruct or hinder the person conducting an election under this section or carrying out a direction given under subsection six of this section.

Any

Any person contravening the provisions of this subsection shall be liable to a penalty not exceeding two hundred dollars or imprisonment for twelve months or both.

(9) Where a person conducting an election under this section—

(a) dies or becomes unable to complete the conduct of the election; or

(b) ceases to be a person qualified to conduct the election,

the registrar shall make arrangements or give directions for the completion of the conduct of the election by another person who is so qualified.

(10) Subject to subsections eleven and twelve of this section the expenses of an election conducted under this section shall be borne by the trade union or the branch of the trade union concerned.

(11) The expenses to which subsection ten of this section applies do not include—

(a) the salary or other remuneration of any officer or employee of the State, performing any duty in relation to the election, including any person appointed solely for the purposes of the election;

(b) the cost of travel of such an officer or employee, including any travelling or similar allowance, incurred in connection with the performance of any such duty; or

(c) expenses in connection with the provision or use of premises provided by the State for the purposes of the election, including premises obtained solely for such purposes.

(12) Where an election is conducted under this section, not being an election conducted in consequence of a request pursuant to the rules of a trade union or a branch of a trade union, and the expenses of the election (other than the expenses referred to in

subsection

subsection eleven of this section) exceed the amount that, in the opinion of the Minister, would have been the expenses of conducting the election if it had not been conducted under this section, the Minister may, on application by the trade union or branch concerned, determine that an amount not exceeding the excess shall be borne by the State.

(13) Where an election is being conducted, or has been conducted under this section, the provisions of sections 111A to 111I (both sections inclusive) of this Act shall not apply in relation to the election.

**8.** The Principal Act is further amended—

**Amendment of Part XII of Act No. 2, 1940.**

(a) by omitting from section one hundred and eighteen the words "The registrar or an" and by inserting in lieu thereof the word "An"; **Sec. 118. (Fines and subscriptions payable to unions.)**

(b) by omitting from subsection one of section one hundred and nineteen the word "sections" and by inserting in lieu thereof the words "subsection two of section 88F, section"; **Sec. 119. (Enforcement of certain orders.)**

(c) (i) by omitting subsection one of section one hundred and twenty and by inserting in lieu thereof the following subsection:— **Sec. 120. (Appeal from registrar or magistrate.)**

(1) From any order of an industrial or other magistrate or justices under this Act, imposing a penalty or ordering the payment of any sum of money or penalty or ordering that any proceeding be dismissed for any reason, an appeal shall lie to the commission.

On any such appeal the commission may make such order, ruling or decision as to it may seem fit in the circumstances of the case or remit the matter to the magistrate or justices with the opinion of the commission thereon; and, in any case, the commission may

may make such order as to the costs of the appeal, and of the proceedings before the magistrate, or justices, as it thinks just.

(ii) by omitting from subsection two of the same section the words "The registrar, or any" and by inserting in lieu thereof the word "Any";

Sec. 129A. (Right of entry.)

(d) (i) by inserting next after subsection one of section 129A the following new subsections:—

(1A) An authority issued by the registrar under this section—

(a) shall remain in force until it expires in accordance with paragraph (b) of this subsection or it is revoked under the provisions of this section;

(b) shall expire when the person to whom it was issued ceases to be an officer of the industrial union; and

(c) may, upon an application made to the registrar as prescribed, be revoked by the registrar if he is satisfied that the person to whom it was issued has wilfully hampered or hindered employees during their working time or has otherwise acted in an improper manner in the exercise or the purported exercise of any power conferred upon him by this section.

(1B) An appeal against the registrar's decision on any such application shall lie to the commission as prescribed.

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

(5) A person to whom an authority has been issued pursuant to this section shall,

within

within fourteen days after the expiry or revocation of such authority, return such authority to the registrar for cancellation. Any person failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred dollars.

BY AUTHORITY:
V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1967

*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.

**ALLAN PICKERING,**
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,*
*Sydney,* 1 *December,* 1966.

# New South Wales


ANNO QUINTO DECIMO

# ELIZABETHÆ II REGINÆ

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

## Act No. 51, 1966.

An Act to make further provision with respect to appeals to the Industrial Commission in Court Session, the conduct of elections for offices in trade unions, the right of entry to premises and certain other industrial matters; for these and other purposes to amend the Industrial Arbitration Act, 1940, and certain other Acts; to validate certain matters; and for purposes connected therewith. [Assented to, 9th December, 1966.]

BE

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

G. R. CRAWFORD,
*Chairman of Committees of the Legislative Assembly.*

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

Short title, commencement and citation.

**1.** (1) This Act may be cited as the "Industrial Arbitration (Further Amendment) Act, 1966".

(2) The provisions of paragraph (b) of section five, section seven and paragraph (d) of section eight shall commence on such day or days as may be appointed in respect thereof by the Governor and notified in the Gazette.

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

(4) The Principal Act, as amended by this Act, may be cited as the Industrial Arbitration Act, 1940-1966.

Amendment of Part II of Act No. 2, 1940.

Sec. 14. (Industrial commission.)

**2.** (1) The Principal Act is amended—

(a) by omitting from subsection one of section fourteen the words "One of such persons shall be by his commission appointed President." and by inserting in lieu thereof the following words:—

The Governor may appoint a member of the commission to be President of the commission, and any such appointment may be made at the time of the member's appointment as a member of the commission or at any time thereafter.

(b) by omitting paragraph (b) of subsection eight of the same section and by inserting in lieu thereof the following paragraph:—

(b) From any order, award, ruling or decision made by a member of the commission sitting alone, an appeal shall only lie to the commission in court session—

(i) where any question of jurisdiction is involved; or

(ii)

(ii) by leave of the commission in court session, where the commission in court session is of the opinion that the matter raised on appeal is of such importance that an appeal should lie.

(c) by inserting next after section fourteen the following new section :— **New sec. 14A.**

14A. The President shall furnish to the Minister, for presentation to Parliament, an annual report with regard to the functioning of the commission, including the commission in court session, and the working of this Act. **Annual report.**

(2) Paragraph (a) of subsection one of this section shall be deemed to have commenced on the first day of September, one thousand nine hundred and sixty-six.

**3.** The Principal Act is further amended— **Amendment of Part III of Act No. 2, 1940. Sec. 30B. (Jurisdiction of the commission.)**

(a) by omitting from paragraph (a) of subsection one of section 30B the words "any question of jurisdiction is involved" and by inserting in lieu thereof the words "such an appeal is authorised by paragraph (b) of subsection eight of section fourteen of this Act";

(b) by inserting at the end of paragraph (d) of the same subsection the words "where a member of the commission sitting alone considers that the appeal ought to be removed to the commission in court session";

(c) by omitting from paragraph (i) of the same subsection the words "and the removal of which to the commission in court session the Minister approves".

Amendment of Part VII of Act No. 2, 1940.

New sec. 83A.

Compliance with procedural regulations may be waived.

**4.** The Principal Act is further amended by inserting next after section eighty-three the following new section :—

83A. The commission, a committee, an apprenticeship council or the registrar shall have, and be deemed always to have had, power to waive strict compliance with the requirements of any regulations prescribing the procedure to be adopted or followed in respect of the initiation or the conduct of proceedings before it or him, either subject to conditions or otherwise.

Amendment of Part VIII of Act No. 2, 1940.

Sec. 88F. (Power of commission or committee to declare certain contracts void.)

**5.** The Principal Act is further amended—

(a) (i) by omitting from section 88F the words "or a committee";

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

(2) The commission, in making an order or award pursuant to subsection one of this section, may make such order as to the payment of money in connection with any contract, arrangement, condition or collateral arrangement declared void, in whole or in part, or varied in whole or in part, as may appear to the commission to be just in the circumstances of the case.

(3) The commission may make such order as to the payment of costs in any proceedings under this section, as may appear to it to be just and may assess the amount of such costs.

(b)

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

90B. (1) The registrar, after such inquiry as he deems sufficient, may notify in the Gazette his intention to declare that an award or order, made under this Act and specified or described in the notification, is obsolete. Obsolete awards.

(2) Any person or industrial union may, in the prescribed manner and within the prescribed time, lodge with the commission notice of objection to any such award or order being declared obsolete, and the commission shall hear and determine the objection.

(3) Where no such objection is so lodged, or the commission dismisses any such objection, the registrar may notify in the Gazette that the award or order is obsolete.

(4) On the publication of any notification under subsection three of this section, any award or order specified or described therein shall cease to have any effect.

**6.** The Principal Act is further amended— Amendment of Part IX of Act No. 2, 1940.

(a) by inserting next after subsection five of section ninety-two the following new subsection :— Sec. 92. (Recovery of wages.)

(5A) The provisions of subsection five of this section do not apply in respect of a payment made, in relation to a contract, to the official receiver or the trustee of the estate of a bankrupt contractor or to the liquidator of a contractor, being a company, that is being wound up.

(b) (i) by omitting from subsection three of section ninety-six the words "the registrar or"; Sec. 96. (Time-sheets and pay-sheets to be kept.)

(ii)

(ii) by inserting next after the same subsection the following new subsection :—

(4) Proceedings in respect of any offence under this section may be commenced at any time within twelve months after the date on which the offence was committed.

Amendment of Part XI of Act No. 2, 1940.

Subst. sec. 111J.

**7.** The Principal Act is further amended by omitting section 111J and by inserting in lieu thereof the following section :—

Registrar to conduct elections on request.

cf. Commonwealth Act No. 13, 1904, ss. 170, 170A.

111J. (1) A trade union or a branch of a trade union may in writing request the registrar to conduct an election under this section for an office in the trade union or in the branch, as the case may be, with a view to ensuring that no irregularity occurs in or in connection with the election.

(2) For the purposes of subsection one of this section a request by a trade union or a branch of a trade union may be made—

(a) by or on behalf of the committee of management of the trade union or of the branch, as the case may be; or

(b) by a number of the members of the trade union or of the branch, as the case may be, being not less than five hundred or five per centum, whichever is the lesser, of the members of the trade union or branch making the request.

(3) The regulations may make provision with respect to the times at which requests may be made under this section.

(4) Where a request is made, or purports to be made under this section, the registrar shall, after making such inquiries (if any) as he considers necessary, decide whether or not the request has been duly made.

(5) Where the registrar decides that the request has been duly made and considers it to be practicable for the election to be conducted under this section, he shall inform the trade union or branch accordingly and arrange for the election to be conducted by the Electoral Commissioner for New South Wales, appointed under the Parliamentary Electorates and Elections Act, 1912, as amended by subsequent Acts, or by a Returning Officer under that Act, as so amended.

(6) A person conducting an election under this section for an office in a trade union or a branch of a trade union may, notwithstanding anything contained in the rules of the trade union or of the branch, take such action and give such directions as he considers necessary, in or in connection with the conduct of the election or in order to ensure that no irregularities occur in or in connection with the election or to remedy any procedural defects in the rules of the trade union or of the branch which may appear to him to exist.

(7) An election conducted under this section shall not be invalidated by reason only of—

(a) a breach of the rules of the trade union or of the branch involved in—

(i) an act done under this section; or

(ii) an act done in compliance with a direction given under this section; or

(b) an irregularity in the request in pursuance of which the election is conducted.

(8) A person shall not—

(a) fail to comply with a direction given under subsection six of this section; or

(b) obstruct or hinder the person conducting an election under this section or carrying out a direction given under subsection six of this section.

Any

Any person contravening the provisions of this subsection shall be liable to a penalty not exceeding two hundred dollars or imprisonment for twelve months or both.

(9) Where a person conducting an election under this section—

(a) dies or becomes unable to complete the conduct of the election; or

(b) ceases to be a person qualified to conduct the election,

the registrar shall make arrangements or give directions for the completion of the conduct of the election by another person who is so qualified.

(10) Subject to subsections eleven and twelve of this section the expenses of an election conducted under this section shall be borne by the trade union or the branch of the trade union concerned.

(11) The expenses to which subsection ten of this section applies do not include—

(a) the salary or other remuneration of any officer or employee of the State, performing any duty in relation to the election, including any person appointed solely for the purposes of the election;

(b) the cost of travel of such an officer or employee, including any travelling or similar allowance, incurred in connection with the performance of any such duty; or

(c) expenses in connection with the provision or use of premises provided by the State for the purposes of the election, including premises obtained solely for such purposes.

(12) Where an election is conducted under this section, not being an election conducted in consequence of a request pursuant to the rules of a trade union or a branch of a trade union, and the expenses of the election (other than the expenses referred to in

subsection

subsection eleven of this section) exceed the amount that, in the opinion of the Minister, would have been the expenses of conducting the election if it had not been conducted under this section, the Minister may, on application by the trade union or branch concerned, determine that an amount not exceeding the excess shall be borne by the State.

(13) Where an election is being conducted, or has been conducted under this section, the provisions of sections 111A to 111I (both sections inclusive) of this Act shall not apply in relation to the election.

**8.** The Principal Act is further amended—

Amendment of Part XII of Act No. 2, 1940.

(a) by omitting from section one hundred and eighteen the words "The registrar or an" and by inserting in lieu thereof the word "An";

Sec. 118. (Fines and subscriptions payable to unions.)

(b) by omitting from subsection one of section one hundred and nineteen the word "sections" and by inserting in lieu thereof the words "subsection two of section 88F, section";

Sec. 119. (Enforcement of certain orders.)

(c) (i) by omitting subsection one of section one hundred and twenty and by inserting in lieu thereof the following subsection:—

Sec. 120. (Appeal from registrar or magistrate.)

(1) From any order of an industrial or other magistrate or justices under this Act, imposing a penalty or ordering the payment of any sum of money or penalty or ordering that any proceeding be dismissed for any reason, an appeal shall lie to the commission.

On any such appeal the commission may make such order, ruling or decision as to it may seem fit in the circumstances of the case or remit the matter to the magistrate or justices with the opinion of the commission thereon; and, in any case, the commission may

may make such order as to the costs of the appeal, and of the proceedings before the magistrate, or justices, as it thinks just.

(ii) by omitting from subsection two of the same section the words "The registrar, or any" and by inserting in lieu thereof the word "Any";

Sec. 129A. (Right of entry.)

(d) (i) by inserting next after subsection one of section 129A the following new subsections:—

(1A) An authority issued by the registrar under this section—

(a) shall remain in force until it expires in accordance with paragraph (b) of this subsection or it is revoked under the provisions of this section;

(b) shall expire when the person to whom it was issued ceases to be an officer of the industrial union; and

(c) may, upon an application made to the registrar as prescribed, be revoked by the registrar if he is satisfied that the person to whom it was issued has wilfully hampered or hindered employees during their working time or has otherwise acted in an improper manner in the exercise or the purported exercise of any power conferred upon him by this section.

(1B) An appeal against the registrar's decision on any such application shall lie to the commission as prescribed.

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

(5) A person to whom an authority has been issued pursuant to this section shall,

within

within fourteen days after the expiry or revocation of such authority, return such authority to the registrar for cancellation. Any person failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred dollars.

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

A. R. CUTLER,
*Governor.*

*Government House,*
*Sydney, 9th December,* 1966.