
INDUSTRIAL ARBITRATION ACT

(No. 39, 1901);

TOGETHER WITH

REGULATIONS AND RULES THEREUNDER.

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[1s. 6d.]

INDUSTRIAL ARBITRATION ACT

(No. 89, 1901)

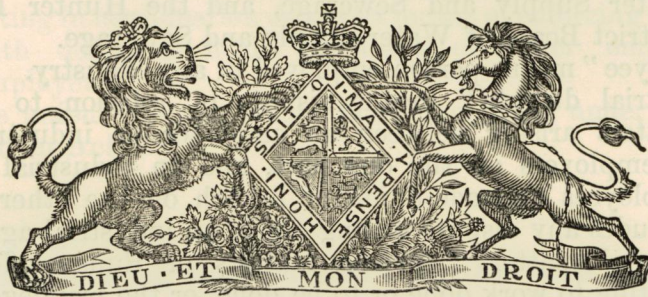
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REGULATIONS AND RULES THEREUNDER

1901

(No. 89)

New South Wales.



ANNO PRIMO

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Act No. 59, 1901.

An Act to provide for the registration and incorporation of industrial unions and the making and enforcing of industrial agreements ; to constitute a court of arbitration for the hearing and determination of industrial disputes, and matters referred to it ; to define the jurisdiction, powers, and procedure of such court ; to provide for the enforcement of its awards and orders ; and for purposes consequent on or incidental to those objects. [Assented to, 10th December, 1901.]

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 :—

Preliminary.

1. This Act may be cited as the "Industrial Arbitration Act, Short title. 1901."

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Industrial Arbitration.

Definitions.

2. In this Act, unless the context otherwise shows—

“Branch” means branch of a trade-union which is registered or has its principal office outside the State.

“Court” means court of arbitration constituted by this Act.

“Employer” means person, firm, company, or corporation employing persons working in any industry, and includes the Railway Commissioners of New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage.

“Employee” means person employed in any industry.

“Industrial dispute” means dispute in relation to industrial matters arising between an employer or industrial union of employers on the one part, and an industrial union of employees or trade-union or branch on the other part, and includes any dispute arising out of an industrial agreement.

“Industrial matters” means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and, without limiting the general nature of the above definition, includes all or any matters relating to—

(a) the wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the prices paid or to be paid therein in respect of such employment;

(b) the hours of employment, sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment;

(c) the employment of children or young persons, or of any person or persons or class of persons in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein;

(d) any established custom or usage of any industry, either generally or in any particular locality;

(e) the interpretation of an industrial agreement.

“Industrial union” means industrial union registered and incorporated under this Act.

“Industry” means business, trade, manufacture, undertaking, calling, or employment in which persons of either sex are employed, for hire or reward, and includes the management and working of the Government Railways and Tramways, the Sydney Harbour Trust, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage, but does not include employment in domestic service. “Lock-out”

Industrial Arbitration.

"Lock-out" means the closing of a place of employment or the suspension of work by an employer done with a view to compel his employees or to aid another employer in compelling his employees to accept a term or terms of employment.

"Prescribed" means prescribed by this Act or any rules or regulations made thereunder.

"Registrar" means registrar appointed under this Act.

"Strike" shall mean the cessation of work by a body of employees acting in combination done as a means of enforcing compliance with demands made by them or other employees on employers.

"Trade union" means trade union registered under the Trade Union Act, 1881.

The registrar.

3. The Governor shall appoint a registrar who shall have the powers and perform the duties prescribed and may appoint such officers as may be required to administer this Act. Appointment of officers.

Industrial unions.

4. Where the registrar, or in case of appeal, the court is satisfied that the provisions of this Act have been complied with, the registrar shall, in the prescribed manner and form, register as an industrial union— Registration of industrial unions.

- (a) any person or association of persons or any incorporated company or any association of incorporated companies, or of incorporated companies and persons who or which has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees;
- (b) any trade union or association of trade unions;
- (c) any branch;

and shall issue a certificate of incorporation, which shall be conclusive evidence in all courts, until cancelled, that the requirements of this Act in respect of incorporation have been complied with.

5. An application to register an industrial union shall be made in writing in the prescribed form, and shall— Applications for registration.

- (a) if made by an incorporated company, be signed by a majority of the directors or, if there are no directors thereof resident in the State, of the managers thereof so resident; and
- (b) if made by an association be signed by a majority of the committee of management thereof; and

(c)

Industrial Arbitration.

(c) if made by a trade union or branch, be signed by a majority of the general committee of management thereof.

And the registrar may require such proof as he thinks necessary of the authority of the said persons to make the said application.

But no industrial union shall be registered unless the registrar is satisfied that the rules or articles of the company, association, trade union, or branch applying to be registered include provisions as to the matters set out in Schedule One. And any application to register an industrial union may be refused if another industrial union to which the applicants might conveniently belong has already been registered. And no branch shall be registered unless it is a bona fide branch of a trade union and of sufficient importance to be registered separately.

The Governor may from time to time, by regulations made under this Act, alter, repeal, or amend the said Schedule.

Rules to be adopted.

6. Any company, association, trade union, or branch applying to be registered as an industrial union may, on application to the Governor, upon the recommendation of the registrar, obtain leave to adopt, and may thereupon adopt, any rules dealing with the matters mentioned in Schedule One, or in any regulations made under the last preceding section, as part of the rules of the company, association, union, or branch; and upon such leave being obtained, the said rules, when adopted in pursuance of this section, shall, notwithstanding any memorandum or articles of association or any rules of such company, association, union, or branch, become binding on all members of the same.

Incorporation of industrial union.

7. (1) Upon the issue of a certificate of incorporation, the members for the time being of the company, association, trade union, or branch incorporated in the industrial union shall, until the registration and incorporation of the union is cancelled in pursuance of this Act be for the purposes of this Act a body corporate by the name mentioned in such certificate, and shall have for the purposes of this Act perpetual succession and a common seal.

Power to hold land.

(2) An industrial union—

- (a) may purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with any real or personal property: Provided that nothing in this Act shall render an industrial union liable to be sued, or the property of an industrial union, or of any member thereof, liable to be taken in execution by any process in law other than in pursuance of this Act or in respect of obligations incurred in the exercise of rights and powers conferred by this Act;
- (b) shall forward to the registrar, subject to the prescribed penalties, at the prescribed dates, and verified in the prescribed manner, lists of its members and copies of its rules, and copies of industrial agreements to which it is a party.

Lists of members to be furnished.

Industrial Arbitration.

8. If it appears to the registrar—

- Cancellation of registration of union
- (a) that for any reasons which appear to him to be good the registration of an industrial union ought to be cancelled; or
 - (b) that an industrial union has been registered erroneously or by mistake; or
 - (c) that the provisions of the rules, articles, or regulations of the union as to any of the matters mentioned in Schedule One as amended under this Act are inadequate, or have not bona fide been observed; or
 - (d) that the proper authority of the union wilfully neglects to provide for the levying and collection of subscriptions, fees, or penalties from members of the union; or
 - (e) that the accounts of the union have not been audited in pursuance of the rules, articles, or regulations, or that the accounts of the union or of the auditor do not disclose the true financial position of the union; or
 - (f) that any industrial union has wilfully neglected to obey any order of the court;

he shall make application to the court for the cancellation of the registration of the union, giving notice thereof to the secretary of the union.

The court shall hear the said application, and if it is of opinion that the registration of the union should be cancelled, it shall so order, and thereupon the registration and incorporation of the union under this Act shall be void:

Provided that such cancellation shall not relieve the industrial union, or any member thereof, from the obligation of any industrial agreement or award or order of the court, nor from any penalty or liability incurred prior to such cancellation."

9. During the pendency of any reference to the court no application for the cancellation of the registration of an industrial union shall be made or received, and no resignation or discharge of the membership of any industrial union or of any company, association, trade union or branch, constituting an industrial union, shall have effect.

No cancellation during pendency of proceedings.

10. Nothing in this Act shall prevent a transfer of shares in any registered company, or in any association which is, or is a member of, an industrial union:

Saving of right to transfer shares in company.

Provided that no such transfer shall relieve the transferor from any liability incurred by him under this Act up to the date of such transfer.

11. Industrial unions shall be classified by the registrar as industrial unions of employers and industrial unions of employees, and the certificate of incorporation shall state the class of the industrial union mentioned therein.

Classification of industrial unions.

12.

Industrial Arbitration.

Recovery of
subscriptions and
contributions from
members of unions.

12. Every dispute between a member of an industrial union and such union shall be decided in the manner directed by the rules of such union; and the president of the court, on the application of the trustees or other officers authorised to sue on behalf of such union, may order the payment by any member of any fine, penalty, or subscription payable in pursuance of the rules aforesaid, or any contribution to a penalty incurred or money payable by the union under an award or order of the court:

Provided that no such contribution shall exceed the sum of ten pounds.

Industrial agreements.

Industrial agree-
ments may be made.

13. Any industrial union may make an agreement in writing relating to any industrial matter—

- (a) with another industrial union; or
- (b) with an employer;

which, if it is made for a specified term not exceeding three years from the making of the agreement, and if a copy thereof is filed with the registrar, shall be or become an industrial agreement within the meaning of this Act.

On whom industrial
agreements are
binding.

14 (1) An industrial agreement may be rescinded by agreement made in writing by the parties thereto and filed with the registrar, or may be varied by another industrial agreement so made and filed.

If not so rescinded the agreement or varied agreement shall be in force for the term specified in the agreement, and unless any party thereto gives to the registrar, at least one month before the expiration of such term, a notice in writing of intention to terminate the agreement or varied agreement at such expiration the agreement or varied agreement shall continue in force until the expiration of one month after notice in writing of intention to terminate it has been given to the registrar by any party thereto.

(2) Every industrial agreement or varied agreement shall be binding—

- (a) on the parties thereto during the currency of the agreement or varied agreement, and on such parties in respect of anything done or suffered under or by virtue of it during its currency;
- (b) on every person during the currency of the agreement or varied agreement while he is a member of any industrial union which is a party thereto, and on every person in respect of anything done or suffered under or by virtue of it during its currency and while he is such member.

To have same effect
as award of court
of arbitration.

15. An industrial agreement as between the parties bound by the same shall have the same effect and may be enforced in the same way as an award of the court of arbitration, and the court shall have full and exclusive jurisdiction in respect thereof.

Constitution

Industrial Arbitration.

Constitution of the Court of Arbitration.

16. There shall be a court of arbitration for the hearing and determination of industrial disputes and of references and applications under this Act. The court shall be a court of record and shall have a seal, which shall be judicially noticed. Constitution of court.

The court shall consist of a president and two members.

17. The president of the court shall be a Judge of the Supreme Court to be named by the Governor. The Governor may on the request of the president appoint a Judge of the Supreme Court as deputy president, to act in respect of any matter mentioned in his appointment; and the said deputy shall, in respect of the said matter, have all the rights, powers, jurisdictions, and privileges of the president under this Act. How members of court are appointed.

The two members of the court shall be appointed by the Governor, one from among the persons recommended in the manner and subject to the conditions prescribed in Schedule Two by a body of delegates from industrial unions of employers, and the other from among the persons recommended as aforesaid by a body of delegates from industrial unions of employees; but, if any such body fails to make such recommendation, the Governor may appoint such person as he thinks fit.

18. The president and members of the court shall be appointed as soon as practicable after the commencement of this Act, and every three years after such first appointment, and shall hold office until the time of the next triennial appointment to the office, but the members shall be eligible for re-appointment. Times and periods of appointments.

19. Any vacancy in the office of member of the court occasioned by death, resignation, or removal from office shall be filled by appointment on such recommendation as aforesaid, and the person so appointed shall hold office until the time of the next triennial appointment, but shall be eligible for re-appointment. Vacancies.

Where a member of the court is absent from his office by reason of illness or other cause, his office shall be filled by appointment as aforesaid, and the person so appointed shall hold office during such absence.

20. During his term of office the president or a member of the court shall, except where otherwise provided in this Act, be liable to removal from office in such manner and upon such grounds only as a Supreme Court Judge is by law liable to be removed from his office. Removal of members of court.

21. The members of the court shall be paid a salary of seven hundred and fifty pounds per annum each, and such remuneration for expenses while travelling and while holding views and inspections as may be prescribed. Payment of members of court.

22. The court may be constituted by the president or any member for the purpose of being adjourned. Quorum of court.

23.

Industrial Arbitration.

Appointment of assessors.

23. When an industrial dispute involving technical questions is referred to it, the court may appoint two assessors for the purpose of advising it on such questions.

One of such assessors shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employers, and the other shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employees.

If default is made in nominating any of such assessors, or if the parties consent, the court may appoint an assessor or assessors without any nomination.

Disqualifications for office.

Disqualifications for office.

24. The following persons shall be disqualified from being recommended or appointed, or holding office as a member of the court of arbitration—

- (a) a bankrupt who has not obtained his certificate of discharge;
- (b) any person of unsound mind;
- (c) an alien.

Persons disqualified may be removed from office by the Governor.

25. The Governor shall remove from office any member of the court who becomes disqualified under the last preceding section, or is proved to the satisfaction of the Supreme Court, or a Judge thereof, to be guilty of inciting any industrial union or employer to commit any breach of an industrial agreement or award, or to be guilty of any offence under sections twenty-six or twenty-seven of this Act.

Jurisdiction and procedure of the court.

Jurisdiction and powers of court.

26. The court shall have jurisdiction and power—

- (a) on reference in pursuance of this Act to hear and determine, according to equity and good conscience—
 - (i) any industrial dispute; or
 - (ii) any industrial matter referred to it by an industrial union or by the registrar;
 - (iii) any application under this Act;
- (b) to make any order or award or give any direction in pursuance of such hearing or determination;
- (c) subject to the approval of the Governor to make rules regulating the practice and procedure of the court, and more especially but not so as to limit the generality of its powers in the premises with reference to;
 - (i) the times and places of sitting;
 - (ii) the summoning of parties and witnesses;
 - (iii) the persons by whom and conditions upon which parties may be represented;
 - (iv) the rules of evidence;

(v)

Industrial Arbitration.

- (v) the enforcement of its orders;
- (vi) allowances to witnesses, costs, court fees;
- (vii) generally regulating the procedure of the court;
- (viii) appeals under this Act;
- (ix) the reference of any matter;
- (d) to dismiss any matter at any stage of the proceedings where it thinks the dispute trivial;
- (e) to dismiss any proceeding without giving a decision, where, in the opinion of the court, an amicable settlement can and should be brought about;
- (f) to order any party to pay to any other party such costs and expenses (including expenses of witnesses) as may be specified in the order, and at any time to vary such order; but no costs shall be allowed for the attendance before the court of any counsel, solicitor, or agent for any party;
- (g) at any stage of the proceedings of its own motion, or on the application of any of the parties, and upon such terms as it thinks fit—
 - (i) to direct parties to be joined or struck out;
 - (ii) to amend or waive any error or defect in the proceedings;
 - (iii) to extend the time within which anything is to be done by any party, whether within or after the prescribed time; and
 - (iv) generally to give such directions as are deemed necessary or expedient in the premises;
- (h) to proceed and act in any proceedings in the absence of any party who has been duly served with notice to appear therein as fully as if such party had duly attended;
- (i) to sit in any place for the hearing and determining of any matter lawfully before it; provided that, as far as practicable, the court shall sit in the locality within which the subject-matter of the proceeding before it arose;
- (j) on its own motion, or at the request of any of the parties to the dispute, to direct that the proceedings of the court be conducted in private, and that all persons other than the parties, their representatives, and any witnesses under examination shall withdraw from the court;
- (k) to adjourn any proceeding to any time and place;
- (l) to refer to an expert the taking of accounts, estimates of quantities, calculations of strains, and other technical matters, and to accept the report of such experts as evidence;
- (m) to exercise in respect of the summoning, sending for, and examination of witnesses and documents, and in respect of persons summoned or giving evidence before it, or on affidavit, the same powers as are by section one hundred and forty of the Parliamentary Electorates and Elections Act of 1893 conferred

Industrial Arbitration.

conferred on the committee of elections and qualifications constituted by that Act; Provided that no party to an industrial dispute shall be required to produce his books except by order of the president, and that such books when produced shall not, except by the consent of the party producing them, be inspected by anyone except the president or members of the court, who shall not divulge the contents thereof under penalty of dismissal from office;

- (n) to deal with all offences and enforce all orders under this Act;
- (o) at any time to vary its own orders and re-open any reference;
- (p) to admit and call for such evidence as in good conscience it thinks to be the best available whether strictly legal evidence or not: Provided that any question as to the admissibility of evidence shall be decided by the president alone.

Disclosure of profits.

27. The president and each member of the court shall be sworn in the manner and before the persons prescribed before entering upon the hearing of any dispute, not to disclose to any person whatsoever, any matters or evidence relating to any trade secret or to the profits or financial position of any witness or party, and shall be liable to a penalty not exceeding five hundred pounds and dismissal from office for a violation of such oath, and shall at the request of any party or witness hear such evidence in camera.

Reference of dispute to court.

28. No matter within the jurisdiction of the court may be referred to the court, nor may any application to the court be made except by an industrial union or by any person affected or aggrieved by an order of the court.

But no industrial dispute shall be referred to the court for determination, and no application shall be made to the court for the enforcement of any award of the court by an industrial union, except in pursuance of—

- (a) a resolution passed by the majority of the members present at a meeting of such union specially summoned by notice sent by post to each member or given in the manner prescribed by rules of the union, and stating the nature of the proposal to be submitted to the meeting; or
- (b) where in the opinion of the registrar it is impracticable to summon a meeting of all the members of the union, a resolution passed, in accordance with rules made by the court in that behalf, by a majority of the officers of the union specified in such rules.

Notwithstanding anything in this section the registrar may—

- (1) Inform the court of any breach of this Act or of any order or award of the court.
- (2) Refer to the court an industrial dispute when the parties thereto or some or one of them are or is not an industrial union.

Industrial Arbitration.

29. Any union or person entitled to refer an industrial dispute, or any matter, to the court, may make application to the registrar in the prescribed form. Method of reference to court.

30. (1) Any party to a reference may at any time take out a summons, in the form prescribed by the rules of the court, returnable before the president of the court sitting in chambers. Summons for directions.

At the hearing of the summons the president may make such order as may be just with respect to all the interlocutory proceedings to be taken before the hearing by the court of the dispute, and as to the costs thereof, and with respect to the issues to be submitted to the court, the persons to be served with notice of the proceedings of the court, particulars of the claims of the parties, admissions, discovery, interrogatories, inspection of documents, inspection of real or personal property, commissions, examination of witnesses, and the place and mode of hearing. The court may at the hearing of any reference revoke or amend any such order of the president, and may make any order which the president may make under this section.

(2) In addition to the powers conferred by this section, the president of the court sitting in chambers for the purpose of administering this Act shall have all the powers of a Judge of the Supreme Court sitting in chambers for the purpose of any matter before that Court. Additional powers.

31. The court and, on being authorised in writing by the court, any member or officer of the court or any other person may at any time enter any building, mine, mine-workings, ship, vessel, place, or premises of any kind whatsoever, 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, which has been made the subject of a reference to the court, and inspect and view any work, material, machinery, appliances, or article therein. View by, or by direction of court.

And any person who hinders or obstructs the court, or any such member, officer, or person as aforesaid, in the exercise of any power conferred by this section, shall for every such offence be liable to a penalty not exceeding five pounds, and every officer of the court or such other person so authorised as aforesaid shall be required to take the like oath as is prescribed in section twenty-seven in the manner and before the persons prescribed, and shall be liable to a like penalty for the violation thereof.

32. Proceedings in the court shall not be removable to any other court by certiorari or otherwise; and no award, order, or proceeding of the court shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever. No certiorari.

Industrial Arbitration.

No abatement on death of party.

33. No proceedings in the court shall abate by reason of the death of any party, but such proceedings may, by order of the court, be continued on such terms as the court thinks fit by or against the legal representative of such party.

Prohibition of strikes or lock-outs.

34. Whoever—

(a) before a reasonable time has elapsed for a reference to the court of the matter in dispute; or

(b) during the pendency of any proceedings in the court in relation to an industrial dispute,

(1) does any act or thing in the nature of a lock-out or strike; or suspends or discontinues employment or work in any industry; or

(2) instigates to or aids in any of the abovementioned acts, shall be guilty of a misdemeanour, and upon conviction be liable to a fine not exceeding one thousand pounds, or imprisonment not exceeding two months:

Provided that nothing in this section shall prohibit the suspension or discontinuance of any industry or the working of any persons therein for any other good cause:

And provided that no prosecution under this section shall be begun except by leave of the court.

In what cases dismissal of employee is breach of an award, order, or industrial agreement.

35. If an employer dismisses from his employment any employee by reason merely of the fact that the employee is a member of an industrial union, or is entitled to the benefit of an award, order, or agreement, such employer shall be liable to a penalty not exceeding twenty pounds for each employee so dismissed.

In every case it shall lie on the employer to satisfy the court that such employee was so dismissed by reason of some facts other than those above mentioned in this section: Provided that no proceedings shall be begun under this section except by leave of the court.

Minimum wage and employment of members of unions.

36. The court in its award or by order made on the application of any party to the proceedings before it, at any time in the period during which the award is binding, may—

(a) prescribe a minimum rate of wages or other remuneration, with provision for the fixing in such manner and subject to such conditions as may be specified in the award or order, by some tribunal specified in the award or order, of a lower rate in the case of employees who are unable to earn the prescribed minimum; and

(b) direct that as between members of an industrial union of employees and other persons, offering their labour at the same time, such members shall be employed in preference to such other persons, other things being equal, and appoint a tribunal to finally decide in what cases an employer to whom any such direction applies may employ a person who is not a member of any such union or branch.

Industrial Arbitration.

37. In any proceeding before it the court may do all or any of the following things with a view to the enforcement of its award, order, or direction— Methods of enforcing orders.

- (1) declare that any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing whatsoever in relation to an industrial matter, shall be a common rule of an industry affected by the proceeding ;
- (2) direct within what limits of area and subject to what conditions and exceptions such common rule shall be binding upon persons engaged in the said industry, whether as employer or as employee, and whether members of an industrial union or not ;
- (3) fix penalties for any breach or non-observance of such common rule so declared as aforesaid, and specify to whom the same shall be paid ;
- (4) grant an injunction to restrain any person from breaking or non-observing any order, award, or direction of the court ;
- (5) order the cancellation of the registration of an industrial union ;
- (6) order that any member of an industrial union shall cease to be a member thereof from a date and for a period to be named in the said order ;
- (7) fix penalties for a breach or non-observance of any term of an award, order, or direction not exceeding five hundred pounds in the case of an industrial union, or five pounds in the case of any individual member of the said union, and specify the persons to whom such penalty shall be paid ;
- (8) impose a fine not exceeding five hundred pounds for any breach or non-observance of an award, order, or direction by a person bound by such award, order, or direction who is not a member of an industrial union ;

and all fines and penalties for any breach of an award, order, or direction of the court may be sued for and recovered either—

- (a) in the court by the persons entitled to receive the same ; or
- (b) before a stipendiary or police magistrate, sitting alone as a Court of Petty Sessions, under the Small Debts Recovery Act, 1899, notwithstanding any limitation as to amount contained in that Act, by an inspector appointed under the Factories and Shops Act of 1896, or any Act amending the same :

Provided that any appeal from an order of a court of petty sessions under this section shall lie to the court on the terms and in the manner prescribed by the rules of the said court.

38. Any person or industrial union who is affected by any order, award, or direction of the court may, whether such person or union Appeals by parties affected.

was

Industrial Arbitration.

was or was not a party to the proceedings in which the order, award, or direction complained of was made, apply at any time to the court to be relieved from any obligation imposed by such order, award, or direction. And the court in entertaining and dealing with such application shall have all the powers conferred upon it by this Act.

Officers of Supreme Court, District Courts, and courts of petty sessions to be deemed officers of the court.

39. The prothonotary, master in equity, sheriff, bailiffs, and other officers of the Supreme Court and the bailiffs of the District Courts and courts of petty sessions shall be deemed to be also officers of the court, and shall exercise the powers and perform the duties prescribed by any rules of court made under this Act; and for the purpose of carrying out the provisions of this Act, and in relation to any proceedings before the court or the president of the court and in relation to the making, carrying out, and enforcing of any award, order, or direction of the said court or president, shall, except where provided in any rules made as aforesaid, exercise the same powers and perform the same duties as they may exercise and perform in relation to any judgment, order, direction, or conviction of the Supreme Court or any District Court or court of petty sessions.

Property to answer award or order of court.

40. Where the award or order of the court, or an industrial agreement, binds specifically a corporation, person, industrial union, trade union, or branch, any property held by such corporation, person, union, or branch, or by any trustee on his or its behalf, shall be available to answer such award, order, or agreement, and any process for enforcing the same; and in the case of any such union or branch, if the property so held is insufficient to fully satisfy the said award, order, agreement, or process, the members of such union or branch shall be liable for such deficiency: Provided that no member shall be so liable for more than ten pounds.

Appeal.

41. Any person or union aggrieved by a decision of the registrar may appeal therefrom in the prescribed manner to the president of the court. The president may direct the issue to the registrar of a writ of mandamus or of prohibition.

Supplemental.

No stamp duty payable.

42. No stamp duty shall be payable on or in respect of any registration, certificate, agreement, order, statutory declaration, or instrument affected, issued, or made under this Act.

Evidence of order of court.

43. Evidence of any order of the court may be given by the production of a copy thereof certified under the hand of the registrar.

Evidence of proclamations or regulations.

44. Evidence of any proclamation, notification, rule, or regulation required by this Act to be proclaimed, notified, or published in the Gazette may be given by the production of a copy of the Gazette containing or purporting to contain such proclamation, notification, rule, or regulation.

Industrial Arbitration.

45. The Governor may, subject to the provisions of this Act, ^{Regulations.} make regulations—

- (a) prescribing the powers and duties of the registrar and of persons acting in the execution of this Act ;
 - (b) prescribing the persons by whom and the manner in which applications for the registration of industrial unions may be made ;
 - (c) regulating the conditions on which branches may be registered ;
 - (d) prescribing the matters to be contained in the rules of any industrial unions, and regulating the names under which industrial unions may be registered ;
 - (e) regulating the keeping of the register, and the granting of certificates of incorporation of industrial unions ;
 - (f) prescribing the persons by whom and the manner in which applications for the cancellation of the registration and incorporation of industrial unions may be made, and the evidence to be furnished and the conditions to be performed prior to such cancellation, and prescribing the manner of such cancellation ;
 - (g) prescribing the sending to the registrar of copies of rules and lists of members of industrial unions ;
 - (h) prescribing the conditions under which and the manner in which persons may be recommended by industrial unions for appointment to the court ;
 - (i) regulating the nomination and remuneration of assessors to the court ;
 - (j) generally for carrying the provisions of this Act into effect ;
- and may in those regulations fix any penalty not exceeding twenty pounds for any breach of the same, to be recovered in a summary way in a court of petty sessions.

46. All rules and regulations made in pursuance of this Act shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days after such publication for approval or amendment, if Parliament be then sitting, but if not, then within fourteen days after the next meeting of Parliament, and in that case such rules and regulations shall in the meantime be applied temporarily after publication in the Gazette, until Parliament meets, and thereafter shall have the force of law until Parliament otherwise decide. ^{Publication of rules and regulations.}

47. This Act shall continue in force until the thirtieth day of June, one thousand nine hundred and eight, and no longer. ^{Duration of Act.}

Industrial Arbitration.

SCHEDULES.

(Schedule One.) [Repealed—See Regulation 16, page 20.]

SCHEDULE TWO.

1. Each industrial union of employers may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court.

The delegates shall be chosen, so far as practicable, under the rules of the union applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the company or persons constituting the union employ, on the average of the next preceding month, not less than fifty nor more than two hundred and fifty employees, the union may choose one delegate; where such employees number more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates.

2. Each industrial union of employees may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the financial members of the union number, on the average of the next preceding month, not more than two hundred and fifty, the union may choose one delegate; where such number is more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates; where more than one thousand, four delegates; where more than fifteen hundred, five delegates.

3. Any dispute occurring at any time respecting the number of delegates which may be chosen by any union shall be determined by the registrar, who may, if he determines that the number already chosen is greater than the number which any union is entitled to choose, decide who of the members chosen shall be the delegate or delegates to represent the union. The determination or decision of the registrar shall be final.

4. The delegates chosen respectively by the unions of employers and unions of employees shall respectively meet in separate places and at the respective times fixed by the registrar, and shall respectively recommend a fit person or fit persons for the office of a member of the court. The voting shall be by ballot, and each delegate shall have one vote.

5. Any recommendation of any such delegates shall not be vitiated by any informality in the choosing of any delegates or from the fact that any unions have omitted to choose delegates, or by any informality in the proceedings of the delegates in making the recommendation.

REGULATIONS.

[*Published in Government Gazette No. 153 of 24th March, 1905.*]

Department of the Attorney-General and of Justice,
Sydney, 24th March, 1905.

HIS Excellency the Governor, with the advice of the Executive Council, has been pleased to approve of the following Regulations being made under the provisions of the Industrial Arbitration Act, 1901.

C. G. WADE.

REGULATIONS UNDER INDUSTRIAL ARBITRATION ACT, 1901.

REPEAL.

1. All regulations heretofore made by the Governor under the Industrial Arbitration Act, 1901, are hereby repealed, and the following Regulations are hereby substituted therefor.

INTERPRETATION.

2. Words and phrases used in these Regulations shall have the same meanings and include the same matters and things as when used in the Industrial Arbitration Act, 1901, hereinafter referred to as "the Act."

THE REGISTRAR.

3. The Registrar shall act as Registrar of the Court, and in that office shall have the powers and shall perform the duties set forth in rules made by the Court.

REGISTRATION OF INDUSTRIAL UNIONS.

Application for Registration.

4. Every application to register as an industrial union shall be in such form as is hereinafter specified (or as near thereto as practicable), and shall be addressed to the Registrar.

Application to register a person shall be made in Form 1 hereto.

Application to register an association of persons or firms or an association of persons and firms shall be in Form 2 hereto.

Application to register an incorporated company shall be in Form 3 hereto. If the application is made by a manager or managers of the company, it must be accompanied by a statutory declaration by such manager or managers, stating that there are no directors of the company resident in the State.

Application to register an association of incorporated companies shall be in Form 4 hereto.

Application to register an association of persons (or firms) and incorporated companies shall be in Form 5 hereto.

Application to register a trade union shall be in Form 6 hereto.

Application to register a branch shall be in Form 7 hereto.

Application to register an association of trade unions shall be in Form 8 hereto.

Every application for registration as an industrial union of employers shall be accompanied by a statutory declaration as to the number of employees, in Form 9 hereto.

When any application for registration is made by or on behalf of any incorporated company registered in the State of New South Wales, incorporation may be proved by the production of a copy of the certificate of incorporation of such company issued from the office of the Registrar of Joint Stock Companies for the said State, or by a copy of such certificate annexed to and verified by a statutory declaration in the Form 10 hereto. In case of any company not registered in the said State, incorporation may be proved by any evidence that the Registrar may deem sufficient.

Objections to registration of Industrial Unions.

5. When an application is made to register an industrial union, the Registrar shall cause a notice of the application to be published in the Government Gazette and in one issue of two morning daily newspapers published in Sydney.

Within one month from the date of the issue of such notice any person may lodge with the Registrar, in Form 11 hereto, notice of objections to the registration of the union on the ground that the members of the applicant union may conveniently belong to an industrial union already registered, setting forth facts in support of such objections. A copy of such notice shall at the same time be lodged with the Registrar, and shall by him be forthwith forwarded to the applicant.

The Registrar, on the day appointed or on any later day to which the hearing is adjourned by him, shall hear and determine the matter on such oral evidence as may be adduced.

In respect of applications made before the date of these regulations the Registrar may dispense with affidavits.

APPLICATIONS TO CANCEL REGISTRATION OF INDUSTRIAL UNIONS.

6. Any person may, by lodging a notice in Form 12 hereto, represent to the Registrar any matters relating to an industrial union which may be thought sufficient to authorise the Registrar to apply for the cancellation of the union.

When such notice is lodged, the like proceedings shall be taken as where notice of objections are lodged to the registration of an industrial union.

In respect of applications for cancellation lodged before the date of these regulations the Registrar may dispense with affidavits.

APPLICATION FOR LEAVE TO ADOPT RULES.

7. Every application for leave to adopt rules by a company or association shall be in Form 13 hereto. Every application for leave to adopt rules by a trade union or branch shall be in Form 14 hereto. The adoption of rules by a company, association, trade union, or branch shall be in Form 15 hereto.

CERTIFICATE OF INCORPORATION OF INDUSTRIAL UNION.

8. The certificate of registration and incorporation as an industrial union shall be in Form 16 hereto.

LISTS OF MEMBERS.

9. The dates upon which an industrial union shall, under section 7 of the Act, forward to the Registrar lists of its members shall be as follows :—

- (a) Within one calendar month from the issue of the certificate of incorporation of the union, and
- (b) not later than the 28th day of February in every year succeeding the year in which the union was registered.

Every list forwarded within one calendar month from the issue of the certificate of incorporation shall contain the names of all the persons, firms, companies, or trade unions, who were members of the union at the time of registration of the union.

Every list forwarded during the month of February as aforesaid shall contain the names of all the persons, firms, companies, or trade unions, who were members of the union on the thirty-first day of the month of December last preceding.

Every list forwarded shall be in Form 17 hereto, and shall be accompanied by a statutory declaration in Form 18 hereto, made by the secretary or other officer or some representative member of the union, and verifying the truth of the return.

Any industrial union which fails to forward to the Registrar a list of its members, as required by the Act and regulations made thereunder, shall be liable to a penalty not exceeding twenty pounds.

INDUSTRIAL AGREEMENTS.

10. An industrial union which has made an industrial agreement under section 13 of the Act shall, within thirty days from the date of the agreement, forward to the Registrar an examined copy at full length of such agreement duly verified by statutory declaration in the Form 19 hereto. The Registrar shall endorse upon the original instrument a receipt for such copy and the date and hour on which the same has been received by him, and the name and place of abode of the witness verifying the same. Every such copy so verified and received by the Registrar shall be numbered successively according to the order of time in which the same has been delivered, and shall be registered in a book to be kept for such purpose by the Registrar.

ALTERATION OF RULES.

11. Every industrial union which has amended its rules prior to the date of publication of these regulations and has not registered copies of such rules with the Registrar as provided by regulations 3, 4, and 5 of the 11th July, 1902, shall, within one month from the said date of publication of these regulations, lodge with the Registrar a printed or typewritten copy of such amended rules.

Every industrial union which shall amend its rules after the date of publication of these regulations shall, within one month from the date of such amendment, lodge with the Registrar a printed or typewritten copy of such amended rules.

The amended rules shall, where the rules of the union provide for the alteration, be accompanied by a statutory declaration in Form 20 hereto, and shall, where the rules of the union contain no provision for their alteration, be accompanied by a statutory declaration in Form 21 hereto.

Any industrial union which fails to forward to the Registrar a copy of its rules as required by the Act and regulations made thereunder shall be liable to a penalty not exceeding twenty pounds.

NOTIFICATION OF CHANGE OF REGISTERED OFFICER OR OFFICE.

12. Within fourteen days from the date upon which the office of registered officer of an industrial union becomes vacant from any cause, the secretary of the union shall forward to the Registrar a notice in Form 22 hereto, stating the date when such office became vacant, and also the full name and address of the person who has since been appointed or has become the registered officer of the union in accordance with the rules of the union. If the notice required to be forwarded as aforesaid is not so forwarded within the period above prescribed, the union and the secretary thereof shall severally be liable to a penalty not exceeding five pounds.

13. Within seven days from the date upon which the address of the office of an industrial union has been changed, the secretary of the union shall forward to the Registrar a notice stating in full the changed address of such office.

SCHEDULE OF FEES.

14. The following fees shall be payable to the Registrar—

	£	s.	d.
For every application for registration as an Industrial Union	0	5	0
For issuing certificate of incorporation	0	10	0
For any other certificate of Registrar	0	2	6
For every copy of industrial agreement forwarded to Registrar	0	5	0
For inspection of documents	0	1	0
For lodging notice of objections to registration as an Industrial Union	0	2	0
For lodging notice of application for cancellation of an Industrial Union	0	2	0
For lodging notice of appeal	0	2	0
For copy of documents, per folio of 72 words	0	0	4

OATH OF SECRECY.

15. The oath of secrecy referred to in section 27 of the Act shall be taken by the President and members of the Court before a Judge of the Supreme Court of New South Wales, and shall be in Form 23 hereto.

[*Published in Government Gazette No. 193 of 14th April, 1905.*]

INDUSTRIAL ARBITRATION ACT, 1901.

Form 20.

Statutory declaration accompanying alteration of Rules.

New South Wales, }
to wit. }

I, _____, of _____, in the State of New South Wales, the Secretary (or President) of the Industrial Union, styled _____, do solemnly and sincerely declare that in making the alterations of the rules of the said industrial union, a copy of which is attached hereto and marked with the letter "A," the rules of the said industrial union have been duly complied with. And I make this solemn declaration as to the matters aforesaid according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at _____, this _____ day of _____, 190 _____, before me,—

A Justice of the Peace.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 21.

Statutory declaration accompanying alteration of Rules.

New South Wales, }
to wit. }

I, _____, of _____, in the State of New South Wales, the Secretary (or President) of the Industrial Union, styled _____, do solemnly and sincerely declare that the alterations of the rules of the said industrial union, a copy of which is attached hereto and marked with the letter "A," were made at a meeting of the members of the union duly held in accordance with the rules of the union. And I make this solemn declaration as to the matters aforesaid according to the law on this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at _____, this _____ day of _____, 190 _____, before me,—

A Justice of the Peace.

FORMS.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 1.*Application for Registration.*

By a Person.

IN pursuance of the provisions of the Industrial Arbitration Act, 1901, I (State applicant's name and business, as ship-owner, draper, general carrier, &c.), hereby make application for registration as an industrial union of employers, under the style of “ ”

I enclose herewith a declaration respecting the number of employees.

Dated at _____, this _____ day of _____, 19 .

Signature of Applicant.

Office of Applicant.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 2.*Application for Registration.*

By an Association of persons or of firms, or an Association of persons and firms.

IN pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are undersigned, being a majority of the members of the committee of management of the association (styled the _____ Association), hereby make application for registration as an industrial union of employers, under the style of “ ”

We enclose herewith—

- (1.) A declaration respecting the number of employees.
- (2.) A list of the committee of management and officers of the association.
- (3.) Two printed (or typewritten) copies of the rules of the association.

Dated at _____, this _____ day of _____, 19 .

Members of the Committee of Management of the Association.
Office of the Association.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 3.*Application for Registration.*

By an Incorporated Company.

IN pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are undersigned, being a majority of the directors (or managers resident in the State of N.S.W.), of the _____ Company, hereby make application for registration as an industrial union of employers, under the style of “ ”

REGULATIONS.

We enclose herewith—

- (1) A declaration respecting number of employees.
- (2) A list of the directors, managers, and other officers of the company.
- (3) Two printed (or typewritten) copies of the rules, memorandum, and articles of association of the company.
- (4) A copy of certificate of incorporation of company verified by statutory declaration.

Dated at _____, this _____ day of _____, 190 .

Directors (or Managers) of the Company.

Office of the Company.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 4.

Application for Registration.

By an Association of Incorporated Companies.

IN pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are under-
signed, being a majority of the members of the committee of management of the association of incorporated
companies (styled the _____ Association), do hereby make application for the registration
of the said association as an industrial union of employers, under the style of “_____”

We enclose herewith—

- (1) A declaration respecting the number of employees.
- (2) A list of the committee of management and officers of the association.
- (3) Two printed (or typewritten) copies of the rules of the association.

Dated at _____, this _____ day of _____, 190 .

Members of the Committee of Management of the Association.

Office of the Association.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 5.

Application for Registration.

By an Association of persons (or firms) and Incorporated Companies.

IN pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are under-
signed, being a majority of the members of the committee of management of the association of persons
(firms) and incorporated companies (styled the _____ Association), hereby make application
for registration as an industrial union of employers, under the style of “_____”

We enclose herewith—

- (1) A declaration respecting number of employees.
- (2) A list of the committee of management and officers of the association.
- (3) Two printed (or typewritten) copies of the rules of the association.

Dated at _____, this _____ day of _____, 190 .

Members of the Committee of Management of the Association.

Office of the Association.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney

INDUSTRIAL ARBITRATION ACT, 1901.

Form 6.*Application for Registration.*

By a Trade Union.

In pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are under-
signed, being a majority of the members of the general committee of management of the
Trade Union, hereby make application for registration as an industrial union of
employees, under the style of “ ”

We enclose herewith—

- (1) A list of the general committee of management and officers of the trade union.
- (2) Two printed (or typewritten) copies of the rules of the trade union.
- (3) The certificate of registry of the trade union under the Trade Union Act of 1881.

Dated at _____, this _____ day of _____, 190 .

Members of the General Committee of Management.

Office of Trade Union.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 7.*Application for Registration.*

By a Branch of a Trade Union.

In pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are under-
signed, being a majority of the members of the general committee of management of the
Branch of the _____ Trade Union, hereby make application for registration as an industrial
union of employees under the style of “ ”

We enclose herewith—

- (1) The certificate of registry of the trade union.
- (2) A list of the general committee of management and officers of the branch of the trade union.
- (3) Two printed (or typewritten) copies of the rules of the branch of the trade union in force at the time of the making of the application.
- (4) A statutory declaration by the secretary of the branch that such rules have been adopted by the trade union or the governing body of the trade union to which the branch belongs in the manner provided by the rules of the trade union.

Dated at _____, this _____ day of _____, 190 .

Members of the General Committee of Management.

Office of Branch of Trade Union.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

REGULATIONS.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 8.*Application for Registration.*

By an Association of Trade Unions.

IN pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are under-
signed, being a majority of the members of the committee of management of the association of trade unions
(styled the " Association "), hereby make application for registration as an industrial
union of employees under the style of " Association."

We enclose herewith—

- (1) A list of the committee of management of the association and of the officers of the association.
- (2) Two printed (or typewritten) copies of the rules of the association.
- (3) The certificates of registry of each of the trade unions under the Trade Union Act of 1881.

Dated at _____, this _____ day of _____, 190 .

Members of the Committee of Management of the Association.
Office of Association.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 9.*Statutory Declaration respecting Number of Employees.*New South Wales, }
to wit. }

I, _____, of _____, do hereby solemnly declare and affirm that the average
number of employees employed by me, or by the firm of which I am a member, or by the
Company of which I am director (or manager) in my (or its) business of [state business] or by the
Association of which I am _____, continuously from day to day, except Sundays and public
holidays, throughout the six months next preceding the [date of application for registration] day of
190 , is as follows:—

- | | | |
|---------|----|---------------|
| 1. From | to | not less than |
| 2. From | to | not less than |
| 3. From | to | not less than |
| 4. From | to | not less than |
| 5. From | to | not less than |
| 6. From | to | not less than |

And I make this solemn declaration as to the matters aforesaid according to the law in this behalf
made, and subject to the punishment by law provided for any wilfully false statement in any such declara-
tion.

Declared at _____ this _____ day of _____, 190 , before me,—

(Signature.)

A Justice of the Peace.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 10.

*Statutory Declaration in verification of copy of Certificate of Incorporation.*New South Wales, }
to wit. }

I, _____ of _____, in the State of New South Wales, do solemnly declare and affirm that the paper or writing annexed hereto, marked for identification with the letter "A," and purporting to be a copy of the Certificate of Incorporation of _____, is a true copy of such certificate of Incorporation, the same having been examined therewith by _____

And I make this solemn declaration as to the matter aforesaid according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

(Signature.)

Declared at _____ this _____ day of _____ 190 _____, before me,—

A Justice of the Peace.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 11.

Notice of Objections to Registration.

Before the Registrar appointed under the Industrial Arbitration Act, 1901.

In the matter of the application of _____ for registration as an industrial union of employers (or employees).

TAKE notice that I, A.B., of _____, on behalf of the _____ industrial union of employers (or employees), will, at the office of the Registrar, and on the _____ day of _____, or on such other day and at such other time as the Registrar appoints, object to the registration of _____ as an industrial union, on the ground that the said _____ may conveniently belong to _____ industrial union of employers (or employees).

[Here set out facts in support of objections.]

Dated at _____ this _____ day of _____ 190 _____.

(Signature.)

INDUSTRIAL ARBITRATION ACT, 1901.

Form 12.

Notice of Application for Cancellation.

Before the Registrar appointed under the Industrial Arbitration Act, 1901.

In the matter of the application of _____ for cancellation of the registration of _____ industrial union of employers (or employees).

TAKE notice that I, A.B., of _____, on behalf of _____ industrial union of employers (or employees), will, at the office of the Registrar, and on the _____ day of _____, or on such other day and at such other time as the Registrar appoints, represent to the Registrar certain matters which are thought sufficient to authorise the Registrar to apply for cancellation of _____ industrial union of employers (or employees).

[Here set out matters above referred to.]

Dated at _____ this _____ day of _____ 190 _____.

(Signature.)

REGULATIONS.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 13.

Application for leave to adopt Rules.

By a Company or Association.

In pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are under- signed, being a majority of the directors (or managers) of the Company (or members of the committee of management of the Association) do hereby make application for leave to adopt the rules hereunto annexed, dealing with the matters mentioned in Schedule One to that Act, as part of the rules of the said company (or association).

Directors (or Managers)

(or Members) of the Committee of Management.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 14.

Application for leave to adopt Rules.

By a Trade Union or Branch.

In pursuance of the provisions of the Industrial Arbitration Act, 1901, we, whose names are under- signed, being a majority of the members of the general committee of management of the Trade Union, (or of the members of the committee of the branch of the trade union), do hereby make application for leave to adopt the Rules hereunto annexed, dealing with the matters mentioned in Schedule One to that Act, as part of the rules of the said trade union (or branch).

Members of the General Committee of Management.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 15.

Adoption of Rules.

In pursuance of the provisions of the Industrial Arbitration Act, 1901, and of leave granted by His Excellency the Governor and Executive Council, we (state name of company, association, trade union, or branch) members of the general committee of management of the , do hereby adopt, on behalf of the said , the rules attached hereto, and marked with the letter "A," as part of the rules of the said

Dated at , this day of , 190 .

} Members of the
General Committee
of Management.
Office.

Secretary.

To the Registrar, Industrial Arbitration Act, 1901, Sydney.]

Form 16.

Certificate of Incorporation.
New South Wales.



No. _____

INDUSTRIAL ARBITRATION ACT, 1901.

CERTIFICATE OF INCORPORATION.

THIS is to certify that on the _____ day of _____ 190____, was
duly registered and incorporated as an industrial union of employers (or employees), in pursuance of the
Industrial Arbitration Act, 1901, under the style of “_____”

Given under my hand at Sydney this _____ day of _____ one thousand nine
hundred and _____

Registrar, Industrial Arbitration Act, 1901.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 17.

List of members of Industrial Unions.

COMPLETE LIST of the members constituting the Industrial Union styled _____ on the
day of _____ one thousand nine hundred and _____

Name in full.	Address.

Dated the _____ day of _____ 190____.

Secretary.

To the Registrar, Industrial Arbitration Act,
St. James' Chambers, King-street, Sydney.

This is the paper marked “A” referred to in the declaration of _____, made
this _____ day of _____, at _____, before me,—
A Justice of the Peace.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 18.

Statutory Declaration of complete list of Members of the Industrial Union styled

New South Wales, }
to wit. }

I, _____ of _____, in the State of New South Wales, the _____ o.
the _____ Industrial Union styled _____, do hereby solemnly declare and
affirm—

That the list of names of the members constituting the industrial union styled _____
contained in the paper hereto annexed and marked with the letter “A,” is a true, full, and complete list
of the names of the members constituting the said industrial union at the date of the issue of the certificate
of incorporation of the union (*or on the 31st day of December last past*).

And I make this solemn declaration as to the matters aforesaid according to the law in this behalf
made, and subject to the punishment by law provided for any wilfully false statement in any such declara-
tion.

Declared at _____ this _____ day of _____, 190____, before me,—

Justice of the Peace.

REGULATIONS.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 19.

*Statutory Declaration accompanying Industrial Agreement.*New South Wales, }
to wit. }

I, _____ of _____, do hereby solemnly declare and affirm that the writing contained in the preceding pages is a true, full, and complete copy of the original agreement made between _____ and _____ under the provisions of the Industrial Arbitration Act, 1901, the same having been examined therewith by me.

And I make this solemn declaration as to the matters aforesaid according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Declared at _____, this _____ day of _____, 190 _____, before me,—

_____ A Justice of the Peace.

(Form 20.) [Repealed—See Form 20, page 29.]

(Form 21.) [Repealed—See Form 21, page 29.]

INDUSTRIAL ARBITRATION ACT, 1901.

Form 22.

Notification of change of registered officer.

I, A.B., Secretary of the _____ Industrial Union of Employers (or Employees) hereby inform you that the office of registered officer of the said union became vacant on the _____ day of _____, 190 _____, and that on the _____ day of _____, 190 _____, E.F. [state address in full] was appointed (or became) the registered officer of the said union, in accordance with the rules of the union.

A.B.,

Secretary (or President).

To the Registrar, Industrial Arbitration Act, 1901.

INDUSTRIAL ARBITRATION ACT, 1901.

Form 23.

Oath of President or Member of the Arbitration Court.

I, A.B., having been appointed to be and holding office as President (or as a Member) of the Court of Arbitration, constituted by the Industrial Arbitration Act, 1901, do swear that I will not disclose to any person whatsoever any matters or evidence relating to any trade secret or to the profits or financial position of any witness or party which shall come to my knowledge as President (or Member) of such Court.

So help me God.

AMENDMENT OF SCHEDULE I.

16. Schedule I of the Act is hereby repealed, and the following provisions are substituted in lieu thereof :—

SCHEDULE I.

PART I.—Matters to be contained in the rules, articles, and regulations of a company, association, trade union, or branch applying to be registered as an industrial union.

1. The mode in which industrial agreements and other instruments shall be made by or on behalf of the company, association, trade union, or branch.

2. The manner in which the company, association, trade union, or branch may be represented in any proceedings before the court.

3. The custody and use of the seal.

4. The description of the registered officer of the company, association, trade union, or branch.

PART II.—Matters to be contained in the rules, articles, and regulations of an association, trade union, or branch applying to be registered as an industrial union.

1. The appointment and removal of a committee of management, a chairman or president, a secretary, a trustee or trustees, and the filling of any vacancies in such offices.

2. The powers and duties of such committee and officers, and for control over the committee by special or general meetings, or where, in the opinion of the Registrar, it is impracticable to hold special or general meetings, by the members in some manner which appears to the Registrar to be adequate.

3. The manner of calling such meetings, the quorum, and the manner of voting thereat.

4. Provision for keeping a register of members.

5. The control of the property and the investment of the funds, and the periodical audit of the accounts of the company, association, trade union, or branch ; audit to be made at least once a year.

6. The terms on which persons may become or cease to be members of the association, trade union, or branch, including provision for the payment and recovery of subscriptions by members, and, in the case of a trade union or branch, provision that a person shall not cease to be a member unless he has given at least three months' written notice to the secretary, and has paid all fees and dues owing by him to the trade union or branch, and provision that reasonable facilities shall be given to persons to become members of the union.

APPEAL FROM REGISTRAR.

17. The party prosecuting an appeal to the President from the decision of the Registrar under section 41 of the Act shall, within ten days of the delivery of such decision, lodge a written notice with the Registrar of intention of appeal, and forward a copy of such notice to the other party, and the Registrar shall thereupon transmit all documents and affidavits used before him to the President.

MODIFICATION OF FORMS.

18. When anything is required to be in any of the forms hereto, it shall be sufficient if it be to the like effect, and any such forms may be modified by the authority of the Registrar to suit particular cases ; and the Registrar may require further evidence by statutory declaration, in addition to that prescribed by these Regulations, in any case in which to him it may seem expedient.

GENERAL PENALTY.

19. Any industrial union which or person who is guilty of any breach of these Regulations shall, in any case where no other penalty is provided, be liable to a penalty not exceeding twenty pounds.

RULES.

[Published in Government Gazette No. 698 of 28th December, 1904.]

Department of the Attorney-General and of Justice,
Sydney, 28th December, 1904.

HIS Excellency the Governor, with the advice of the Executive Council, has been pleased to approve of the following Rules made by the Court of Arbitration under the provisions of the Industrial Arbitration Act, 1901.

C. G. WADE.

In the Court of Arbitration)
of New South Wales. }

RULES OF THE COURT OF ARBITRATION.

The 16th day of December, 1904.

In pursuance of the powers in this behalf conferred upon the Court of Arbitration by the Industrial Arbitration Act, 1901, the Court does hereby make the following rules, that is to say :—

PART I.

PRELIMINARY.

Repeal of Rules.

1. From and after the thirty-first day of December, 1904, all the rules which have been heretofore made and established in the Court of Arbitration shall be rescinded, and in lieu thereof the following shall constitute the rules of the said Court, provided that such rescission shall not affect the previous operation of any rule so rescinded, or anything duly suffered, done, or commenced to be done under any rule so rescinded, or any right, privilege, obligation, or liability acquired, accrued, or incurred under any rule so rescinded. No rule which has been rescinded by a later rule shall be revived by the rescission of such later rule.

Equity Court Rules.

2. Where there is no established practice or usage of the Court, and where none of the rules now made is applicable, then the practice for the time being of the Supreme Court in its equitable jurisdiction shall, as far as is practicable, regulate the practice of the Court.

Division into Parts.

3. These rules are divided into parts, as follows :—

- PART I.—Preliminary.
 - PART II.—Proceedings generally.
 - PART III.—Industrial disputes.
 - PART IV.—Applications other than references of industrial disputes.
 - PART V.—Service of process.
 - PART VI.—Awards and orders.
 - PART VII.—Execution.
 - PART VIII.—Writ of sequestration.
 - PART IX.—Writ of attachment.
 - PART X.—Witnesses and evidence.
 - PART XI.—Costs.
 - PART XII.—Appeal.
 - PART XIII.—Proceedings before Registrar.
- SCHEDULES.

Interpretation.

4. In these rules, unless the context or subject-matter otherwise requires,—
 “Act” means the Industrial Arbitration Act, 1901.
 “Affidavit” or “Oath” includes affirmation, statutory declaration, and the declaration in lieu of oath under the Act 20, 1900; and the word “sworn” includes affirmed and declared.
 “Court” means Court of Arbitration of New South Wales.
 “Endorsed” includes subjoined or attached.
 “In writing” and “written” include printing, lithography, and other modes of representing words in a visible form.
 “Person” or “party” includes a body corporate.
 “President” means the President of the Court.
 “Registrar” means the Registrar appointed under the Act (including any person appointed in his place) in his office as Registrar of the Court.
 Words importing the singular number include the plural number, and words importing the plural number include the singular number.
 Words importing the masculine gender include females.

PART II.

PROCEEDINGS GENERALLY.

Form of proceedings.

5. All proceedings shall be commenced and continued in the office of the Registrar, and each proceeding shall be there kept in a distinct and separate form entitled “In the Court of Arbitration of New South Wales,” and in the matter in which the proceedings are taken, and, if the matter is to be heard by the President, in addition, “Before the President.”

Where forms not prescribed.

6. When no form of summons, application, order, or other document or instrument of whatever kind or nature is prescribed in the Act or these Rules, or where no adequate form is so prescribed, the President may for the time being adopt and seal or sign any form which he may consider suitable, and on its being adopted and sealed or signed it shall be as valid as if it had been duly prescribed.

Filing proceedings.

7. All proceedings shall be clearly written, and the same shall not be received unless so written, and no proceeding shall be of record or be used in the Court until the same has been filed with the Registrar.

Form of documents.

8. All documents other than affidavits, and copies thereof, shall be on foolscap paper with a quarter margin, written on one side only, and having not less than two folios nor more than five folios of seventy-two words on each page, and divided into convenient paragraphs, with the numbers of the paragraphs severally written on the inner edge of the margin.

Affidavit to accompany documents.

9. Except where otherwise expressly provided, every summons and application under this Act shall be supported by an affidavit, but the President may, if he thinks fit, dispense with such affidavit. A copy of every affidavit filed shall be forthwith served.

Form of affidavit.

10. All affidavits shall be on foolscap paper, and shall be in the form now ordinarily used in the Supreme Court of New South Wales, divided into convenient paragraphs, with the numbers of the paragraphs severally written on the inner edge of the margin, with a quarter margin, but written on one side only of the paper, and folded lengthwise, with the name of each deponent and the date of swearing endorsed thereon. And there shall not be less than two folios nor more than five folios of seventy-two words on each page.

Address for service.

11. Every document shall be endorsed with the name and address of the party filing the same, and such address shall be deemed to be the filed address for service of such party.

Representation of unions, &c.

12. Except where otherwise expressly provided by these Rules, if any summons, application, or other document is required by these Rules to be taken out, made, or signed, or any step is required to be taken by any person, industrial union, trade union, branch, or company, such summons, application, or document may be taken out, made, or signed, and such step taken on behalf of such person, industrial union, trade union, branch, or company, by the following persons :—

- (a) In the case of any person not being an industrial union by such person or by any other person authorised in writing.
- (b) In the case of an industrial union not constituted by a person, or in the case of a trade union or branch, by the officer or person duly authorised under the rules of such union or branch to represent such union or branch in proceedings in the Court or under the Act, or, in the absence of express provision in the rules, by the person authorised by resolution of the union or branch to represent such union or branch generally in the Court or under the Act or in the particular proceeding in which the summons, application, or other document is taken out, made, or signed, or such step is taken ; or, in the absence of express provision in the rules or authorisation by resolution by the registered officer of the industrial union or secretary of the trade union or branch.
- (c) In the case of an industrial union constituted by a person, by such person or by any person authorised under the seal of such union.
- (d) In the case of a company not being an industrial union, by the officer or person duly authorised under the seal of the company, to represent it in the Court, or under the Act, or in such proceeding as aforesaid.

Withdrawal of applications.

13. A reference or any other application to the Court, or summons may be withdrawn by the claimant or applicant, upon a consent in writing to that effect being signed by each of the parties, or their representatives, and filed with the Registrar.

Registrar to deal with process.

14. The Registrar shall himself, or by the Chief Clerk or such other officer as he directs, in his name and in his behalf, receive and submit to the Court all applications made to the Court, issue all summonses, warrants, precepts, and writs, and register all orders and judgments of the Court, affix the Seal of the Court as hereinafter mentioned, and keep a record of the proceedings of the Courts.

Seal of Court.

15. There shall be a Seal of the Court bearing the Royal Arms, with the words "The Seal of the Court of Arbitration" around or above, and the words "New South Wales" below. The Seal of the Court shall be in the custody of the Registrar, and shall be affixed by him to awards or orders of the Court as hereinafter provided, or to such other documents as the President directs.

Stamp of Court.

16. There shall be a Stamp of the Court, bearing the words "Court of Arbitration, New South Wales." The Stamp of the Court shall be used on documents issued by the Registrar.

Fees.

17. The fees to be demanded and paid in the Court shall be those set out in the Schedule One hereto.

Sittings of Court.

18. The Court may cause notice of the time and place at which its sittings will be holden to be published by the Registrar in one or more of the daily newspapers published in Sydney, or in any newspaper or newspapers in such other place or places as the Court may deem fit.

The President may in like manner cause notice of his sittings in Court or in chambers to be published.

Chamber business and vacations.

19. Business other than the hearing of industrial disputes shall be taken on Mondays at 10 a.m., unless the Court or President otherwise orders.

The vacations and holidays of the Court of Arbitration shall be those mentioned in the law almanac for the Supreme Court jurisdiction : Provided that if the Court or President shall deem it necessary, Court or Chamber business may be taken during vacation.

Office hours.

20. The Office of the Registrar shall be open to the public for the transaction of business from the hour of 9.30 o'clock in the forenoon to the hour of 3.30 o'clock in the afternoon on all days not being Saturdays, Sundays, or public holidays, and from 10 o'clock in the forenoon until 12 o'clock noon on Saturdays.

Exhibits.

21. No party to any proceeding shall be at liberty to take any exhibits out of Court without an order of the President.

Searches.

22. No person shall be at liberty to search in any matter to which he is not a party without an order of the President.

PART III.

INDUSTRIAL DISPUTES.

CLAIMS BY INDUSTRIAL UNIONS.

Application to refer.

23. When it is desired that an industrial dispute shall be referred to the Court, application shall be made to the Registrar in Form 1 hereto as nearly as the circumstances of the case will allow, and the matters in respect of which the determination of the Court is sought shall be shortly set out in the application.

Documents accompanying application.

24. Every application to refer a dispute shall be accompanied by—

- (1) A copy of such application.
- (2) Where the industrial union is a trade union, company, or association, a copy of the resolution passed in pursuance of subsection (a) of section 28 of the Act, verified by an affidavit to the effect of Form 2 hereto, or, when the resolution is passed by the officers of the union in pursuance of subsection (b) of the said section, a certificate of the Registrar that it is impracticable to summon a meeting of all the members of the union, and a copy of the resolution verified by affidavit to the effect of Form 3 hereto.

Filing of references.

25. Every application to refer a dispute, and all documents accompanying the application except the copy of the application, shall be filed with the Registrar.

Application by Committee.

26. The resolution mentioned in subsection (b) of section 28 of the Act, shall be passed by a majority of the officers of the union present at a meeting of such officers specially summoned for the purpose.

For the purposes of this Rule the officers shall be deemed to be the members of the committee of management of the union.

Endorsement of application.

27. The Registrar shall endorse upon every original application and the copy thereof a memorandum in Form 4 hereto; and shall deliver such copy to the claimant for service upon the other party to the dispute, and the claimant shall thereupon serve such copy and also a copy of the resolution passed by the union or officers, as the case may be, referring the dispute.

Respondent to file answer.

28. The respondent to the application shall, within fourteen days (or, if he reside beyond one hundred miles from Sydney, and beyond twenty miles from a railway station or from a post office or a railway line, within twenty-one days) of the date of service upon him of the application, file with the Registrar and serve upon the claimant an answer to the claim in Form 5 hereto as nearly as the circumstances will allow: Provided that any period prescribed by this rule within which an answer shall be filed may be extended by the Registrar by consent of parties or otherwise by order of the President. In any case where an extension is granted without the consent of the claimant, the respondent shall forthwith serve a copy of the order of the President upon the claimant, who may, if he thinks fit, move the Court to set aside the order.

Added respondents.

29. A claimant may summon only one party as respondent in an industrial dispute. Where the Court allows another respondent or respondents to be added, such respondent or respondents shall file an answer to the claimant's claim within such time as the Court at the time of making the order or the Court or President thereafter directs.

Form of answer.

30. In every answer to the claimant's claim a respondent shall state in respect of each item of the claim—

- (a) that he admits such item, or,
- (b) in what respect he disputes such item.

The respondent shall further state in his answer any counter-claim which he may desire to make.

Failure to file answer.

31. Where a respondent has failed to file an answer within the prescribed time or any authorised extension thereof, the claimant may make application to the Court in Form 6 hereto for an award in terms of the claim.

Letting respondent in to answer claim.

32. Notwithstanding that a respondent has failed to file an answer within the prescribed time or any authorised extension thereof, the President may let the respondent in to file an answer upon such terms as he may think fit.

CLAIMS BY PARTIES OTHER THAN INDUSTRIAL UNIONS.

Application to refer.

33. Where a trade union, or company, or person, not being an industrial union, is, pursuant to an application by the Registrar under section 28 of the Act, by order of the Court, directed to file a claim in an industrial dispute, the trade union, company, or person shall file the claim in Form 7 hereto, and the matters in respect of which the determination of the Court is sought shall be shortly set out in the claim.

The claim shall be accompanied by a copy thereof.

Subsequent proceedings.

34. Upon the filing of the claim the matter shall proceed as in the case of a reference by an industrial union.

CARRIAGE OF PROCEEDINGS.

35. The party who initiates proceedings shall have the carriage thereof and all awards and orders made therein. Where the party so entitled to the carriage fails to take any step within the time limited in that behalf in these Rules or by the Court, President, or Registrar, the Registrar may commit the carriage to any other party to the proceeding.

ISSUES FOR TRIAL.

Application to settle issues.

36. After the filing by the respondent of an answer to the claimant's claim, the claimant may obtain an appointment from the Registrar within twenty-one days or such further time as the Registrar may allow, to settle the issues to be tried in the dispute.

Form of issues.

37. The issues shall be briefly stated in writing in Form 8 hereto, and such draft issues shall be lodged with the Registrar.

Settlement of issues.

38. The Registrar shall settle the issues, but if any question as to the form of the issues be not determined upon such settlement, the same shall be referred to the President by the Registrar or by a party as the Registrar determines.

Filing of issues.

39. The issues as settled shall be filed within fourteen days from the time when the same shall have been settled.

Variation of issues.

40. Either party may at any time after the settlement of the issues apply to the Registrar for leave to vary the same, and the like procedure shall be taken as upon the original settlement of issues.

Amendment of claim or answer.

41. The Registrar may, on the application of either party, direct the claimant or respondent to amend his application or answer by supplying further particulars of the matters claimed or disputed, and may adjourn the settlement of issues from time to time.

SUMMONS FOR DIRECTIONS.

42. Every summons for directions under section 30 of the Act shall be in the Form 9 hereto.

HEARING.

Order of hearing.

43. All references or claims shall be heard and dealt with in the order in which they are filed, unless the President otherwise directs.

PART IV.

APPLICATIONS OTHER THAN REFERENCES OF INDUSTRIAL DISPUTES.

GENERAL FORM.

44. Any person entitled to make an application to the Court or President, the procedure in respect of which is not otherwise provided by these Rules, shall make such application by summons in Form 10 hereto, or by notice of motion in Form 10 hereto.

COMMON RULE.

45. (Application for Common Rule or to extend or amend award.) [Repealed—See Rule 45, p. 46.]

Notice of objections to Common Rule.

46. Every person who desires to oppose any application of the nature mentioned in the last preceding rule shall, before the day fixed for the hearing, file with the Registrar notice of objections in the Form 12 hereto, and shall at the same time serve a copy of such notice of objections upon the applicant.

RECOVERY OF CONTRIBUTIONS.

47. Applications under section 12 of the Act shall be by summons in Form 13 hereto, but it shall not be necessary to support such summons by affidavit.

APPLICATIONS UNDER SECTIONS 34 AND 35.

48. All applications for leave to prosecute or leave to proceed under sections 34 and 35 of the Act may be made by motion *ex parte*.

PART V.

SERVICE OF PROCESS.

Service to be effected by parties.

49. Parties shall effect service of all documents and proceedings, unless the President otherwise directs, or unless it is otherwise herein provided.

Service upon persons.

50. Service of process upon any person shall be effected by leaving such process with such person, or by tendering such process to such person, or by leaving such process with any person apparently above the age of fourteen years at the residence or usual place of business of the person intended to be served, or, where such person has filed an address for service, at such address, or by posting such process in a prepaid registered letter addressed to such person at such address.

Service upon corporations and unions.

51. Service of any process upon any corporation incorporated under any statute passed in any of His Majesty's Dominions shall be effected by leaving such process with the Secretary thereof, or by tendering such process to such Secretary, or by posting such process in a prepaid registered letter to such Secretary at the registered office of such corporation registered under the Act under which it is incorporated, or, where such corporation has filed an address for service, at such address; and service of any process upon an industrial union shall be effected by leaving such process with the registered officer of any industrial union registered under the Act, or by tendering such process to such registered officer, or by posting such process in a prepaid registered letter to such registered officer at the address notified to the Registrar under the Industrial Arbitration Act, or, where such union has filed an address for service, at such address.

Service by Sheriff, &c.

52. The Sheriff of the Supreme Court, or any bailiff of a District Court or Court of Petty Sessions shall, when requested by the Registrar, serve any process or document required by the President to be served by the Registrar; and the charges in respect of such service shall be the charges usual in the Court to which such officer is attached, and shall be paid in the first instance by the party having the carriage of the matter.

President may direct mode of service.

53. When personal or other service of any proceeding is required by these Rules or otherwise, and it is made to appear to the President that prompt service cannot be effected, the President may make such order for substituted or other service, or for the substitution of notice by letter, telegram, public advertisement, or otherwise, as may seem just.

Time for service of summonses.

54. Every summons to show cause and every notice of motion shall be served upon the person, company, association, union, or branch, thereby summoned to appear or notified at least three clear days before the return day thereof, or the day on which it is proposed to move, unless the President gives leave for shorter service.

PART VI.

AWARDS AND ORDERS.

FILING AND SETTLEMENT.

Lodging and service of minutes of award.

55. The party who has the carriage of any award in an industrial dispute, or of any award founded upon an industrial agreement, or of any award or order declaring any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing in relation to an industrial matter to be a common rule of an industry, or of any award or order amending or interpreting any award or order as aforesaid, shall, within ten clear days of the same being pronounced, or within such further time as the Court directs, lodge the minutes in duplicate of the same with the Registrar, and take out an appointment to proceed. Two clear days' notice of the appointment shall be given to the other party, and a copy of the draft minutes shall be served upon him at the time of the notice.

Settlement by Registrar.

56. The Registrar shall settle the minutes of award, provided that if any party be dissatisfied as to the form in which the minutes have been settled, he may, within two clear days of the settlement thereof, apply to the Court or President to vary the minutes as settled.

Registrar may dispense with appointment.

57. The Registrar may, in any case in which it may be expedient so to do, settle and pass any award or order without making any appointment to do so, or upon an appointment returnable forthwith, or without notice to any party.

Award or order to be signed and sealed.

58. Every award and order of the Court or President shall be approved and signed by the President, and every award or order mentioned in Rule 55 *ante* shall also bear the seal of the Court.

59. (Award or order to be retained by Registrar.) [Repealed—See Rule 59, p. 47.]

60. (Common Rule—publication.) [Repealed—See Rule 60, p. 47.]

RELIEF UNDER SECTION 38.

Application.

61. Application for relief under section 38 of the Act by any person affected by an award or order of the Court shall be made in Form 14 hereto.

The affidavit in support shall set forth the grounds upon which such relief is applied for.

ENFORCEMENT OF AWARDS.

Rule to show cause.

62. After the making of an order by the Court in any proceeding, every application under section 37 of the Act for the enforcement of such order or for a special order under either of the subsections of section 36 of the Act shall be by rule calling upon the parties to such proceeding to show cause why an order should not be made under such sections: Provided that nothing in this rule shall affect the procedure hereinafter provided for the recovery of penalties for the breach of any order.

Form of rule.

63. The rule granted by the Court on an application to show cause under the last preceding rule shall be in Form 15 hereto.

Applications by Unions.

64. Every application by an industrial union for the enforcement of an order of the Court shall be in Form 16 hereto.

Resolution of Unions.

65. Every application by an industrial union to enforce an award of the Court shall be accompanied by a copy of the resolution passed in pursuance of subsection (a) of section 28 of this Act, verified by an affidavit in Form 17 hereto, or by a certificate of the Registrar, as mentioned in Rule 24, when a resolution has been passed by the officers of the union in pursuance of subsection (b) of the said section, together with a copy of the resolution verified by an affidavit in Form 17 hereto.

LIABILITY OF MEMBERS FOR DEFICIENCY OF UNION PROPERTY.

66. The liability for a deficiency mentioned in section 40 of the Act may be enforced by an order of the Court made on summons in Form 18 hereto.

67. (Proceedings for Penalty.) [Repealed—See Rule 67, p. 47.]

PART VII.

EXECUTION.

Issue of Writ.

68. In any case where an order for the payment of money is made by the Court or the President, the party in whose favour such order has been made may issue execution in Form 20 hereto on the expiration of eight days from the date on which the money is payable under the order.

Affidavit of amount due.

69. Before suing out execution the creditor shall file with the Registrar an account or statement of what is justly due to him under the order.

Every such account or statement shall be verified on the oath of the creditor, or, if he is absent from New South Wales, on the oath of his agent or attorney to the best of such agent's or attorney's belief, and shall be filed with the Registrar before the issue of the writ of execution; and no such account or statement shall be effectual unless such writ is sued out or renewed within ten days after such account has been so verified, or within such further time as the Court or President shall allow.

Where the creditor is a corporation, such account or statement shall be verified on the oath of an officer, agent, or attorney of such corporation.

Filing an order.

70. No writ of execution shall be issued until the order of the Court or President for or in respect of the enforcement of which execution is sought has been filed, together with a copy of the writ.

Date of Writ.

71. Every writ of execution shall bear date on the day on which the same is issued, and shall be tested in the name of the President for the time being, and may be made returnable immediately after the execution thereof.

Endorsement of Writ.

72. Every writ of execution shall be endorsed with the name and registered office of the solicitor actually suing out the same, and when such solicitor sues out the same as agent for a solicitor in the country the name and registered office of such solicitor in the country shall also be endorsed upon the said writ. If no solicitor is employed to issue the writ, then it shall be endorsed with a memorandum expressing that the same has been sued out by the claimant or respondent in person, as the case may be, mentioning the city or town, and also the name of the street, and number of the house of such claimant or respondent's residence, if any such there be.

Form of Writ

73. Every writ of execution shall be directed to the Sheriff or other officer or person to levy the money really due and payable and sought to be recovered under the order, stating the amount.

PART VIII.

WRIT OF SEQUESTRATION.

74. A writ of sequestration may be issued on a special order to be obtained on motion upon an affidavit of the circumstances of the case. It shall not be necessary to serve the person against whom such writ is sought to be issued with notice of the motion unless the President shall so direct.

PART IX.

WRIT OF ATTACHMENT.

Summons.

75. The Court or President, on summons taken out by any person affected by such breach or non-payment as hereinafter mentioned, may order that a writ of attachment do issue:—

- (a) Where the Court has granted an injunction against any person under section 37 (4) of the Act, and such person has committed an act in breach of such injunction; or
- (b) where a person fails to pay money ordered by the Court or President to be paid, and the Court or President as the case may be is satisfied that he has means to pay such money, or is evading or attempting to evade payment.

No summons shall be taken out by or on behalf of an industrial union for a writ of attachment unless and until a resolution, authorising such summons to be taken out by an officer of the union specified in such resolution, has been passed in the manner prescribed by section 28 of the Act, in respect of a resolution for the enforcement of an award passed by the members of the union, or the officers of the union, as the case may be. Every such summons shall be accompanied by a copy of the resolution passed as aforesaid, verified by affidavit in Form 21 hereto, and, where the resolution is passed by the officers of the union, accompanied also by a certificate of the Registrar that it is impracticable to summon a meeting of all the members of the union.

Issue of Writ of Attachment.

76. Where the Court or President has ordered the issue of a writ of attachment, the Registrar shall forthwith, or at the expiration of such other time as the Court or President shall direct, issue a writ in the Form 22 hereto, directed to the Sheriff of the Supreme Court.

The Sheriff shall bring before the Court or President any person arrested upon such writ of attachment on the first day on which the Court or President shall sit next after such arrest, or as soon afterwards as practicable; and every such person and his property shall be dealt with by imprisonment and sequestration in like manner as persons and their property are dealt with when brought to the bar of the Supreme Court in its Equity Jurisdiction. But this rule is not to prevent the Sheriff from taking bail for the appearance of the person arrested.

PART X.

WITNESSES AND EVIDENCE.

Witnesses.

77. A summons to a witness shall be in Form 23 or Form 24 hereto. Service shall be effected by delivering a copy to the witness, and at the same time producing the original for his inspection, if so desired.

Any number of witnesses may be included in one summons, but the copy served need contain only the name of the witness upon whom it is served.

EVIDENCE ON SUMMONS.

Notice of intention to give oral evidence.

78. In all proceedings before the Court, other than in industrial disputes, and in which oral evidence is to be called, the party intending to call such evidence shall endorse on the process notice of his intention to do so, or he may, subsequent to the filing of the process, file a notice of such intention, and in such latter case shall serve a copy of such notice upon the other party or parties.

PART XI.

COSTS.

Amounts allowed.

79. Where the Court or President orders any costs of any proceedings to be paid to a party thereto, the Court or President may allow to such party (a) the amount of Court fees paid by such party, and (b) the amount of witnesses' expenses, not to exceed the rate in the Schedule Two hereto, and (c) a further sum, if it thinks fit, in respect of the trouble and loss of time of the party, not to exceed the rate in the Schedule Two hereto. The Court or President may in its order assess, either wholly or partly, the amount so to be paid.

Taxation of Costs.

80. In all cases in which the Court or President, at the hearing of the cause, condemns any party to the suit in costs, such party, or the party to whom such costs are to be paid, may forthwith obtain an appointment before the Registrar for the taxation of the bill of costs as between party and party, and such bill may be taxed by the Registrar without any special order for that purpose.

The party who has obtained an appointment to tax a bill of costs shall give to each party entitled to be heard on the taxation thereof, or his solicitor, such notice of the said appointment as the Registrar shall direct, and shall, at or before the same time, serve a copy of the bill to be taxed on such party or his solicitor.

PART XII.

APPEAL.

Appeal from Registrar under award or order.

81. Where the Registrar gives a decision in any matter which he is directed or empowered to determine by any award or order of the Court, and an appeal is by the award or order provided from that decision, the party prosecuting the appeal shall, within ten days of the delivery of such decision, give a written notice to the Registrar and the other parties of intention to appeal. And the Registrar shall forthwith send such notice to the President, and the appeal shall be set down for hearing in due course.

82. (Appeal from Petty Sessions.) [Repealed—See Rule 82, p. 47.]

PART XIII.

PROCEEDINGS BEFORE REGISTRAR.

References to Registrar.

83. In every case where the Court or President by any award or order has ordered that a reference or application may be made to the Registrar for the determination of any matter, the Registrar shall enter in a book the title of the matter in which the reference or application is made, and the date and description of every step taken before him.

Appointment.

84. All proceedings before the Registrar shall be commenced by appointment in the Form 25 hereto, and a copy thereof shall be filed with the Registrar.

Service of appointment and evidence.

85. Every appointment to proceed upon any matter before the Registrar shall be issued and served two clear days before the time fixed, and upon any proceeding whereon evidence is to be given, the Registrar shall be at liberty to direct that such evidence be taken on affidavit, or partly by affidavit.

Previous documents may be used.

86. All affidavits and evidence which have previously been made or taken and read in the Court upon any proceedings in a dispute or matter may be used before the Registrar in all references and applications to and proceedings before him.

Order of Registrar.

87. The provisions of Rules 45 and 46 in respect of applications for the interpretation of awards, orders, or agreements, and the provisions of Part VI of these rules as to the filing and settlement of orders shall as far as practicable *mutatis mutandis* apply in respect of applications to the Registrar for interpretation and in respect of the filing and settlement of orders of the Registrar. Every order of the Registrar shall be signed by him and sealed with the stamp of the Court. For the purposes of enforcement, and until varied or discharged by the Registrar or by the Court on appeal, every order of the Registrar shall be deemed to be an order of the Court.

Publication of order.

88. Every order of the Registrar which interprets any portion of an award or order of the Court mentioned in Rule 60 shall, unless varied or discharged, be published in the same way as provided for in Rule 60.

H. E. COHEN, J., President.
JOHN P. WRIGHT.
SAMUEL SMITH.

(Schedule One.) [Repealed—See p. 48.]

SCHEDULE TWO.

COSTS.		£	s.	d.
For preparing document (including bill of costs), per folio	.. .. .	0	1	6
Copies .. .. .	.. .. .	0	0	6
Attending filing document .. .. .	.. .. .	0	2	6
Service of any document (in addition to mileage where chargeable) .. .. .	.. .. .	0	2	0
Attendance of party at Court, per diem, not exceeding .. .. .	.. .. .	1	1	0
Attendance on taxation of bill of costs .. .. .	.. .. .	0	10	6

WITNESSES' EXPENSES.

Allowances to town witnesses.

Merchants, bankers, master mariners, and professional men, per diem, from 15s. to £1.
Tradesmen, auctioneers, accountants, and clerks, per diem, from 7s. 6d. to 15s.
Artizans, journeymen, sailors, labourers, and the like, per diem, from 6s. to 7s. 6d.

Allowances to country witnesses.

From 4s. to 8s. per day, in addition to the above-mentioned allowances, and in addition to the sum reasonably paid for travelling expenses.

FORM 1.—(Rule 23.)

Application to the Registrar to refer an Industrial Dispute to the Court.

[Fill in here the name of union or person who is party to the dispute] being in dispute with in respect of the following matters, hereby applies to the Registrar that such matters may be referred to the Court for determination. Particulars of matters claimed and disputed :—

FORM 2.—(Rule 24.)

Affidavit to accompany the Resolution under subsection (a) of section 28.

On the _____ day of _____, one thousand nine hundred and _____ of _____, in the State of New South Wales, _____ being duly sworn, makes oath and says as follows :—

The Resolution, a true copy whereof is annexed and marked for identification with the letter "A," was, on the _____ day of _____, 19____, passed by a majority of the members present at a meeting of such union, specially summoned by notice [state how given, i.e., whether sent by post to each member or given in the manner prescribed by the rules of the union] and stating the nature of the proposal to be submitted to the said meeting, a true copy of which notice is hereunto annexed marked with the letter "B."

Sworn by the deponent, on the day first above mentioned, at _____, before me,—

A Commissioner for Affidavits.

FORM 3.—(Rule 24.)

Affidavit to accompany the Resolution under subsection (b) of section 28.

On the _____ day of _____, one thousand nine hundred and _____ of _____, in the State of New South Wales, _____ being duly sworn, makes oath and says as follows :—

The Resolution, a true copy whereof is annexed and marked for identification with the letter "A," was, on the _____ day of _____, 190____, passed by a majority of the officers of the union specified in the rules of the Court of Arbitration present at a meeting of such officers specially summoned for the purpose.

Sworn by the deponent, on the day first above mentioned, at _____, before me,—

A Commissioner for Affidavits.

FORM 4.—(Rule 27.)

Endorsement on Application for Reference.

To the abovenamed Respondent (C.D.)

TAKE notice that the original of the within stated application for a reference to the Court was filed in this office on the _____ day of _____, 190____, and that you are required to file in this office, within _____ days of the service of this notice upon you, any answer you may have to the Claimant's claim. Otherwise you may be subject to such order as the Court may make against you in your absence.

Registrar.

FORM 5.—(Rule 28.)

Answer to Applicant's claim.

To the abovenamed A.B., Claimant.

TAKE notice that the Respondent makes answer to the Claimant's claim as follows :—

1. The Respondent admits item _____ of the Claimant's claim ;

or,

1. The Respondent disputes item _____ of the Claimant's claim, and says that the wages for persons employed in _____ should be _____ pe

RULES.

2. The Respondent disputes item of the Claimant's claim, and says that the conditions of employment of persons employed in should be—

- 1.
- 2.
- 3.

Dated the _____ day of _____, 190 .

FORM 6.—(Rule 31.)

Application for award on failure to file answer.

I (or *The* where the Claimant is an Industrial Union) hereby make application to the Court for an award in the terms of the claim filed in the above matter, the Respondent having been duly served with a copy of the said claim and having failed to file an answer thereto.

Dated the _____ day of _____, 190 .

FORM 7.—(Rule 33.)

Claim by a Trade Union, company, or person not being an Industrial Union in an industrial dispute.

[*Fill in here the name of the union, company, or person who is party to the dispute*] being in dispute with _____ in respect of the following matters, hereby, in pursuance of the direction of the Court of the _____ day of _____, 190 , files a claim for the determination of the Court. Particulars and matters claimed and disputed :—

FORM 8.—(Rule 37.)

Issues for trial.

Claimant's Claim.	Respondent's Answers and Counter Claim.	Claimant's Reply (if any).

FORM 9.—(Rule 42.)

Summons for Directions.

You are hereby summoned to appear before the President of the Court of Arbitration at _____ on the _____ day of _____, 190 , at ten o'clock in the forenoon, or so soon thereafter as the President may hear the summons, to show cause why an order should not be made in the above matter settling issues and fixing times and places of hearing, and for directions on the following matters :—
[*state matters.*]

Dated this _____ day of _____, 190 .
To the abovenamed _____

Registrar.

FORM 10.—(Rule 44.)

Notice of Motion.

TAKE notice that application will be made to the Court of Arbitration (or the President of the Court of Arbitration) on _____ the _____ day of _____ at ten o'clock in the forenoon, or so soon thereafter as the Court (or President) may hear the application, that [*state nature of application*].

upon the grounds set forth in the affidavit of _____ filed herewith.
Dated at _____ this _____ day of _____, 190 ;

To the abovenamed _____

Registrar

Form 11.—(Rule 45.)—[Repealed—See Form 11, p. 48.]

FORM 12.—(Rule 46.)

Notice of objections to common rule.

TAKE notice that at the hearing of the application for the common rule (or the application to extend the award, order, or agreement) in the above matter, I, A.B., intend to object to the granting of the application in respect of my business (or trade) of _____, carried on by me at _____, on the following grounds :—[State the matters to which it is proposed to object, and, shortly, the nature of the objection.]

To _____

Form 13.—(Rule 47.)—[Repealed—See Form 13, p. 49.]

FORM 14.—(Rule 61.)

Application for Relief under Section 38.

THE Industrial Union styled _____ (or I, A.B., of _____) being affected by the order, award, or direction of the Court made on the _____ day of _____, 190____, in the matter of _____ hereby make application to the Court for a Rule calling upon the said _____ and upon the said _____ to show cause why the said _____ should not be relieved from the obligations imposed by such order, award, or direction on the grounds set forth in the affidavit filed herewith.

Dated at _____ this _____ day of _____, 190____.

(Signature of Applicant or Agent.)

FORM 15.—(Rule 63.)

[Rule to show cause against enforcement of order, &c.]

IT is hereby ordered that G.H. appear before the Court of Arbitration at _____, on the _____ day of _____, 190____, at _____ o'clock in the _____ noon, to show cause why (state nature of relief required), upon the grounds set forth in the affidavit of _____ filed the _____ day of _____, 190____.

Dated the _____ day of _____, 190____.

President.

Form 16.—(Rule 64.)—[Repealed—See Form 16, p. 48.]

FORM 17.—(Rule 65.)

Affidavit in support of application to enforce award.

ON the _____ day of _____, one thousand nine hundred and _____, of _____, in the State of New South Wales, being duly sworn, makes oath and says as follows :—

1. By an award of the Court of Arbitration, dated the _____ day of _____, 190____, it was directed, amongst other things [set out terms of award as far as they are material];
2. The resolution, a true copy whereof is annexed and marked for identification with the letter "A," was, on the _____ day of _____, 190____, passed by a majority of the members present at a meeting of such union specially summoned by notice [state how given, i.e., whether sent by post to each member or given in the manner prescribed by the rules of the union], and stating the nature of the proposal to be submitted to the meeting, a true copy of which notice is hereunto annexed marked with the letter "B"; or
The resolution, a true copy whereof is annexed and marked with the letter "A," was, on the _____ day of _____, 190____, passed by a majority of the officers of the union specified in the rules of the Court of Arbitration present at a meeting of such officers specially summoned for the purpose.

Sworn by the deponent on the day first above mentioned, at _____, before me,—

A Commissioner for Affidavits.

RULES.

Form 18.—(Rule 66.)—[Repealed—See Form 18, p. 49.]

Form 19.—(Rules 44 and 67.)—[Repealed—See Form 19, p. 49.]

FORM 20.—(Rule 66.)

Writ of Execution.

No. . . .

Before the Court of Arbitration.

EDWARD VII by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, &c.

To the (Sheriff Bailiff of the Court).

Greeting :

Whereas by an order of the Court of Arbitration of New South Wales, dated the day of, A.D. 190, it was directed that A.B. should pay to C.D. the sum of £, together with costs (if any), on the day of, one thousand nine hundred and This is to command you to levy of the lands and goods of A.B. the sum of £ to satisfy C.D. for the said amount so ordered to be paid to him by the said A.B., and after levy duly made thereof to have that money before us in our Court of Arbitration at Sydney immediately after the execution hereof, to be rendered to the said C.D.

Witness, President of our said Court, at Sydney, this day of, in the year of our reign and A.D. 190

Registrar.

Debt £
Costs
Writ of execution
Levy

£

Besides Sheriff's fees, poundage, and other expenses.

FORM 21.—(Rule 75.)

Affidavit verifying Resolution to accompany Summons for Writ of Attachment.

On the day of, one thousand nine hundred and, of, in the State of New South Wales, being duly sworn, makes oath and says as follows :—

1. The resolution, a true copy whereof is annexed and marked for identification with the letter "A," was, on the day of, 190, passed by a majority of the members present at a meeting of such union specially summoned by notice [*state how given, i.e. whether sent by post to each member or given in the manner prescribed by the rules of the union,*] and stating the nature of the proposal to be submitted to the meeting, a true copy of which notice is hereunto annexed marked with the letter "B" ; or

The resolution, a true copy whereof is annexed and marked with the letter "A," was, on the day of, 190, passed by a majority of the officers specified in the rules of the Court of Arbitration present at a meeting of such officers specially summoned for the purpose.

Sworn by the deponent on the day first above mentioned at before me,—

A Commissioner for Affidavits.

FORM 22.—(Rule 76.)

No. .

Writ of Attachment.

Before the Court of Arbitration.

EDWARD VII by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, &c.

To the Sheriff of The Supreme Court.

Greeting :

We direct you to attach the abovenamed A.B. of _____, so that you may have him before us in the Court of Arbitration on the first day on which the Court shall sit next after the arrest of the said A.B., or so soon thereafter as is practicable, to answer to us for a contempt which he, as it is alleged, has committed in the said Court.

And have you there this writ.

Witness _____, President of our said Court, at Sydney, this _____ day of _____, in the _____ year of our reign and A.D. 19 _____.

Registrar.

By the Court.

For [*state nature of contempt*].

FORM 23.—(Rule 77.)

Summons to Witness.

You and each of you are hereby summoned to appear before the Court of Arbitration at _____, on the _____ day of _____, 19 _____, at ten o'clock in the forenoon, and thereafter from day to day until discharged from attendance, to give evidence concerning the above mentioned cause on behalf of _____ party thereto.

If you fail or neglect to comply with this summons you will be liable accordingly.

Dated at _____, this _____ day of _____, 19 _____.

To _____

Registrar.

FORM 24.—(Rule 77.)

Summons to produce documents.

You and each of you are summoned to appear before the Court of Arbitration at _____, on the _____ day of _____, 19 _____, at _____ o'clock in the _____ noon, and thereafter from day to day until discharged from attendance, to produce all books, papers, and writings in your possession, custody, or control in any way relating to the matters in dispute, and in particular (but not exclusively) the following :—[*Stating them*].

If you fail or neglect to comply with this summons you will be liable accordingly.

Dated at _____, this _____ day of _____, 19 _____.

To _____

Registrar.

FORM 25.—(Rule 84.)

Appointment before Registrar.

TAKE notice that I have appointed _____, the _____ day of _____, 19 _____, at my office, St. James' Chambers, King-street, Sydney, at _____ of the clock in the _____ noon, for the [*state nature of appointment*].

To _____

Registrar.

[Published in Government Gazette No. 153 of 24th March, 1905.]

Department of the Attorney-General and of Justice,
Sydney, 24th March, 1905.

HIS Excellency the Governor, with the advice of the Executive Council, has been pleased to approve of the following Rules made by the Court of Arbitration under the provisions of the Industrial Arbitration Act, 1901.

C. G. WADE.

IN THE COURT OF ARBITRATION OF NEW SOUTH WALES.

Monday, the 20th day of March, 1905.

IN pursuance of the powers in this behalf conferred upon the Court of Arbitration by the Industrial Arbitration Act, 1901, the Court does hereby make the following rules, that is to say :—

1. The Court may entertain any ex parte application which it may consider as urgent, and make such order therein as it shall deem just.
2. The President when making orders for the payment of any fine, penalty, or subscription under section 12 may direct payment to be made upon such terms and conditions as he may think expedient and just.
3. If any firm or person required to be registered under the Registration of Firms Act, 1902, is not so registered, proceedings in this Court may be taken and prosecuted against such firm or person in the name under which such firm or person is carrying on business, and such name shall for the purposes of such proceedings be a sufficient designation of such firm or person in all summonses or other proceedings, and any award, order, or direction made or given by the Court or President against or affecting the said firm or person shall be binding on each and every member of such firm, except where otherwise expressed in such award, order, or direction.

Rules 45, 59, 60, 67, and 82, Schedule One, and Forms 11, 13, 16, 18, and 19 of the Rules of Court of the 28th day of December, 1904, are hereby repealed, and the following Rules, Schedules, and Forms substituted therefor :—

COMMON RULE.

Application for Common Rule, or to extend or amend award.

45. When application is made—
- (a) To declare that any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing in relation to an industrial matter, shall be a common rule of an industry affected by a proceeding before the Court ; or
 - (b) For the amendment of any award, order, or direction, with the view to the enforcement of which the Court has declared any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing whatsoever in relation to an industrial matter should be a common rule of an industry affected by the proceeding.

The applicant shall not, later than thirty days before the hearing of the application, file with the Registrar notice of citation in Form 11 hereto, and in the same way as process is served under rules 50 and 51 hereof, serve copies of such notice upon all employers who are known or may reasonably become known to the applicant, and who are engaged in the industry in respect of which the application is made, within the area which will be affected by the granting of the application, whether such employers are exclusively engaged therein or are engaged therein partly or incidentally only, and employ workmen or workwomen for that purpose. The applicant shall also publish such notice in such manner as the Court or Registrar may direct in one or more newspapers circulating in the area aforesaid.

Provided that where application is made for an amendment of an award, order, or direction, as mentioned in subclause (b) of this rule, the Court or President may grant leave for notice less extensive both as to the time and persons.

Award or Order to be filed with Registrar.

59. The original of every award or order required to bear the seal of the Court shall be filed with the Registrar. No award or order shall be enforced unless and until drawn up and filed with the Registrar, and no award or order declaring any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing in relation to an industrial matter to be a common rule of an industry, nor any award or order amending any award, order, or direction with a view to the enforcement of which the Court has declared any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing whatsoever in relation to an industrial matter should be a common rule of an industry effected by the proceeding, shall be in force, or shall be enforced unless and until the same has been drawn up and filed with the Registrar, and unless and until after the expiration of seven days from the date of its publication in the Government Gazette, as hereinafter provided.

Common Rule Publication.

60. Every award or order of the Court declaring that any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing in relation to an industrial matter, shall be a common rule of an industry, and every award or order amending any award, order, or direction with a view to the enforcement of which the Court has declared any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing whatsoever in relation to an industrial matter should be a common rule of an industry affected by the proceeding shall, when signed by the President and filed with the Registrar, be published in the Government Gazette, and in such newspapers as the President directs.

Proceeding for Penalty.

67. Every application for the recovery of a penalty for any breach of an award, order, or direction of the Court shall be by summons in Form 19 hereto, and may be for more than one but not for more than three breaches of the same award, order, or direction, if committed within a period of three months; and the dates and nature of the alleged breach or breaches shall be disclosed either in the summons or in the affidavit filed in support thereof, as precisely as may be practicable.

Appeal from Petty Sessions.

82. Every person who has been a party to any proceedings under section 37 of the Act, in which an order has been made by a stipendiary or police magistrate may appeal to the Court against such order: Provided that a notice in writing stating his intention to appeal and the grounds thereof is given by him to the Clerk of the Court where the order was made within seven days from the making of such order: Provided also that the appellant shall also within such seven days enter before a Justice into a recognizance with a surety or sureties to the satisfaction of the Justice in the sum of £10, and also the amount of the sum (if any) so adjudged to be paid, conditioned to appear at the Court and prosecute the appeal and abide the judgment of the Court thereon, and pay such costs as may be awarded by the Court.

The Clerk of the Court where the order was made shall forthwith forward a copy of such notice given to him to the Registrar and to the other party to the proceedings. The appellant shall file such notice, and thereupon the appeal shall be set down for hearing.

SCHEDULE ONE.

Fees payable at the Registrar's Office in respect of Proceedings in the Court.

	s.	d.
Filing affidavit	1	0
Filing any other document	2	0
Search	1	0
Inspection	1	0
For every office copy, per folio of 72 words	0	4
On every summons or writ issued (including filing fee)	5	0
On every order of the Court or President (including filing fee)	2	6
On every order of the Registrar (including filing fee)	2	6
Affixing Seal of Court to any document	5	0
Filing every application to refer an industrial dispute	5	0
Renewing writ of execution	1	0
For certificate of Registrar	2	6
On every appointment before Registrar	1	0
Taxing Costs (where amount of Bill does not exceed £12 10s.)	5	0
In every other case, on the amount allowed, 2 per cent.		
Service of any document (in addition to mileage where chargeable)	3	0
On every rule of Court (including filing fee)	5	0

FORM 11.—(Rule 45.)

Notice of Citation.

TAKE notice that the abovenamed Claimant will make application to the Court of Arbitration to declare that [*here set out the practice, regulation, rule, custom, term of agreement, condition of employment, or dealing which it is desired to make a common rule*] shall be a common rule of the industry of [*state industry*] or will make application for the amendment of the [*here set out the award, order, or direction*]; and take notice that objections may be filed at the office of the Registrar not later than twenty-eight days from the date of [*publication of this notice where notice is published but not served or service of this notice where notice is both published and served*]. A copy of the application may be inspected at the office of the undersigned, free of charge.

Take notice also that if objections are not filed on your behalf you may be made subject to such order as the Court may make against you in your absence.

Take notice further that any such order which the Court may make as to the common rule may be in terms differing from the claims contained in the application for the common rule.

The following are the particulars of the matter proposed to be made a common rule (or amended) as aforesaid :—[*Set out here the matters proposed to be made a common rule or amended.*]

Claimant,
or
Solicitor for Claimant.
(Address.)

FORM 16.—(Rule 64.)

Application by Industrial Union for enforcement of Award.

WHEREAS by an order of the Court of Arbitration dated the _____ day of _____, 19____, it was directed amongst other things that [*set out terms of order, so far as they are material to the application*]: Now _____ an Industrial Union of Employers (or Employees), hereby, in pursuance of a resolution passed in terms of section 28 of the Industrial Arbitration Act (a copy of which resolution is attached hereto) apply to the Court for a rule calling upon _____ to show cause why the said award should not be enforced against him.

Dated at _____ the _____ day of _____, 19____,

For the Industrial Union.

RULES.

FORM 13.—(Rule 47.)

Application by Summons under Section 12.

To the abovenamed

You are hereby summoned to appear before the President of the Court of Arbitration, at the Supreme Court-house, King street, Sydney, on the day of , 19 , at ten o'clock in the forenoon, or so soon thereafter as the President may hear the summons, to show cause why you should not be ordered to pay to the said Union the sum of (computed as in the particulars attached hereto), being the amount of fines (penalties or subscriptions) due and payable by you to the said Union in pursuance of the said rules.

Dated this day , 19 .

Registrar.

Particulars of Claim referred to.

Costs of Summons.

(Signed.)

FORM 18.—(Rule 66.)

Summons for satisfaction of an order by members of a union or branch.

You are hereby summoned to appear before the Court of Arbitration at , on , the day of 19 , at o'clock in the noon, or so soon thereafter as the Court may hear the summons, to show cause why you should not be ordered to satisfy an order of the Court dated the day of , 19 , upon the grounds set forth in the affidavit of filed herewith.

Dated this day of , 19 .

Registrar.

FORM 19.—(Rules 44 and 67.)

Summons to show cause.

You are hereby summoned to appear before the Court of Arbitration at on the day of 19 , at ten o'clock in the forenoon, or so soon thereafter as the Court may hear the summons to show cause why you should not [state shortly the nature of the application to be made] upon the grounds set forth in the affidavit of filed herewith

Dated this day of 19 .

Registrar.

To the abovenamed.

H. E. COHEN, J., President
JOHN P. WRIGHT, Member.
SAMUEL SMITH, Member.

[Published in Government Gazette No. 164 of 28th March, 1905.]

Department of the Attorney-General and of Justice,
Sydney, 28th March, 1905.

HIS Excellency the Governor, with the advice of the Executive Council, has been pleased to approve of the following Rules, made by the Court of Arbitration under the provisions of the Industrial Arbitration Act, 1901.

C. G. WADE.

RULE UNDER THE INDUSTRIAL ARBITRATION ACT, 1901.

IN THE COURT OF ARBITRATION OF NEW SOUTH WALES.

Friday, the twenty-fourth day of March, 1905.

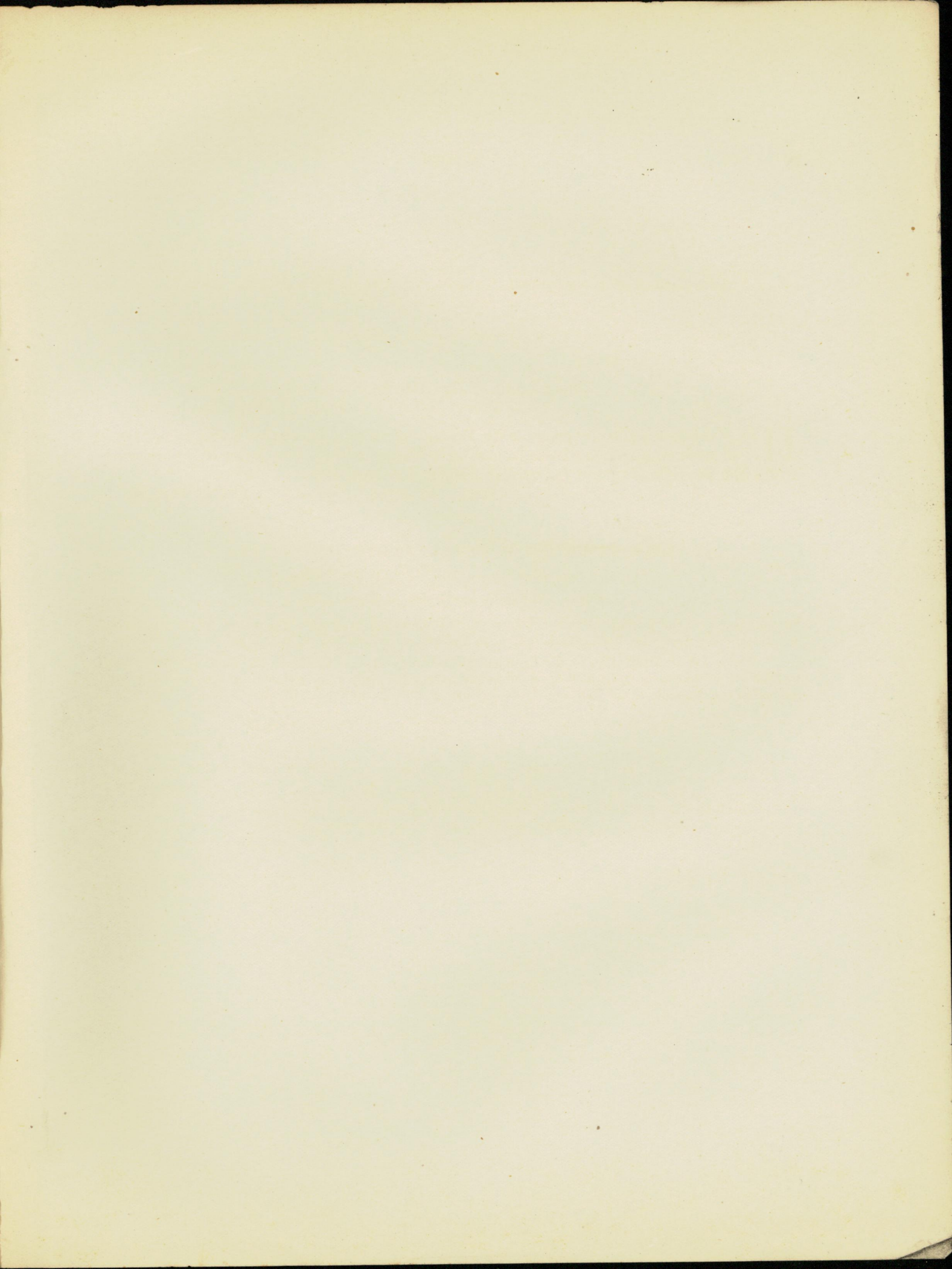
IN pursuance of the powers in this behalf conferred upon the Court of Arbitration by the Industrial Arbitration Act, 1901, the Court does hereby make the following Rule, that is to say:—

The Court of Arbitration or the President thereof may, if it or he thinks fit, allow any proceeding to be taken or document to be filed or issued in the said Court without the payment of the fee or fees prescribed in the Schedule to the Rules of the said Court of the twentieth day of March, 1905.

H. E. COHEN, J., President.

JOHN P. WRIGHT, Member.

SAMUEL SMITH, Member.



Department of the Attorney General

It is the duty of the Governor, with the advice and consent of the Council, to see that the laws are faithfully executed, and to see that the public money is properly disbursed.

AN ACT TO AMEND THE ACTS RELATIVE TO THE OFFICE OF THE ATTORNEY GENERAL

Section 1. The office of the Attorney General shall be held by one person, to be appointed by the Governor, with the advice and consent of the Council, for a term of four years.

Section 2. The Attorney General shall be the chief lawyer of the State, and shall see that the laws are faithfully executed.

Section 3. The Attorney General shall have the right to appear and be heard in all cases in which the State is a party.

Section 4. The Attorney General shall have the right to file a writ of habeas corpus in any case in which the State is a party.

Section 5. The Attorney General shall have the right to file a writ of mandamus in any case in which the State is a party.

Section 6. The Attorney General shall have the right to file a writ of prohibition in any case in which the State is a party.

Section 7. The Attorney General shall have the right to file a writ of certiorari in any case in which the State is a party.

Section 8. The Attorney General shall have the right to file a writ of error in any case in which the State is a party.

Section 9. The Attorney General shall have the right to file a writ of quo warrantu in any case in which the State is a party.

Section 10. The Attorney General shall have the right to file a writ of replevin in any case in which the State is a party.

Section 11. The Attorney General shall have the right to file a writ of restitution in any case in which the State is a party.

Section 12. The Attorney General shall have the right to file a writ of return in any case in which the State is a party.

Section 13. The Attorney General shall have the right to file a writ of scire facias in any case in which the State is a party.

Section 14. The Attorney General shall have the right to file a writ of summons in any case in which the State is a party.

Section 15. The Attorney General shall have the right to file a writ of attachment in any case in which the State is a party.

Section 16. The Attorney General shall have the right to file a writ of sequestration in any case in which the State is a party.

Section 17. The Attorney General shall have the right to file a writ of execution in any case in which the State is a party.

Section 18. The Attorney General shall have the right to file a writ of delivery in any case in which the State is a party.

Section 19. The Attorney General shall have the right to file a writ of possession in any case in which the State is a party.

Section 20. The Attorney General shall have the right to file a writ of removal in any case in which the State is a party.

Section 21. The Attorney General shall have the right to file a writ of return in any case in which the State is a party.

Section 22. The Attorney General shall have the right to file a writ of scire facias in any case in which the State is a party.

Section 23. The Attorney General shall have the right to file a writ of summons in any case in which the State is a party.

Section 24. The Attorney General shall have the right to file a writ of attachment in any case in which the State is a party.

Section 25. The Attorney General shall have the right to file a writ of sequestration in any case in which the State is a party.

Section 26. The Attorney General shall have the right to file a writ of execution in any case in which the State is a party.

Section 27. The Attorney General shall have the right to file a writ of delivery in any case in which the State is a party.

Section 28. The Attorney General shall have the right to file a writ of possession in any case in which the State is a party.

Section 29. The Attorney General shall have the right to file a writ of removal in any case in which the State is a party.

Section 30. The Attorney General shall have the right to file a writ of return in any case in which the State is a party.

Section 31. The Attorney General shall have the right to file a writ of scire facias in any case in which the State is a party.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. 59, 1901.

An Act to provide for the registration and incorporation of industrial unions and the making and enforcing of industrial agreements ; to constitute a court of arbitration for the hearing and determination of industrial disputes, and matters referred to it ; to define the jurisdiction, powers, and procedure of such court ; to provide for the enforcement of its awards and orders ; and for purposes consequent on or incidental to those objects. [Assented to, 10th December, 1901.]

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 :—

Preliminary.

1. This Act may be cited as the "Industrial Arbitration Act, Short title. 1901."

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Industrial Arbitration.

Definitions.

2. In this Act, unless the context otherwise shows—
- “Branch” means branch of a trade-union which is registered or has its principal office outside the State.
- “Court” means court of arbitration constituted by this Act.
- “Employer” means person, firm, company, or corporation employing persons working in any industry, and includes the Railway Commissioners of New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage.
- “Employee” means person employed in any industry.
- “Industrial dispute” means dispute in relation to industrial matters arising between an employer or industrial union of employers on the one part, and an industrial union of employees or trade-union or branch on the other part, and includes any dispute arising out of an industrial agreement.
- “Industrial matters” means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and, without limiting the general nature of the above definition, includes all or any matters relating to—
- (a) the wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the prices paid or to be paid therein in respect of such employment;
 - (b) the hours of employment, sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment;
 - (c) the employment of children or young persons, or of any person or persons or class of persons in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein;
 - (d) any established custom or usage of any industry, either generally or in any particular locality;
 - (e) the interpretation of an industrial agreement.
- “Industrial union” means industrial union registered and incorporated under this Act.
- “Industry” means business, trade, manufacture, undertaking, calling, or employment in which persons of either sex are employed, for hire or reward, and includes the management and working of the Government Railways and Tramways, the Sydney Harbour Trust, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage, but does not include employment in domestic service. “Lock-out”

Industrial Arbitration.

“Lock-out” means the closing of a place of employment or the suspension of work by an employer done with a view to compel his employees or to aid another employer in compelling his employees to accept a term or terms of employment.

“Prescribed” means prescribed by this Act or any rules or regulations made thereunder.

“Registrar” means registrar appointed under this Act.

“Strike” shall mean the cessation of work by a body of employees acting in combination done as a means of enforcing compliance with demands made by them or other employees on employers.

“Trade union” means trade union registered under the Trade Union Act, 1881.

The registrar.

3. The Governor shall appoint a registrar who shall have the powers and perform the duties prescribed and may appoint such officers as may be required to administer this Act. Appointment of officers.

Industrial unions.

4. Where the registrar, or in case of appeal, the court is satisfied that the provisions of this Act have been complied with, the registrar shall, in the prescribed manner and form, register as an industrial union— Registration of industrial unions.

- (a) any person or association of persons or any incorporated company or any association of incorporated companies, or of incorporated companies and persons who or which has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees;
- (b) any trade union or association of trade unions;
- (c) any branch;

and shall issue a certificate of incorporation, which shall be conclusive evidence in all courts, until cancelled, that the requirements of this Act in respect of incorporation have been complied with.

5. An application to register an industrial union shall be made in writing in the prescribed form, and shall— Applications for registration.

- (a) if made by an incorporated company, be signed by a majority of the directors or, if there are no directors thereof resident in the State, of the managers thereof so resident; and
- (b) if made by an association be signed by a majority of the committee of management thereof; and

(c)

Industrial Arbitration.

(c) if made by a trade union or branch, be signed by a majority of the general committee of management thereof.

And the registrar may require such proof as he thinks necessary of the authority of the said persons to make the said application.

But no industrial union shall be registered unless the registrar is satisfied that the rules or articles of the company, association, trade union, or branch applying to be registered include provisions as to the matters set out in Schedule One. And any application to register an industrial union may be refused if another industrial union to which the applicants might conveniently belong has already been registered. And no branch shall be registered unless it is a bona fide branch of a trade union and of sufficient importance to be registered separately.

The Governor may from time to time, by regulations made under this Act, alter, repeal, or amend the said Schedule.

Rules to be adopted.

6. Any company, association, trade union, or branch applying to be registered as an industrial union may, on application to the Governor, upon the recommendation of the registrar, obtain leave to adopt, and may thereupon adopt, any rules dealing with the matters mentioned in Schedule One, or in any regulations made under the last preceding section, as part of the rules of the company, association, union, or branch; and upon such leave being obtained, the said rules, when adopted in pursuance of this section, shall, notwithstanding any memorandum or articles of association or any rules of such company, association, union, or branch, become binding on all members of the same.

Incorporation of industrial union.

7. (1) Upon the issue of a certificate of incorporation, the members for the time being of the company, association, trade union, or branch incorporated in the industrial union shall, until the registration and incorporation of the union is cancelled in pursuance of this Act be for the purposes of this Act a body corporate by the name mentioned in such certificate, and shall have for the purposes of this Act perpetual succession and a common seal.

Power to hold land.

(2) An industrial union—

- (a) may purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with any real or personal property: Provided that nothing in this Act shall render an industrial union liable to be sued, or the property of an industrial union, or of any member thereof, liable to be taken in execution by any process in law other than in pursuance of this Act or in respect of obligations incurred in the exercise of rights and powers conferred by this Act;
- (b) shall forward to the registrar, subject to the prescribed penalties, at the prescribed dates, and verified in the prescribed manner, lists of its members and copies of its rules, and copies of industrial agreements to which it is a party.

Lists of members to be furnished.

Industrial Arbitration.

8. If it appears to the registrar—

- (a) that for any reasons which appear to him to be good the registration of an industrial union ought to be cancelled ; or
- (b) that an industrial union has been registered erroneously or by mistake ; or
- (c) that the provisions of the rules, articles, or regulations of the union as to any of the matters mentioned in Schedule One as amended under this Act are inadequate, or have not bona fide been observed ; or
- (d) that the proper authority of the union wilfully neglects to provide for the levying and collection of subscriptions, fees, or penalties from members of the union ; or
- (e) that the accounts of the union have not been audited in pursuance of the rules, articles, or regulations, or that the accounts of the union or of the auditor do not disclose the true financial position of the union ;
- (f) that any industrial union has wilfully neglected to obey any order of the court ;

Cancellation of registration of union.

he shall make application to the court for the cancellation of the registration of the union, giving notice thereof to the secretary of the union.

The court shall hear the said application, and if it is of opinion that the registration of the union should be cancelled, it shall so order, and thereupon the registration and incorporation of the union under this Act shall be void :

Provided that such cancellation shall not relieve the industrial union, or any member thereof, from the obligation of any industrial agreement or award or order of the court, nor from any penalty or liability incurred prior to such cancellation."

9. During the pendency of any reference to the court no application for the cancellation of the registration of an industrial union shall be made or received, and no resignation or discharge of the membership of any industrial union or of any company, association, trade union or branch, constituting an industrial union, shall have effect.

No cancellation during pendency of proceedings.

10. Nothing in this Act shall prevent a transfer of shares in any registered company, or in any association which is, or is a member of, an industrial union :

Saving of right to transfer shares in company.

Provided that no such transfer shall relieve the transferor from any liability incurred by him under this Act up to the date of such transfer.

11. Industrial unions shall be classified by the registrar as industrial unions of employers and industrial unions of employees, and the certificate of incorporation shall state the class of the industrial union mentioned therein.

Classification of industrial unions.

Industrial Arbitration.

Recovery of
subscriptions and
contributions from
members of unions.

12. Every dispute between a member of an industrial union and such union shall be decided in the manner directed by the rules of such union; and the president of the court, on the application of the trustees or other officers authorised to sue on behalf of such union, may order the payment by any member of any fine, penalty, or subscription payable in pursuance of the rules aforesaid, or any contribution to a penalty incurred or money payable by the union under an award or order of the court:

Provided that no such contribution shall exceed the sum of ten pounds.

Industrial agreements.

Industrial agree-
ments may be made.

13. Any industrial union may make an agreement in writing relating to any industrial matter—

- (a) with another industrial union; or
- (b) with an employer;

which, if it is made for a specified term not exceeding three years from the making of the agreement, and if a copy thereof is filed with the registrar, shall be or become an industrial agreement within the meaning of this Act.

On whom industrial
agreements are
binding.

14 (1) An industrial agreement may be rescinded by agreement made in writing by the parties thereto and filed with the registrar, or may be varied by another industrial agreement so made and filed.

If not so rescinded the agreement or varied agreement shall be in force for the term specified in the agreement, and unless any party thereto gives to the registrar, at least one month before the expiration of such term, a notice in writing of intention to terminate the agreement or varied agreement at such expiration the agreement or varied agreement shall continue in force until the expiration of one month after notice in writing of intention to terminate it has been given to the registrar by any party thereto.

(2) Every industrial agreement or varied agreement shall be binding—

- (a) on the parties thereto during the currency of the agreement or varied agreement, and on such parties in respect of anything done or suffered under or by virtue of it during its currency;
- (b) on every person during the currency of the agreement or varied agreement while he is a member of any industrial union which is a party thereto, and on every person in respect of anything done or suffered under or by virtue of it during its currency and while he is such member.

To have same effect
as award of court
of arbitration.

15. An industrial agreement as between the parties bound by the same shall have the same effect and may be enforced in the same way as an award of the court of arbitration, and the court shall have full and exclusive jurisdiction in respect thereof.

Constitution

*Industrial Arbitration.**Constitution of the Court of Arbitration.*

16. There shall be a court of arbitration for the hearing and determination of industrial disputes and of references and applications under this Act. The court shall be a court of record and shall have a seal, which shall be judicially noticed.

The court shall consist of a president and two members.

17. The president of the court shall be a Judge of the Supreme Court to be named by the Governor. The Governor may on the request of the president appoint a Judge of the Supreme Court as deputy president, to act in respect of any matter mentioned in his appointment; and the said deputy shall, in respect of the said matter, have all the rights, powers, jurisdictions, and privileges of the president under this Act.

The two members of the court shall be appointed by the Governor, one from among the persons recommended in the manner and subject to the conditions prescribed in Schedule Two by a body of delegates from industrial unions of employers, and the other from among the persons recommended as aforesaid by a body of delegates from industrial unions of employees; but, if any such body fails to make such recommendation, the Governor may appoint such person as he thinks fit.

18. The president and members of the court shall be appointed as soon as practicable after the commencement of this Act, and every three years after such first appointment, and shall hold office until the time of the next triennial appointment to the office, but the members shall be eligible for re-appointment.

19. Any vacancy in the office of member of the court occasioned by death, resignation, or removal from office shall be filled by appointment on such recommendation as aforesaid, and the person so appointed shall hold office until the time of the next triennial appointment, but shall be eligible for re-appointment.

Where a member of the court is absent from his office by reason of illness or other cause, his office shall be filled by appointment as aforesaid, and the person so appointed shall hold office during such absence.

20. During his term of office the president or a member of the court shall, except where otherwise provided in this Act, be liable to removal from office in such manner and upon such grounds only as a Supreme Court Judge is by law liable to be removed from his office.

21. The members of the court shall be paid a salary of seven hundred and fifty pounds per annum each, and such remuneration for expenses while travelling and while holding views and inspections as may be prescribed.

22. The court may be constituted by the president or any member for the purpose of being adjourned.

23.

Industrial Arbitration.

Appointment of assessors.

23. When an industrial dispute involving technical questions is referred to it, the court may appoint two assessors for the purpose of advising it on such questions.

One of such assessors shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employers, and the other shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employees.

If default is made in nominating any of such assessors, or if the parties consent, the court may appoint an assessor or assessors without any nomination.

Disqualifications for office.

Disqualifications for office.

24. The following persons shall be disqualified from being recommended or appointed, or holding office as a member of the court of arbitration—

- (a) a bankrupt who has not obtained his certificate of discharge;
- (b) any person of unsound mind;
- (c) an alien.

Persons disqualified may be removed from office by the Governor.

25. The Governor shall remove from office any member of the court who becomes disqualified under the last preceding section, or is proved to the satisfaction of the Supreme Court, or a Judge thereof, to be guilty of inciting any industrial union or employer to commit any breach of an industrial agreement or award, or to be guilty of any offence under sections twenty-six or twenty-seven of this Act.

Jurisdiction and procedure of the court.

Jurisdiction and powers of court.

26. The court shall have jurisdiction and power—

- (a) on reference in pursuance of this Act to hear and determine, according to equity and good conscience—
 - (i) any industrial dispute; or
 - (ii) any industrial matter referred to it by an industrial union or by the registrar;
 - (iii) any application under this Act;
- (b) to make any order or award or give any direction in pursuance of such hearing or determination;
- (c) subject to the approval of the Governor to make rules regulating the practice and procedure of the court, and more especially but not so as to limit the generality of its powers in the premises with reference to;
 - (i) the times and places of sitting;
 - (ii) the summoning of parties and witnesses;
 - (iii) the persons by whom and conditions upon which parties may be represented;
 - (iv) the rules of evidence;

(v)

Industrial Arbitration.

- (v) the enforcement of its orders ;
- (vi) allowances to witnesses, costs, court fees ;
- (vii) generally regulating the procedure of the court ;
- (viii) appeals under this Act ;
- (ix) the reference of any matter ;
- (d) to dismiss any matter at any stage of the proceedings where it thinks the dispute trivial ;
- (e) to dismiss any proceeding without giving a decision, where, in the opinion of the court, an amicable settlement can and should be brought about ;
- (f) to order any party to pay to any other party such costs and expenses (including expenses of witnesses) as may be specified in the order, and at any time to vary such order ; but no costs shall be allowed for the attendance before the court of any counsel, solicitor, or agent for any party ;
- (g) at any stage of the proceedings of its own motion, or on the application of any of the parties, and upon such terms as it thinks fit—
 - (i) to direct parties to be joined or struck out ;
 - (ii) to amend or waive any error or defect in the proceedings ;
 - (iii) to extend the time within which anything is to be done by any party, whether within or after the prescribed time ; and
 - (iv) generally to give such directions as are deemed necessary or expedient in the premises ;
- (h) to proceed and act in any proceedings in the absence of any party who has been duly served with notice to appear therein as fully as if such party had duly attended ;
- (i) to sit in any place for the hearing and determining of any matter lawfully before it ; provided that, as far as practicable, the court shall sit in the locality within which the subject-matter of the proceeding before it arose ;
- (j) on its own motion, or at the request of any of the parties to the dispute, to direct that the proceedings of the court be conducted in private, and that all persons other than the parties, their representatives, and any witnesses under examination shall withdraw from the court ;
- (k) to adjourn any proceeding to any time and place ;
- (l) to refer to an expert the taking of accounts, estimates of quantities, calculations of strains, and other technical matters, and to accept the report of such experts as evidence ;
- (m) to exercise in respect of the summoning, sending for, and examination of witnesses and documents, and in respect of persons summoned or giving evidence before it, or on affidavit, the same powers as are by section one hundred and forty of the Parliamentary Electorates and Elections Act of 1893 conferred

Industrial Arbitration.

conferred on the committee of elections and qualifications constituted by that Act; Provided that no party to an industrial dispute shall be required to produce his books except by order of the president, and that such books when produced shall not, except by the consent of the party producing them, be inspected by anyone except the president or members of the court, who shall not divulge the contents thereof under penalty of dismissal from office;

- (n) to deal with all offences and enforce all orders under this Act;
- (o) at any time to vary its own orders and re-open any reference;
- (p) to admit and call for such evidence as in good conscience it thinks to be the best available whether strictly legal evidence or not: Provided that any question as to the admissibility of evidence shall be decided by the president alone.

Disclosure of profits.

27. The president and each member of the court shall be sworn in the manner and before the persons prescribed before entering upon the hearing of any dispute, not to disclose to any person whatsoever, any matters or evidence relating to any trade secret or to the profits or financial position of any witness or party, and shall be liable to a penalty not exceeding five hundred pounds and dismissal from office for a violation of such oath, and shall at the request of any party or witness hear such evidence in camera.

Reference of dispute to court.

28. No matter within the jurisdiction of the court may be referred to the court, nor may any application to the court be made except by an industrial union or by any person affected or aggrieved by an order of the court.

But no industrial dispute shall be referred to the court for determination, and no application shall be made to the court for the enforcement of any award of the court by an industrial union, except in pursuance of—

- (a) a resolution passed by the majority of the members present at a meeting of such union specially summoned by notice sent by post to each member or given in the manner prescribed by rules of the union, and stating the nature of the proposal to be submitted to the meeting; or
- (b) where in the opinion of the registrar it is impracticable to summon a meeting of all the members of the union, a resolution passed, in accordance with rules made by the court in that behalf, by a majority of the officers of the union specified in such rules.

Notwithstanding anything in this section the registrar may—

- (1) Inform the court of any breach of this Act or of any order or award of the court.
- (2) Refer to the court an industrial dispute when the parties thereto or some or one of them are or is not an industrial union.

Industrial Arbitration.

29. Any union or person entitled to refer an industrial dispute, or any matter, to the court, may make application to the registrar in the prescribed form. Method of reference to court.

30. (1) Any party to a reference may at any time take out a summons, in the form prescribed by the rules of the court, returnable before the president of the court sitting in chambers. Summons for directions.

At the hearing of the summons the president may make such order as may be just with respect to all the interlocutory proceedings to be taken before the hearing by the court of the dispute, and as to the costs thereof, and with respect to the issues to be submitted to the court, the persons to be served with notice of the proceedings of the court, particulars of the claims of the parties, admissions, discovery, interrogatories, inspection of documents, inspection of real or personal property, commissions, examination of witnesses, and the place and mode of hearing. The court may at the hearing of any reference revoke or amend any such order of the president, and may make any order which the president may make under this section.

(2) In addition to the powers conferred by this section, the president of the court sitting in chambers for the purpose of administering this Act shall have all the powers of a Judge of the Supreme Court sitting in chambers for the purpose of any matter before that Court. Additional powers.

31. The court and, on being authorised in writing by the court, any member or officer of the court or any other person may at any time enter any building, mine, mine-workings, ship, vessel, place, or premises of any kind whatsoever, 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, which has been made the subject of a reference to the court, and inspect and view any work, material, machinery, appliances, or article therein. View by, or by direction of court.

And any person who hinders or obstructs the court, or any such member, officer, or person as aforesaid, in the exercise of any power conferred by this section, shall for every such offence be liable to a penalty not exceeding five pounds, and every officer of the court or such other person so authorised as aforesaid shall be required to take the like oath as is prescribed in section twenty-seven in the manner and before the persons prescribed, and shall be liable to a like penalty for the violation thereof.

32. Proceedings in the court shall not be removable to any other court by certiorari or otherwise; and no award, order, or proceeding of the court shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever. No certiorari.

33.

Industrial Arbitration.

No abatement on death of party.

33. No proceedings in the court shall abate by reason of the death of any party, but such proceedings may, by order of the court, be continued on such terms as the court thinks fit by or against the legal representative of such party.

Prohibition of strikes or lock-outs.

34. Whoever—

(a) before a reasonable time has elapsed for a reference to the court of the matter in dispute; or

(b) during the pendency of any proceedings in the court in relation to an industrial dispute,

(1) does any act or thing in the nature of a lock-out or strike; or suspends or discontinues employment or work in any industry; or

(2) instigates to or aids in any of the abovementioned acts, shall be guilty of a misdemeanour, and upon conviction be liable to a fine not exceeding one thousand pounds, or imprisonment not exceeding two months:

Provided that nothing in this section shall prohibit the suspension or discontinuance of any industry or the working of any persons therein for any other good cause:

And provided that no prosecution under this section shall be begun except by leave of the court.

In what cases dismissal of employee is breach of an award, order, or industrial agreement.

35. If an employer dismisses from his employment any employee by reason merely of the fact that the employee is a member of an industrial union, or is entitled to the benefit of an award, order, or agreement, such employer shall be liable to a penalty not exceeding twenty pounds for each employee so dismissed.

In every case it shall lie on the employer to satisfy the court that such employee was so dismissed by reason of some facts other than those above mentioned in this section: Provided that no proceedings shall be begun under this section except by leave of the court.

Minimum wage and employment of members of unions.

36. The court in its award or by order made on the application of any party to the proceedings before it, at any time in the period during which the award is binding, may—

(a) prescribe a minimum rate of wages or other remuneration, with provision for the fixing in such manner and subject to such conditions as may be specified in the award or order, by some tribunal specified in the award or order, of a lower rate in the case of employees who are unable to earn the prescribed minimum; and

(b) direct that as between members of an industrial union of employees and other persons, offering their labour at the same time, such members shall be employed in preference to such other persons, other things being equal, and appoint a tribunal to finally decide in what cases an employer to whom any such direction applies may employ a person who is not a member of any such union or branch.

37.

Industrial Arbitration.

37. In any proceeding before it the court may do all or any of the following things with a view to the enforcement of its award, order, or direction— Methods of enforcing orders.

- (1) declare that any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing whatsoever in relation to an industrial matter, shall be a common rule of an industry affected by the proceeding;
- (2) direct within what limits of area and subject to what conditions and exceptions such common rule shall be binding upon persons engaged in the said industry, whether as employer or as employee, and whether members of an industrial union or not;
- (3) fix penalties for any breach or non-observance of such common rule so declared as aforesaid, and specify to whom the same shall be paid;
- (4) grant an injunction to restrain any person from breaking or non-observing any order, award, or direction of the court;
- (5) order the cancellation of the registration of an industrial union;
- (6) order that any member of an industrial union shall cease to be a member thereof from a date and for a period to be named in the said order;
- (7) fix penalties for a breach or non-observance of any term of an award, order, or direction not exceeding five hundred pounds in the case of an industrial union, or five pounds in the case of any individual member of the said union, and specify the persons to whom such penalty shall be paid;
- (8) impose a fine not exceeding five hundred pounds for any breach or non-observance of an award, order, or direction by a person bound by such award, order, or direction who is not a member of an industrial union;

and all fines and penalties for any breach of an award, order, or direction of the court may be sued for and recovered either—

- (a) in the court by the persons entitled to receive the same; or
- (b) before a stipendiary or police magistrate, sitting alone as a Court of Petty Sessions, under the Small Debts Recovery Act, 1899, notwithstanding any limitation as to amount contained in that Act, by an inspector appointed under the Factories and Shops Act of 1896, or any Act amending the same:

Provided that any appeal from an order of a court of petty sessions under this section shall lie to the court on the terms and in the manner prescribed by the rules of the said court.

38. Any person or industrial union who is affected by any order, award, or direction of the court may, whether such person or union Appeals by parties affected.

was

Industrial Arbitration.

was or was not a party to the proceedings in which the order, award, or direction complained of was made, apply at any time to the court to be relieved from any obligation imposed by such order, award, or direction. And the court in entertaining and dealing with such application shall have all the powers conferred upon it by this Act.

Officers of Supreme Court, District Courts, and courts of petty sessions to be deemed officers of the court.

39. The prothonotary, master in equity, sheriff, bailiffs, and other officers of the Supreme Court and the bailiffs of the District Courts and courts of petty sessions shall be deemed to be also officers of the court, and shall exercise the powers and perform the duties prescribed by any rules of court made under this Act; and for the purpose of carrying out the provisions of this Act, and in relation to any proceedings before the court or the president of the court and in relation to the making, carrying out, and enforcing of any award, order, or direction of the said court or president, shall, except where provided in any rules made as aforesaid, exercise the same powers and perform the same duties as they may exercise and perform in relation to any judgment, order, direction, or conviction of the Supreme Court or any District Court or court of petty sessions.

Property to answer award or order of court.

40. Where the award or order of the court, or an industrial agreement, binds specifically a corporation, person, industrial union, trade union, or branch, any property held by such corporation, person, union, or branch, or by any trustee on his or its behalf, shall be available to answer such award, order, or agreement, and any process for enforcing the same; and in the case of any such union or branch, if the property so held is insufficient to fully satisfy the said award, order, agreement, or process, the members of such union or branch shall be liable for such deficiency: Provided that no member shall be so liable for more than ten pounds.

Appeal.

41. Any person or union aggrieved by a decision of the registrar may appeal therefrom in the prescribed manner to the president of the court. The president may direct the issue to the registrar of a writ of mandamus or of prohibition.

Supplemental.

No stamp duty payable.

42. No stamp duty shall be payable on or in respect of any registration, certificate, agreement, order, statutory declaration, or instrument affected, issued, or made under this Act.

Evidence of order of court.

43. Evidence of any order of the court may be given by the production of a copy thereof certified under the hand of the registrar.

Evidence of proclamations or regulations.

44. Evidence of any proclamation, notification, rule, or regulation required by this Act to be proclaimed, notified, or published in the Gazette may be given by the production of a copy of the Gazette containing or purporting to contain such proclamation, notification, rule, or regulation.

Industrial Arbitration.

45. The Governor may, subject to the provisions of this Act, ^{Regulations.} make regulations—

- (a) prescribing the powers and duties of the registrar and of persons acting in the execution of this Act;
 - (b) prescribing the persons by whom and the manner in which applications for the registration of industrial unions may be made;
 - (c) regulating the conditions on which branches may be registered;
 - (d) prescribing the matters to be contained in the rules of any industrial unions, and regulating the names under which industrial unions may be registered;
 - (e) regulating the keeping of the register, and the granting of certificates of incorporation of industrial unions;
 - (f) prescribing the persons by whom and the manner in which applications for the cancellation of the registration and incorporation of industrial unions may be made, and the evidence to be furnished and the conditions to be performed prior to such cancellation, and prescribing the manner of such cancellation;
 - (g) prescribing the sending to the registrar of copies of rules and lists of members of industrial unions;
 - (h) prescribing the conditions under which and the manner in which persons may be recommended by industrial unions for appointment to the court;
 - (i) regulating the nomination and remuneration of assessors to the court;
 - (j) generally for carrying the provisions of this Act into effect;
- and may in those regulations fix any penalty not exceeding twenty pounds for any breach of the same, to be recovered in a summary way in a court of petty sessions.

46. All rules and regulations made in pursuance of this Act shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days after such publication for approval or amendment, if Parliament be then sitting, but if not, then within fourteen days after the next meeting of Parliament, and in that case such rules and regulations shall in the meantime be applied temporarily after publication in the Gazette, until Parliament meets, and thereafter shall have the force of law until Parliament otherwise decide. ^{Publication of rules and regulations.}

47. This Act shall continue in force until the thirtieth day of June, one thousand nine hundred and eight, and no longer. ^{Duration of Act.}

Industrial Arbitration.

SCHEDULES.

SCHEDULE ONE.

Matters to be contained in the rules, articles, and regulations of a company, association, trade union, or branch applying to be registered as an industrial union.

1. The appointment and removal of a committee of management, a chairman or president, a secretary, and, except in the case of an incorporated company, a trustee or trustees, and the filling of any vacancies in such offices.
2. The powers and duties of such committee and officers, and the control to be exercised by special or general meetings over the committee.
3. The manner of calling such meetings, the quorum, and the manner of voting thereat.
4. The mode in which industrial agreements and other instruments shall be made by or on behalf of the company, association, trade union, or branch.
5. The manner in which the company, association, trade union, or branch, may be represented in any proceeding before the court.
6. The custody and use of the seal.
7. The control of the property and the investment of the funds, and the periodical audit of the accounts of the company, association, trade union, or branch: audit to be made once a year.
8. Provision for keeping a register of members.
9. The terms on which persons may become or cease to be members of the company, association, trade union, or branch, including provision for the payment and recovery of subscriptions by members, and in the case of a trade union or branch, provision that a person shall not cease to be a member unless he has given at least three months' written notice to the secretary, and has paid all fees and dues owing by him to the trade union or branch, and provision that reasonable facilities shall be given to become members of the union.
10. The description of the registered officer of the company, association, trade union, or branch.

SCHEDULE TWO.

1. Each industrial union of employers may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court.

The delegates shall be chosen, so far as practicable, under the rules of the union applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the company or persons constituting the union employ, on the average of the next preceding month, not less than fifty nor more than two hundred and fifty employees, the union may choose one delegate; where such employees number more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates.

2. Each industrial union of employees may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union applicable for that purpose.

The

Industrial Arbitration.

The number of delegates shall be in accordance with the following scale:—

Where the financial members of the union number, on the average of the next preceding month, not more than two hundred and fifty, the union may choose one delegate; where such number is more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates; where more than one thousand, four delegates; where more than fifteen hundred, five delegates.

3. Any dispute occurring at any time respecting the number of delegates which may be chosen by any union shall be determined by the registrar, who may, if he determines that the number already chosen is greater than the number which any union is entitled to choose, decide who of the members chosen shall be the delegate or delegates to represent the union. The determination or decision of the registrar shall be final.

4. The delegates chosen respectively by the unions of employers and unions of employees shall respectively meet in separate places and at the respective times fixed by the registrar, and shall respectively recommend a fit person or fit persons for the office of a member of the court. The voting shall be by ballot, and each delegate shall have one vote.

5. Any recommendation of any such delegates shall not be vitiated by any informality in the choosing of any delegates or from the fact that any unions have omitted to choose delegates, or by any informality in the proceedings of the delegates in making the recommendation.

By Authority: Reprinted by WILLIAM APPELEGATE GULLICK, Government Printer, Sydney, 1904.

[1s. 3d.]

Table of Contents

1. The following table shows the results of the various experiments conducted with the following series of tests:

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INDUSTRIAL ARBITRATION BILL.

SCHEDULE showing the Legislative Assembly's Disagreements from, and the Amendment upon, the Legislative Council's Amendments, referred to in Message of 27th November, 1901.

F. W. WEBB,
Clerk of the Legislative Assembly.

Page 7, clause 18, line 41. *Omit "not"*

Page 8, clause 19, line 3. *Omit "not"*

Page 9, clause 30, line 45. *Omit "thirty-one" insert "twenty-six"*

Page 9, clause 30, line 45. *Omit "thirty-two" insert "twenty-seven"*

Page 14, clause 41, lines 18 to 25. *Re-insert "and*

"(b) direct that as between members of an industrial union of employees, or trade union or branch and other persons, such members shall be employed in preference to such other persons, other things being equal, and appoint a tribunal to finally decide in what case an employer to whom any such direction applies may employ a person who is not a member of any such union or branch."

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INDUSTRIAL ARBITRATION BILL.

SCHEDULE of the Amendments referred to in Message of 13th November, 1901.

- Page 1, title, lines 7 and 8. *Omit* "to provide for a committee of reference from such court"
- Page 2, clause 2, line 45. *After* "Sewerage" *insert* "but does not include employment in domestic service"
- Page 3, clause 2, line 5. *After* "any" *insert* "rules or"
- Page 3, clause 3. At end of clause *add* "and may appoint such officers as may be required to administer this Act"
- Page 3, clause 4, line 23. *After* "person" *insert* "or association of persons"
- Page 3, clause 4, line 25. *Omit* "have or"
- Page 3, clause 4, line 31. *Omit* "of a trade union"
- Page 3, clause 5, line 38. *Omit* "managers" *insert* "if there are no directors"
- Page 3, clause 5, line 39. *After* "State" *insert* "of the managers thereof so resident"
- Page 3, clause 5, lines 40 and 41. *Omit* "of persons, be signed by every such person" *insert* "be signed by a majority of the committee of management thereof"
- Page 4, clause 5, lines 6 and 7. *Omit* "of persons"
- Page 4, clause 6, line 16. *Omit* "of persons"
- Page 4, clause 6, line 18. *After* "Governor," *insert* "upon the recommendation of the registrar"
- Page 4, clause 6, line 18. *Omit* "his"
- Page 4, clause 7, line 31. *After* "be" *insert* "for the purposes of this Act"
- Page 5, clause 10, line 36. *Omit* "of persons"
- Page 5, clause 12, line 45. *Omit* "or trade"
- Page 5, clause 12, line 46. *Omit* "or branch" (first occurring)
- Page 5, clause 12, line 46. *Omit* "or branch" (second occurring)
- Page 6, clause 12, line 1. *Omit* "or branch"
- Page 6, clause 12, line 3. *Omit* "or branch"
- Page 6, clause 12, line 6. *Omit* "or branch"
- Page 6, clause 14. *Omit* clause 14 *insert* new clause 14.
- Page 7, clause 17, line 22. *Omit* "such" *insert* "a"
- Page 7, clause 17, line 23. *Omit* "or of a District Court as may from time to time" *insert* "to"
- Page 7, clause 17, line 24. *After* "Governor" *insert* "The Governor may on the request of the president appoint a Judge of the Supreme Court as deputy president, to act in respect of any matter mentioned in his appointment; and the said deputy shall, in respect of the said matter, have all the rights, powers, jurisdictions, and privileges of the president under this Act"
- Page 7, clause 18, line 37. *Before* "members" *insert* "president and"
- Page 7, clause 18, line 39. *Omit* "each member" *insert* "and"
- Page 7, clause 18, line 41. *After* "but" *insert* "the members"
- Page 7, clause 18, line 41. *After* "shall" *insert* "not"
- Page 7, clause 19, line 43. *After* "death" *insert* "resignation"
- Page 8, clause 19, line 3. *After* "shall" *insert* "not"
- Pages 8 and 9. *Omit* clauses 24 to 28.
- Page 9, clause 29. 24, lines 34 and 35. *Omit* "or from being chosen or appointed or holding office as a member of the board of reference"
- Page 9, clause 29. 24, line 38. *Omit* "any person who is"
- Page 9, clause 30. 25, line 40. *Omit* "of arbitration or any member of the board of reference"
- Page 9, clause 30. 25. At end of clause *add* "or to be guilty of any offence under sections thirty-one or thirty-two of this Act"
- Page 10, clause 31. 26, line 7. *Omit* "Attorney-General" *insert* "registrar"
- Page 10, clause 31. 26. *After* subsection (a) *insert* new subsection (b)
- Page 11, clause 32. 27, line 37. *After* "sworn" *insert* "in the manner and before the persons prescribed"
- Page 12, clause 33. 28, line 4. *After* "pursuance of" *insert* "(a)"

- Page 12, clause 33. 28, line 9. *After* "meeting" *insert* "or"
- Page 12, clause 33. 28. *After* subsection (a) *insert* new subsection (b).
- Page 12, clause 33. 28, line 15. *Omit* "Attorney-General" *insert* "registrar"
- Page 12, clause 35. 30, line 37. *Omit* "dispute" *insert* "reference"
- Page 13, clause 36. 31, line 12. *After* "thirty-two" *insert* "in the manner and before the persons prescribed"
- Page 13, clause 37. 32, line 15. *Omit* "of arbitration"
- Page 13, clause 37. 32, line 17. *Omit* "of arbitration"
- Page 13, clause 39. 34. *After* "Whoever" *insert* new subsections (a) and (b).
- Page 13, clause 39. 34, lines 32 and 33. *Omit* "so that thereby any industrial dispute is removed out of the jurisdiction of the court" *insert* "or"
- Page 13, clause 39. 34, line 35. *Omit* "either"
- Page 13, clause 39. 34. *Omit* subsections (a) and (b).
- Page 14, clause 40. 35, line 3. *Omit* "trade union or branch"
- Page 14, clause 40. 35. At end of clause *add* "Provided that no proceedings shall be begun under this section except by leave of the court"
- Page 14, clause 41. 36, line 10. *Omit* "of arbitration"
- Page 14, clause 41. 36, line 18. *After* "minimum" *omit* remainder of clause
- Page 14, clause 42. 37, line 34. *Omit* "this" *insert* "such"
- Page 14, clause 42. 37, line 36. *After* "of" *insert* "an"
- Page 14, clause 42. 37. *Omit* subsections (5) and (6).
- Page 15, clause 42. 37, line 4. *After* "breach" *insert* "or non-observance"
- Page 15, clause 42. 37, line 5. *Omit* "or"
- Page 15, clause 42. 37, line 5. *After* "order" *insert* "or direction"
- Page 15, clause 42. 37, line 7. *Omit* "specifying" *insert* "specify"
- Page 15, clause 42. 37, line 9. *Omit* "one thousand" *insert* "five hundred"
- Page 15, clause 42. 37, line 10. *Omit* "on any person bound by the said award, order, or declaration" *insert* "for any breach or non-observance of an award, order, or direction by a person bound by such award, order, or direction"
- Page 15, clause 42. 37, line 15. *Omit* "declaration" *insert* "direction"
- Page 15, clause 42. 37. *Omit* subsection (b) *insert* new subsection (b).
- Page 15, clause 43. 38, line 29. *Omit* "aggrieved" *insert* "affected"
- Page 15, clause 43. 38, line 30. *Omit* "declaration" *insert* "direction"
- Page 15, clause 43. 38, line 32. *Omit* "declaration" *insert* "direction"
- Page 15, clause 43. 38, line 34. *Omit* "declaration" *insert* "direction"
- Page 15, clause 44. 39, line 40. *Omit* "of arbitration"
- Page 15, clause 44. 39, line 43. *Omit* "of arbitration"
- Page 15, clause 44. 39, line 44. *Omit* "that" *insert* "the"
- Page 16, clause 46. 41, line 16. *After* "person" *insert* "or"
- Page 16, clause 46. 41, line 16. *Omit* "or branch"
- Page 16, clause 46. 41, line 19. *Omit* "and" *insert* "or"
- Page 16, clause 48. 43, line 24. *Omit* "of arbitration"
- Page 16, clause 49. 44, line 27. *After* "notification" *insert* "rule"
- Page 16, clause 49. 44, line 30. *After* "notification" *insert* "rule"
- Page 16, clause 50. 45, lines 34 and 35. *Omit* "the district registrars and the clerk of the court"
- Page 17, clause 50. 45, line 11. *Omit* "of arbitration"
- Page 17, clause 50. 45, line 13. *Omit* "of arbitration"
- Page 17, clause 50. 45, line 14. *Omit* "for any purpose for which by this Act regulations may be made" *insert* generally for carrying the provisions of this Act into effect"
- Page 17. *After* clause 51. 46 *insert* new clause 47.
- Page 18, Schedule Two, line 13. *Omit* "of arbitration"
- Page 18, Schedule Two, line 18. *Omit* "one hundred" *insert* "fifty"
- Page 18, Schedule Two, line 28. *Omit* "less than one hundred nor"
- Page 18, Schedule Two, lines 29 to 31. *Omit* "and an additional delegate for each five hundred financial members of such union. No union having less than one hundred financial members shall choose a delegate" *insert* "where such number is more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates; where more than one thousand, four delegates; where more than fifteen hundred, five delegates"
- Page 18, Schedule Two, line 45. *Omit* "of arbitration"

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.

*Legislative Assembly Chamber,
Sydney, 26 September, 1901.* }

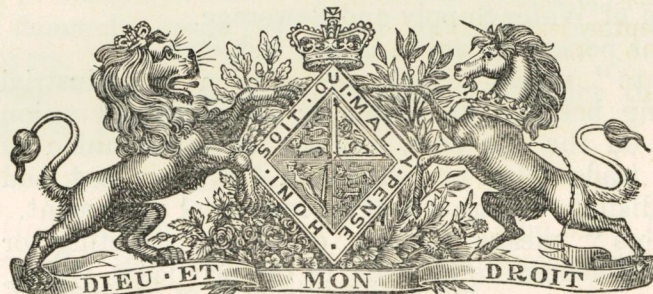
F. W. WEBB,
Clerk of the Legislative Assembly.

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

*Legislative Council Chamber,
Sydney, 13th November, 1901.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. , 1901.

An Act to provide for the registration and incorporation of industrial unions and the making and enforcing of industrial agreements; to constitute a court of arbitration for the hearing and determination of industrial disputes, and matters referred to it; to define the jurisdiction, powers, and procedure of such court; to provide for the enforcement of its awards and orders; ~~to provide for a committee of reference from such court;~~ and for purposes consequent on or incidental to those objects.

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:—

5

Preliminary.

1. This Act may be cited as the "Industrial Arbitration Act, Short title. 1901."

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83—A

2.

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

Industrial Arbitration.

2. In this Act, unless the context otherwise shows—

Definitions.

“Branch” means branch of a trade-union which is registered or has its principal office outside the State.

“Court” means court of arbitration constituted by this Act.

5 “Employer” means person, firm, company, or corporation employing persons working in any industry, and includes the Railway Commissioners of New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage.

10 “Employee” means person employed in any industry.

15 “Industrial dispute” means dispute in relation to industrial matters arising between an employer or industrial union of employers on the one part, and an industrial union of employees or trade-union or branch on the other part, and includes any dispute arising out of an industrial agreement.

20 “Industrial matters” means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and, without limiting the general nature of the above definition, includes all or any matters relating to—

25 (a) the wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the prices paid or to be paid therein in respect of such employment;

(b) the hours of employment, sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment;

30 (c) the employment of children or young persons, or of any person or persons or class of persons in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein;

35 (d) any established custom or usage of any industry, either generally or in any particular locality;

(e) the interpretation of an industrial agreement.

“Industrial union” means industrial union registered and incorporated under this Act.

40 “Industry” means business, trade, manufacture, undertaking, calling, or employment in which persons of either sex are employed, for hire or reward, and includes the management and working of the Government Railways and Tramways, the Sydney Harbour Trust, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage, but does not include employment in domestic service, “Lock-out”

45

Industrial Arbitration.

- “Lock-out” means the closing of a place of employment or the suspension of work by an employer done with a view to compel his employees or to aid another employer in compelling his employees to accept a term or terms of employment.
- 5 “Prescribed” means prescribed by this Act or any rules or regulations made thereunder.
- “Registrar” means registrar appointed under this Act.
- 10 “Strike” shall mean the cessation of work by a body of employees acting in combination done as a means of enforcing compliance with demands made by them or other employees on employers.
- “Trade union” means trade union registered under the Trade Union Act, 1881.

The registrar.

- 15 3. The Governor shall appoint a registrar who shall have the powers and perform the duties prescribed and may appoint such officers as may be required to administer this Act.

Industrial unions.

- 20 4. Where the registrar, or in case of appeal, the court is satisfied that the provisions of this Act have been complied with, the registrar shall, in the prescribed manner and form, register as an industrial union—

- (a) any person or association of persons or any incorporated company or any association of incorporated companies, or of
25 incorporated companies and persons who or which have or has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees ;
- 30 (b) any trade union or association of trade unions ;
- (c) any branch of a trade union ;

and shall issue a certificate of incorporation, which shall be conclusive evidence in all courts, until cancelled, that the requirements of this Act in respect of incorporation have been complied with.

- 35 5. An application to register an industrial union shall be made in writing in the prescribed form, and shall—

- (a) if made by an incorporated company, be signed by a majority of the directors, or managers, if there are no directors thereof resident in the State, of the managers thereof so resident ; and
- 40 (b) if made by an association of persons, be signed by every such person be signed by a majority of the committee of management thereof ; and

(c)

Industrial Arbitration.

(c) if made by a trade union or branch, be signed by a majority of the general committee of management thereof.

And the registrar may require such proof as he thinks necessary of the authority of the said persons to make the said application.

5 But no industrial union shall be registered unless the registrar is satisfied that the rules or articles of the company, association of persons, trade union, or branch applying to be registered include provisions as to the matters set out in Schedule One. And any application to register an industrial union may be refused if another industrial
10 union to which the applicants might conveniently belong has already been registered. And no branch shall be registered unless it is a bona fide branch of a trade union and of sufficient importance to be registered separately.

The Governor may from time to time, by regulations made
15 under this Act, alter, repeal, or amend the said Schedule.

6. Any company, association of persons, trade union, or branch
applying to be registered as an industrial union may, on application to the Governor, upon the recommendation of the registrar obtain his
leave to adopt, and may thereupon adopt, any rules dealing with the
20 matters mentioned in Schedule One, or in any regulations made under the last preceding section, as part of the rules of the company, association, union, or branch; and upon such leave being obtained, the said rules, when adopted in pursuance of this section, shall, notwithstanding any memorandum or articles of association or any
25 rules of such company, association, union, or branch, become binding on all members of the same.

7. (1) Upon the issue of a certificate of incorporation, the
members for the time being of the company, association, trade union, or branch incorporated in the industrial union shall, until the
30 registration and incorporation of the union is cancelled in pursuance of this Act be for the purposes of this Act a body corporate by the name mentioned in such certificate, and shall have for the purposes of this Act perpetual succession and a common seal.

(2) An industrial union—
35 (a) may purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with any real or personal property: Provided that nothing in this Act shall render an industrial union liable to be sued, or the property of an industrial union, or of any member thereof, liable to be
40 taken in execution by any process in law other than in pursuance of this Act or in respect of obligations incurred in the exercise of rights and powers conferred by this Act;

(b) shall forward to the registrar, subject to the prescribed penalties, at the prescribed dates, and verified in the prescribed manner, lists of its members and copies of its rules,
45 and copies of industrial agreements to which it is a party.

Industrial Arbitration.

8. If it appears to the registrar—

- Cancellation of
registration of union.
- 5 (a) that for any reasons which appear to him to be good the registration of an industrial union ought to be cancelled ; or
- (b) that an industrial union has been registered erroneously or by mistake ; or
- 10 (c) that the provisions of the rules, articles, or regulations of the union as to any of the matters mentioned in Schedule One as amended under this Act are inadequate, or have not bona fide been observed ; or
- (d) that the proper authority of the union wilfully neglects to provide for the levying and collection of subscriptions, fees, or penalties from members of the union ; or
- 15 (e) that the accounts of the union have not been audited in pursuance of the rules, articles, or regulations, or that the accounts of the union or of the auditor do not disclose the true financial position of the union ;
- (f) that any industrial union has wilfully neglected to obey any order of the court ;

he shall make application to the court for the cancellation of the registration of the union, giving notice thereof to the secretary of the union.

The court shall hear the said application, and if it is of opinion that the registration of the union should be cancelled, it shall so order, and thereupon the registration and incorporation of the union under this Act shall be void :

Provided that such cancellation shall not relieve the industrial union, or any member thereof, from the obligation of any industrial agreement or award or order of the court, nor from any penalty or liability incurred prior to such cancellation."

30 9. During the pendency of any reference to the court no application for the cancellation of the registration of an industrial union shall be made or received, and no resignation or discharge of the membership of any industrial union or of any company, association, trade union or branch, constituting an industrial union, shall have effect.

No cancellation during pendency of proceedings.

35 10. Nothing in this Act shall prevent a transfer of shares in any registered company, or in any association of persons which is, or is a member of, an industrial union :

Saving of right to transfer shares in company.

Provided that no such transfer shall relieve the transferor from any liability incurred by him under this Act up to the date of such transfer.

40 11. Industrial unions shall be classified by the registrar as industrial unions of employers and industrial unions of employees, and the certificate of incorporation shall state the class of the industrial union mentioned therein.

Classification of industrial unions.

45 12. Every dispute between a member of an industrial or trade union or branch and such union or branch shall be decided in the manner

Recovery of subscriptions and contributions from members of unions.

Industrial Arbitration.

manner directed by the rules of such union or branch; and the president of the court, on the application of the trustees or other officers authorised to sue on behalf of such union or branch, may order the payment by any member of any fine, penalty, or subscription payable in pursuance of the rules aforesaid, or any contribution to a penalty incurred or money payable by the union or branch under an award or order of the court:

5 Provided that no such contribution shall exceed the sum of ten pounds.

Industrial agreements.

10 **13.** Any industrial union may make an agreement in writing relating to any industrial matter— Industrial agreements may be made.

(a) with another industrial union; or

(b) with an employer;

15 which, if it is made for a specified term not exceeding three years from the making of the agreement, and if a copy thereof is filed with the registrar, shall be or become an industrial agreement within the meaning of this Act.

14. Every industrial agreement shall be binding during its currency—

20 (a) on the parties thereto;

(b) where the agreement is made by an industrial union on the persons who, during the term of the agreement, are members of such union;

25 but may by such parties be rescinded by agreement in writing made and filed with the registrar, or varied by another industrial agreement, to have effect for the residue of the term for which the former agreement was made:

30 Provided that notwithstanding the expiry of the term of an agreement, it shall continue in force for one month after one party shall have notified to the registrar his intention to terminate it, unless all parties agree to terminate it at an earlier date.

14. (1) An industrial agreement may be rescinded by agreement made in writing by the parties thereto and filed with the registrar, or may be varied by another industrial agreement so made and filed. On whom industrial agreements are binding.

35 If not so rescinded the agreement or varied agreement shall be in force for the term specified in the agreement, and unless any party thereto gives to the registrar, at least one month before the expiration of such term, a notice in writing of intention to terminate the agreement or varied agreement at such expiration the agreement or
40 varied agreement shall continue in force until the expiration of one month after notice in writing of intention to terminate it has been given to the registrar by any party thereto.

Industrial Arbitration.

(2) Every industrial agreement or varied agreement shall be binding—

5 (a) on the parties thereto during the currency of the agreement or varied agreement, and on such parties in respect of anything done or suffered under or by virtue of it during its currency;

10 (b) on every person during the currency of the agreement or varied agreement while he is a member of any industrial union which is a party thereto, and on every person in respect of anything done or suffered under or by virtue of it during its currency and while he is such member.

15 15. An industrial agreement as between the parties bound by the same shall have the same effect and may be enforced in the same way as an award of the court of arbitration, and the court shall have full and exclusive jurisdiction in respect thereof. To have same effect as award of court of arbitration.

Constitution of the Court of Arbitration.

16. There shall be a court of arbitration for the hearing and determination of industrial disputes and of references and applications under this Act. The court shall be a court of record and shall have 20 a seal, which shall be judicially noticed. Constitution of court.

The court shall consist of a president and two members.

25 17. The president of the court shall be such a Judge of the Supreme Court ~~or of a District Court as may from time to time~~ to be named by the Governor. The Governor may on the request of the president appoint a Judge of the Supreme Court as deputy president, to act in respect of any matter mentioned in his appointment; and the said deputy shall, in respect of the said matter, have all the rights, powers, jurisdictions, and privileges of the president under this Act. How members of court are appointed.

30 The two members of the court shall be appointed by the Governor, one from among the persons recommended in the manner and subject to the conditions prescribed in Schedule Two by a body of delegates from industrial unions of employers, and the other from among the persons recommended as aforesaid by a body of delegates from industrial unions of employees; but, if any such body fails to 35 make such recommendation, the Governor may appoint such person as he thinks fit.

18. The president and members of the court shall be appointed as soon as practicable after the commencement of this Act, and every three years after such first appointment, ~~Each member and~~ shall hold 40 office until the time of the next triennial appointment to the office, but the members shall not be eligible for re-appointment. Times and periods of appointments.

19. Any vacancy in the office of member of the court occasioned by death, resignation, or removal from office shall be filled by appointment Vacancies.
on

Industrial Arbitration.

on such recommendation as aforesaid, and the person so appointed shall hold office until the time of the next triennial appointment, but shall not be eligible for re-appointment.

Where a member of the court is absent from his office by reason of illness or other cause, his office shall be filled by appointment as aforesaid, and the person so appointed shall hold office during such absence.

20. During his term of office the president or a member of the court shall, except where otherwise provided in this Act, be liable to removal from office in such manner and upon such grounds only as a Supreme Court Judge is by law liable to be removed from his office. Removal of members of court.

21. The members of the court shall be paid a salary of seven hundred and fifty pounds per annum each, and such remuneration for expenses while travelling and while holding views and inspections as may be prescribed. Payment of members of court.

22. The court may be constituted by the president or any member for the purpose of being adjourned. Quorum of court.

23. When an industrial dispute involving technical questions is referred to it, the court may appoint two assessors for the purpose of advising it on such questions. Appointment of assessors.

One of such assessors shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employers, and the other shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employees.

If default is made in nominating any of such assessors, or if the parties consent, the court may appoint an assessor or assessors without any nomination.

Board of reference.

24. There shall be a board of reference consisting of representatives of the industrial unions chosen and appointed as hereinafter prescribed. Constitution of board.

Each industrial union may, within three months after its registration under this Act and within the same period after the expiration of every successive three years after such registration, choose one of its members and submit his name to the registrar as a member of the board.

The Governor may thereupon appoint the persons whose names have been so submitted to be members of the board until the appointment of their successors on the expiration of the next triennial period.

But if no name is so submitted by any such union or if any member of such union whose name has been submitted or who has been appointed member of the board refuses to act or resigns from the board, or dies, or is incapable to act, the Governor may appoint any member of the union in his place who shall hold office until the next triennial appointment of the board. 25.

Industrial Arbitration.

25. There shall be a president of the board, who shall be a ^{The president.} District Court Judge, to be named as occasion arises by the Governor.

26. After the reference to it of any industrial dispute or matter, ^{Reference of dispute to committee of board.} and before or during the hearing, the court, of its own motion or ^{Constitution of committee.} on the application of any of the parties, and on such terms as it thinks fit, may refer the dispute or matter, or any question incidental thereto, to a committee of five members of the board of reference constituted as follows:—

- 10 (a) The president of the board shall ex officio be a member of the committee;
- (b) two members of the committee shall be appointed respectively by the two parties to the dispute or matter who in the opinion of the court represent adverse interests;
- 15 (c) the president and the two members appointed under the last preceding subsection shall together appoint two other members of the committee from among members of the board who do not belong to any industrial union which is a party to the dispute or matter.

27. The committee shall take such steps as seem best calculated ^{Duties of committee.} to bring about a settlement of the dispute or matter, and shall, whether such settlement has or has not been arrived at, send a report in writing to the court of its proceedings with or without a recommendation.

25 The proceedings of the committee and its report and recommendation shall be kept secret by the committee, but the report sent to the court may be kept secret or may be made public by the court in its discretion.

28. If all parties consent, any recommendation of the board ^{Court may order settlement to be carried out.} may be made an order of the court in the reference, otherwise the court shall proceed with the reference.

Disqualifications for office.

29. 24. The following persons shall be disqualified from being ^{Disqualifications for office.} recommended or appointed, or holding office as a member of the court of arbitration, ~~or from being chosen or appointed or holding office as a member of the board of reference—~~

- 35 (a) a bankrupt who has not obtained his certificate of discharge;
- (b) any person of unsound mind;
- (c) ~~any person who is an alien.~~

30. 25. The Governor shall remove from office any member of the ^{Persons disqualified may be removed from office by the Governor.} court of arbitration or any member of the board of reference who becomes disqualified under the last preceding section, or is proved to the satisfaction of the Supreme Court, or a Judge thereof, to be guilty of inciting any industrial union or employer to commit any breach of an industrial agreement or award, or to be guilty of any offence under *Jurisdiction* sections thirty-one or thirty-two of this Act.

*Industrial Arbitration.**Jurisdiction and procedure of the court.*

26. The court shall have jurisdiction and power—

Jurisdiction and
powers of court.

- (a) on reference in pursuance of this Act to hear and determine, according to equity and good conscience—
- 5 (i) any industrial dispute ; or
(ii) any industrial matter referred to it by an industrial union or by the ~~Attorney-General~~ registrar ;
(iii) any application under this Act ;
- 10 (b) to make any order or award or give any direction in pursuance of such hearing or determination ;
- (c) subject to the approval of the Governor to make rules regulating the practice and procedure of the court, and more especially but not so as to limit the generality of its powers in the premises with reference to ;
- 15 (i) the times and places of sitting ;
(ii) the summoning of parties and witnesses ;
(iii) the persons by whom and conditions upon which parties may be represented ;
(iv) the rules of evidence ;
- 20 (v) the enforcement of its orders ;
(vi) allowances to witnesses, costs, court fees ;
(vii) generally regulating the procedure of the court ;
(viii) appeals under this Act ;
(ix) the reference of any matter ;
- 25 (d) to dismiss any matter at any stage of the proceedings where it thinks the dispute trivial ;
- (e) to dismiss any proceeding without giving a decision, where, in the opinion of the court, an amicable settlement can and should be brought about ;
- 30 (f) to order any party to pay to any other party such costs and expenses (including expenses of witnesses) as may be specified in the order, and at any time to vary such order ; but no costs shall be allowed for the attendance before the court of any counsel, solicitor, or agent for any party ;
- 35 (g) at any stage of the proceedings of its own motion, or on the application of any of the parties, and upon such terms as it thinks fit—
- (i) to direct parties to be joined or struck out ;
- 40 (ii) to amend or waive any error or defect in the proceedings ;
(iii) to extend the time within which anything is to be done by any party, whether within or after the prescribed time ; and
(iv) generally to give such directions as are deemed necessary or expedient in the premises ;

(g h)

Industrial Arbitration.

- (g h) to proceed and act in any proceedings in the absence of any party who has been duly served with notice to appear therein as fully as if such party had duly attended ;
- 5 (h i) to sit in any place for the hearing and determining of any matter lawfully before it; provided that, as far as practicable, the court shall sit in the locality within which the subject-matter of the proceeding before it arose ;
- 10 (i j) on its own motion, or at the request of any of the parties to the dispute, to direct that the proceedings of the court be conducted in private, and that all persons other than the parties, their representatives, and any witnesses under examination shall withdraw from the court ;
- (j k) to adjourn any proceeding to any time and place ;
- 15 (k l) to refer to an expert the taking of accounts, estimates of quantities, calculations of strains, and other technical matters, and to accept the report of such experts as evidence ;
- (l m) to exercise in respect of the summoning, sending for, and examination of witnesses and documents, and in respect of persons summoned or giving evidence before it, or on affidavit, the same powers as are by section one hundred and forty of the Parliamentary Electorates and Elections Act of 1893 conferred on the committee of elections and qualifications constituted by that Act; Provided that no party to an industrial dispute shall be required to produce his books except by order of the president, and that such books when produced shall not, except by the consent of the party producing them, be inspected by anyone except the president or members of the court, who shall not divulge the contents thereof under penalty of dismissal from office ;
- 20
- 25
- 30 (m n) to deal with all offences and enforce all orders under this Act ;
 (n o) at any time to vary its own orders and re-open any reference ;
 (o p) to admit and call for such evidence as in good conscience it thinks to be the best available whether strictly legal evidence or not : Provided that any question as to the admissibility of evidence shall be decided by the president alone.
- 35
32. 27. The president and each member of the court shall be sworn in the manner and before the persons prescribed before entering upon the hearing of any dispute, not to disclose to any person whatsoever, any matters or evidence relating to any trade secret or to the profits or financial position of any witness or party, and shall be liable to a penalty not exceeding five hundred pounds and dismissal from office for a violation of such oath, and shall at the request of any party or witness hear such evidence in camera. Disclosure of profits.
- 40
33. 28. No matter within the jurisdiction of the court may be referred to the court, nor may any application to the court be made except by an industrial union or by any person affected or aggrieved by an order of the court. Reference of dispute to court.
- 45
- But

Industrial Arbitration.

But no industrial dispute shall be referred to the court for determination, and no application shall be made to the court for the enforcement of any award of the court by an industrial union, except in pursuance of—

- 5 (a) a resolution passed by the majority of the members present at a meeting of such union specially summoned by notice sent by post to each member or given in the manner prescribed by rules of the union, and stating the nature of the proposal to be submitted to the meeting; or
- 10 (b) where in the opinion of the registrar it is impracticable to summon a meeting of all the members of the union, a resolution passed, in accordance with rules made by the court in that behalf, by a majority of the officers of the union specified in such rules.

15 Notwithstanding anything in this section the ~~Attorney-General~~ registrar may—

- (1) Inform the court of any breach of this Act or of any order or award of the court.
- 20 (2) Refer to the court an industrial dispute when the parties thereto or some or one of them are or is not an industrial union.

24. 29. Any union or person entitled to refer an industrial dispute, or any matter, to the court, may make application to the registrar in the prescribed form. Method of reference to court.

25 35. 30. (1) Any party to a reference may at any time take out a summons, in the form prescribed by the rules of the court, returnable before the president of the court sitting in chambers. Summons for directions.

At the hearing of the summons the president may make such order as may be just with respect to all the interlocutory proceedings to be taken before the hearing by the court of the dispute, and as to the costs thereof, and with respect to the issues to be submitted to the court, the persons to be served with notice of the proceedings of the court, particulars of the claims of the parties, admissions, discovery, interrogatories, inspection of documents, inspection of real or personal property, commissions, examination of witnesses, and the place and mode of hearing. The court may at the hearing of any dispute reference revoke or amend any such order of the president, and may make any order which the president may make under this section.

(2) In addition to the powers conferred by this section, Additional powers. the president of the court sitting in chambers for the purpose of administering this Act shall have all the powers of a Judge of the Supreme Court sitting in chambers for the purpose of any matter before that Court.

36. 31. The court and, on being authorised in writing by the court, any member or officer of the court or any other person may at any time View by, or by direction of court.

Industrial Arbitration.

time enter any building, mine, mine-workings, ship, vessel, place, or premises of any kind whatsoever, 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, which
 5 has been made the subject of a reference to the court, and inspect and view any work, material, machinery, appliances, or article therein.

And any person who hinders or obstructs the court, or any such member, officer, or person as aforesaid, in the exercise of any power conferred by this section, shall for every such offence be liable
 10 to a penalty not exceeding five pounds, and every officer of the court or such other person so authorised as aforesaid shall be required to take the like oath as is prescribed in section thirty-two, in the manner and before the persons prescribed and shall be liable to a like penalty for the violation thereof.

15 ~~37.~~ **32.** Proceedings in the court of arbitration shall not be removable No certiorari. to any other court by certiorari or otherwise; and no award, order, or proceeding of the court of arbitration shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any
 20 court of judicature on any account whatsoever.

~~38.~~ **33.** No proceedings in the court shall abate by reason of the No abatement on death of party. death of any party, but such proceedings may, by order of the court, be continued on such terms as the court thinks fit by or against the legal representative of such party.

25 ~~39.~~ **34.** Whoever—

(a) before a reasonable time has elapsed for a reference to the Prohibition of strikes or lock-outs. court of the matter in dispute; or
 (b) during the pendency of any proceedings in the court in relation to an industrial dispute,

30 (1) does any act or thing in the nature of a lock-out or strike; or suspends or discontinues employment or work in any industry so that thereby any industrial dispute is removed out of the jurisdiction of the court; or
 (2) instigates to or aids in any of the abovementioned acts,

35 either—

(a) before a reasonable time has elapsed for a reference to the court of the matter in dispute; or
 (b) during the pendency of any proceedings in the court in relation to an industrial dispute,

40 shall be guilty of a misdemeanour, and upon conviction be liable to a fine not exceeding one thousand pounds, or imprisonment not exceeding two months:

Provided that nothing in this section shall prohibit the suspension or discontinuance of any industry or the working of any persons
 45 therein for any other good cause:

And provided that no prosecution under this section shall be begun except by leave of the court. 40.

Industrial Arbitration.

40. **35.** If an employer dismisses from his employment any employee by reason merely of the fact that the employee is a member of an industrial union, ~~trade-union, or branch,~~ or is entitled to the benefit of an award, order, or agreement, such employer shall be liable to a 5 penalty not exceeding twenty pounds for each employee so dismissed.

In what cases dismissal of employee is breach of an award, order, or industrial agreement.

In every case it shall lie on the employer to satisfy the court that such employee was so dismissed by reason of some facts other than those above mentioned in this section: **Provided that no proceedings shall be begun under this section except by leave of the Court.**

10 ~~41.~~ **36.** The court ~~of arbitration~~ in its award or by order made on the application of any party to the proceedings before it, at any time in the period during which the award is binding, may—

Minimum wage and employment of members of unions.

15 (-a) prescribe a minimum rate of wages or other remuneration, with provision for the fixing in such manner and subject to such conditions as may be specified in the award or order, by some tribunal specified in the award or order, of a lower rate in the case of employees who are unable to earn the prescribed minimum; and

20 (b) direct that as between members of an industrial union of employees and other persons, offering their labour at the same time, such members shall be employed in preference to such other persons, other things being equal, and appoint a tribunal to finally decide in what cases an employer to whom any such direction applies may employ a person who is not 25 a member of any such union or branch.

~~42.~~ **37.** In any proceeding before it the court may do all or any of the following things with a view to the enforcement of its award, order, or direction—

Methods of enforcing orders.

30 (1) declare that any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing whatsoever in relation to an industrial matter, shall be a common rule of an industry affected by the proceeding;

35 (2) direct within what limits of area and subject to what conditions and exceptions ~~this~~ such common rule shall be binding upon persons engaged in the said industry, whether as employer or as employee, and whether members of an industrial union or not;

40 (3) fix penalties for any breach or non-observance of such common rule so declared as aforesaid, and specify to whom the same shall be paid;

(4) grant an injunction to restrain any person from breaking or non-observing any order, award, or direction of the court;

(5) impose a penalty not exceeding five hundred pounds upon an industrial union;

45 (6) impose a penalty not exceeding five pounds on any individual member of an industrial union;

(7) (5) order the cancellation of the registration of an industrial union;

Industrial Arbitration.

(8 6) order that any member of an industrial union shall cease to be a member thereof from a date and for a period to be named in the said order;

5 (9 7) fix penalties for a breach or non-observance of any term of an award or order or direction not exceeding five hundred pounds in the case of an industrial union, or five pounds in the case of any individual member of the said union, and specifying specify the persons to whom such penalty shall be paid;

10 (10 8) impose a fine not exceeding one thousand five hundred pounds on any person bound by the said award, order, or declaration for any breach or non-observance of an award, order, or direction by a person bound by such award, order, or direction who is not a member of an industrial union;

and all fines and penalties for any breach of an award, order, or
15 declaration direction of the court may be sued for and recovered either—

(a) in the court by the persons entitled to receive the same; or

(b) in any court of petty sessions presided over by a Police or Stipendiary Magistrate, by the same persons in the same way as penalties for breaches of regulations under the Factories and Shops Act of 1896, or any Act amending the same:

20 (b) before a Stipendiary or Police Magistrate, sitting alone as a Court of Petty Sessions, under the Small Debts Recovery Act, 1899, notwithstanding any limitation as to amount contained in that Act, by an inspector appointed under the
25 Factories and Shops Act of 1896, or any Act amending the same:

Provided that any appeal from an order of a court of petty sessions under this section shall lie to the court on the terms and in the manner prescribed by the rules of the said court.

30 43. 38. Any person or industrial union who is aggrieved affected by any order, award, or declaration direction of the court may, whether such person or union was or was not a party to the proceedings in which the order, award, or declaration direction complained of was made, apply at any time to the court to be relieved from any obligation imposed by such order, award, or declaration direction. And the court
35 in entertaining and dealing with such application shall have all the powers conferred upon it by this Act.

44. 39. The prothonotary, master in equity, sheriff, bailiffs, and other officers of the Supreme Court and the bailiffs of the District Courts and Courts of Petty Sessions shall be deemed to be also
40 officers of the court of arbitration, and shall exercise the powers and perform the duties prescribed by any rules of court made under this Act; and for the purpose of carrying out the provisions of this Act, and in relation to any proceedings before the court of arbitration or the president of that court and in relation to the making, carrying out,
45 and enforcing of any award, order, or direction of the said court or president,

Appeals by parties
aggrieved
affected.

Officers of supreme
court, district
courts, and courts
of petty sessions to
be deemed officers of
the court
of arbitration.

Industrial Arbitration.

president, shall, except where provided in any rules made as aforesaid, exercise the same powers and perform the same duties as they may exercise and perform in relation to any judgment, order, direction, or conviction of the Supreme Court or any District Court or Court of Petty Sessions.

45. **40.** Where the award or order of the court, or an industrial agreement, binds specifically a corporation, person, industrial union, trade union, or branch, any property held by such corporation, person, union, or branch, or by any trustee on his or its behalf, shall be available to answer such award, order, or agreement, and any process for enforcing the same; and in the case of any such union or branch, if the property so held is insufficient to fully satisfy the said award, order, agreement, or process, the members of such union or branch shall be liable for such deficiency: Provided that no member shall be so liable for more than ten pounds.

46. **41.** Any person or union or branch aggrieved by a decision of the registrar may appeal therefrom in the prescribed manner to the president of the court. The president may direct the issue to the registrar of a writ of mandamus and or of prohibition.

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Supplemental.

47. **42.** No stamp duty shall be payable on or in respect of any registration, certificate, agreement, order, statutory declaration, or instrument affected, issued, or made under this Act.

48. **43.** Evidence of any order of the court of arbitration may be given by the production of a copy thereof certified under the hand of the registrar.

49. **44.** Evidence of any proclamation, notification, rule, or regulation required by this Act to be proclaimed, notified, or published in the Gazette may be given by the production of a copy of the Gazette containing or purporting to contain such proclamation, notification, rule, or regulation.

50. **45.** The Governor may, subject to the provisions of this Act, make regulations—

(a) prescribing the powers and duties of the registrar, ~~the district registrars, and the clerk of the court~~ and of persons acting in the execution of this Act;

(b) prescribing the persons by whom and the manner in which applications for the registration of industrial unions may be made;

(c) regulating the conditions on which branches may be registered;

(d) prescribing the matters to be contained in the rules of any industrial unions, and regulating the names under which industrial unions may be registered;

(e) regulating the keeping of the register, and the granting of certificates of incorporation of industrial unions;

(f)

Industrial Arbitration.

- (f) prescribing the persons by whom and the manner in which applications for the cancellation of the registration and incorporation of industrial unions may be made, and the evidence to be furnished and the conditions to be performed prior to such cancellation, and prescribing the manner of such cancellation ;
- (g) prescribing the sending to the registrar of copies of rules and lists of members of industrial unions ;
- (h) prescribing the conditions under which and the manner in which persons may be recommended by industrial unions for appointment to the court of arbitration ;
- (i) regulating the nomination and remuneration of assessors to the court of arbitration ;
- (j) ~~for any purpose for which by this Act regulations may be made ;~~
generally for carrying the provisions of this Act into effect ;
- and may in those regulations fix any penalty not exceeding twenty pounds for any breach of the same, to be recovered in a summary way in a court of petty sessions.

51. 46. All rules and regulations made in pursuance of this Act shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days after such publication for approval or amendment, if Parliament be then sitting, but if not, then within fourteen days after the next meeting of Parliament, and in that case such rules and regulations shall in the meantime be applied temporarily after publication in the Gazette, until Parliament meets, and thereafter shall have the force of law until Parliament otherwise decide.

47. This Act shall continue in force until the thirtieth day of June, one thousand nine hundred and eight, and no longer.

SCHEDULES.

30 SCHEDULE ONE.

Matters to be contained in the rules, articles, and regulations of a company, association, trade union, or branch applying to be registered as an industrial union.

1. The appointment and removal of a committee of management, a chairman or president, a secretary, and, except in the case of an incorporated company, a trustee or trustees, and the filling of any vacancies in such offices.
2. The powers and duties of such committee and officers, and the control to be exercised by special or general meetings over the committee.
3. The manner of calling such meetings, the quorum, and the manner of voting thereat.
4. The mode in which industrial agreements and other instruments shall be made by or on behalf of the company, association, trade union, or branch.
5. The manner in which the company, association, trade union, or branch, may be represented in any proceeding before the court.
6. The custody and use of the seal.
7. The control of the property and the investment of the funds, and the periodical audit of the accounts of the company, association, trade union, or branch : audit to be made once a year.

Industrial Arbitration.

8. Provision for keeping a register of members.

9. The terms on which persons may become or cease to be members of the company, association, trade union, or branch, including provision for the payment and recovery of subscriptions by members, and in the case of a trade union or branch, provision that a person shall not cease to be a member unless he has given at least three months' written notice to the secretary, and has paid all fees and dues owing by him to the trade union or branch, and provision that reasonable facilities shall be given to become members of the union.

10. The description of the registered officer of the company, association, trade union, or branch.

SCHEDULE TWO.

1. Each industrial union of employers may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the company or persons constituting the union employ, on the average of the next preceding month, not less than one hundred fifty nor more than two hundred and fifty employees, the union may choose one delegate; where such employees number more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates.

2. Each industrial union of employees may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the financial members of the union number, on the average of the next preceding month, not less than one hundred nor more than two hundred and fifty, the union may choose one delegate; and an additional delegate for each five hundred financial members of such union. No union having less than one hundred financial members shall choose a delegate; where such number is more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates; where more than one thousand, four delegates; where more than fifteen hundred, five delegates.

3. Any dispute occurring at any time respecting the number of delegates which may be chosen by any union shall be determined by the registrar, who may, if he determines that the number already chosen is greater than the number which any union is entitled to choose, decide who of the members chosen shall be the delegate or delegates to represent the union. The determination or decision of the registrar shall be final.

4. The delegates chosen respectively by the unions of employers and unions of employees shall respectively meet in separate places and at the respective times fixed by the registrar, and shall respectively recommend a fit person or fit persons for the office of a member of the court of arbitration. The voting shall be by ballot, and each delegate shall have one vote.

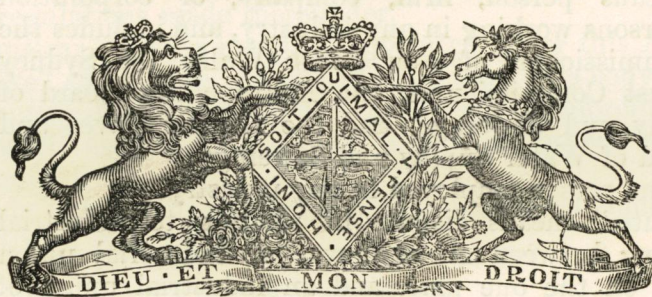
5. Any recommendation of any such delegates shall not be vitiated by any informality in the choosing of any delegates or from the fact that any unions have omitted to choose delegates, or by any informality in the proceedings of the delegates in making the recommendation.

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.

Legislative Assembly Chamber,
Sydney, 26 September, 1901. }

F. W. WEBB,
Clerk of the Legislative Assembly.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. , 1901.

An Act to provide for the registration and incorporation of industrial unions and the making and enforcing of industrial agreements; to constitute a court of arbitration for the hearing and determination of industrial disputes, and matters referred to it; to define the jurisdiction, powers, and procedure of such court; to provide for the enforcement of its awards and orders; ~~to provide for a committee of reference from such court;~~ and for purposes consequent on or incidental to those objects.

(As amended in Committee of the Whole.)

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:—

5

Preliminary.

1. This Act may be cited as the "Industrial Arbitration Act, Short title. 1901."

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2.

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

Industrial Arbitration.

2. In this Act, unless the context otherwise shows—

Definitions.

“Branch” means branch of a trade-union which is registered or has its principal office outside the State.

“Court” means court of arbitration constituted by this Act.

5 “Employer” means person, firm, company, or corporation employing persons working in any industry, and includes the Railway Commissioners of New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage.

10 “Employee” means person employed in any industry.

“Industrial dispute” means dispute in relation to industrial matters arising between an employer or industrial union of employers on the one part, and an industrial union of employees or trade-union or branch on the other part, and includes any dispute arising out of an industrial agreement.

15 “Industrial matters” means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and, without limiting the general nature of the above definition, includes all or any matters relating to—

20 (a) the wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the prices paid or to be paid therein in respect of such employment;

(b) the hours of employment, sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment;

30 (c) the employment of children or young persons, or of any person or persons or class of persons in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein;

(d) any established custom or usage of any industry, either generally or in any particular locality;

35 (e) the interpretation of an industrial agreement.

“Industrial union” means industrial union registered and incorporated under this Act.

40 “Industry” means business, trade, manufacture, undertaking, calling, or employment in which persons of either sex are employed, for hire or reward, and includes the management and working of the Government Railways and Tramways, the Sydney Harbour Trust, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage, but does not include employment in domestic service. “Lock-out”

45

Industrial Arbitration.

- “Lock-out” means the closing of a place of employment or the suspension of work by an employer done with a view to compel his employees or to aid another employer in compelling his employees to accept a term or terms of employment.
- 5 “Prescribed” means prescribed by this Act or any rules or regulations made thereunder.
- “Registrar” means registrar appointed under this Act.
- “Strike” shall mean the cessation of work by a body of employees acting in combination done as a means of enforcing compliance with demands made by them or other employees on employers.
- 10 “Trade union” means trade union registered under the Trade Union Act, 1881.

The registrar.

- 15 **3.** The Governor shall appoint a registrar who shall have the powers and perform the duties prescribed and may appoint such officers as may be required to administer this Act. Appointment of officers.

Industrial unions.

- 20 **4.** Where the registrar, or in case of appeal, the court is satisfied that the provisions of this Act have been complied with, the registrar shall, in the prescribed manner and form, register as an industrial union— Registration of industrial unions.

- (a) any person or association of persons or any incorporated company or any association of incorporated companies, or of
25 incorporated companies and persons who or which have or has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees;
- 30 (b) any trade union or association of trade unions;
- (c) any branch of a trade union;

and shall issue a certificate of incorporation, which shall be conclusive evidence in all courts, until cancelled, that the requirements of this Act in respect of incorporation have been complied with.

- 35 **5.** An application to register an industrial union shall be made in writing in the prescribed form, and shall— Applications for registration.
- (a) if made by an incorporated company, be signed by a majority of the directors or, if there are no directors, of the managers thereof resident in the State; and
- 40 (b) if made by an association of persons, be signed by every such person; and
- (c) if made by a trade union or branch, be signed by a majority of the general committee of management thereof;

(d)

Industrial Arbitration.

- (d) if made by an association of trade unions, be signed by a majority of the general committee of management of each associated union.

And the registrar may require such proof as he thinks necessary of the authority of the said persons to make the said application.

But no industrial union shall be registered unless the registrar is satisfied that the rules or articles of the company, association of persons, trade union or branch applying to be registered include provisions as to the matters set out in Schedule One. And any application to register an industrial union may be refused if another industrial union to which the applicants might conveniently belong has already been registered. And no branch shall be registered unless it is a bona fide branch of a trade union and of sufficient importance to be registered separately.

The Governor may from time to time, by regulations made under this Act, alter, repeal, or amend the said Schedule.

6. Any company, association of persons, trade union, or branch applying to be registered as an industrial union may, on application to the Governor, upon the recommendation of the registrar obtain leave to adopt, and may thereupon adopt, any rules dealing with the matters mentioned in Schedule One, or in any regulations made under the last preceding section, as part of the rules of the company, association, union, or branch; and upon such leave being obtained, the said rules, when adopted in pursuance of this section, shall, notwithstanding any memorandum or articles of association or any rules of such company, association, union, or branch, become binding on all members of the same.

7. (1) Upon the issue of a certificate of incorporation, the members for the time being of the company, association, trade union, or branch incorporated in the industrial union shall, until the registration and incorporation of the union is cancelled in pursuance of this Act be for the purposes of this Act a body corporate by the name mentioned in such certificate, and shall have for the purposes of this Act perpetual succession and a common seal.

(2) An industrial union—

(a) may purchase, take on lease, hold, sell, lease, mortgage, exchange, and otherwise own, possess, and deal with any real or personal property: Provided that nothing in this Act shall render an industrial union liable to be sued, or the property of an industrial union, or of any member thereof, liable to be taken in execution by any process in law other than in pursuance of this Act or in respect of obligations incurred in the exercise of rights and powers conferred by this Act;

(b) shall forward to the registrar, subject to the prescribed penalties, at the prescribed dates, and verified in the prescribed manner, lists of its members and copies of its rules, and copies of industrial agreements to which it is a party.

Industrial Arbitration.

8. If it appears to the registrar—

- (a) that for any reasons which appear to him to be good the registration of an industrial union ought to be cancelled ; or
 5 (b) that an industrial union has been registered erroneously or by mistake ; or
 (c) that the provisions of the rules, articles, or regulations of the union as to any of the matters mentioned in Schedule One as amended under this Act are inadequate, or have not bona fide been observed ; or
 10 (d) that the proper authority of the union wilfully neglects to provide for the levying and collection of subscriptions, fees, or penalties from members of the union ; or
 (e) that the accounts of the union have not been audited in
 15 pursuance of the rules, articles, or regulations, or that the accounts of the union or of the auditor do not disclose the true financial position of the union ;
 (f) that any industrial union has wilfully neglected to obey any order of the court ;

Cancellation of registration of union.

he shall make application to the court for the cancellation of the
 20 registration of the union, giving notice thereof to the secretary of the union.

The court shall hear the said application, and if it is of opinion that the registration of the union should be cancelled, it shall so order, and thereupon the registration and incorporation of the union under
 25 this Act shall be void :

Provided that such cancellation shall not relieve the industrial union, or any member thereof, from the obligation of any industrial agreement or award or order of the court, nor from any penalty or liability incurred prior to such cancellation."

30 9. During the pendency of any reference to the court no application for the cancellation of the registration of an industrial union shall be made or received, and no resignation or discharge of the membership of any industrial union or of any company, association, trade union or branch, constituting an industrial union, shall have effect.

No cancellation during pendency of proceedings.

35 10. Nothing in this Act shall prevent a transfer of shares in any registered company, or in any association of persons which is, or is a member of, an industrial union :

Saving of right to transfer shares in company.

40 Provided that no such transfer shall relieve the transferor from any liability incurred by him under this Act up to the date of such transfer.

11. Industrial unions shall be classified by the registrar as industrial unions of employers and industrial unions of employees, and the certificate of incorporation shall state the class of the industrial union mentioned therein.

Classification of industrial unions.

45 12. Every dispute between a member of an industrial or trade union or branch and such union or branch shall be decided in the manner

Recovery of subscriptions and contributions from members of unions.

Industrial Arbitration.

manner directed by the rules of such union ~~or branch~~; and the president of the court, on the application of the trustees or other officers authorised to sue on behalf of such union ~~or branch~~, may order the payment by any member of any fine, penalty, or subscription payable in pursuance of

5 the rules aforesaid, or any contribution to a penalty incurred or money payable by the union ~~or branch~~ under an award or order of the court: Provided that no such contribution shall exceed the sum of ten pounds.

Industrial agreements.

10 13. Any industrial union may make an agreement in writing Industrial agreements may be made. relating to any industrial matter—

- (a) with another industrial union; or
- (b) with an employer;

15 which, if it is made for a specified term not exceeding three years from the making of the agreement, and if a copy thereof is filed with the registrar, shall be or become an industrial agreement within the meaning of this Act.

14. Every industrial agreement shall be binding during its On whom industrial agreements are binding. currency—

- 20 (a) on the parties thereto;
- (b) where the agreement is made by an industrial union on the persons who, during the term of the agreement, are members of such union;

25 but may by such parties be rescinded by agreement in writing made and filed with the registrar, or varied by another industrial agreement, to have effect for the residue of the term for which the former agreement was made:

30 Provided that notwithstanding the expiry of the term of an agreement, it shall continue in force for one month after one party shall have notified to the registrar his intention to terminate it, unless all parties agree to terminate it at an earlier date.

14. (1) An industrial agreement may be rescinded by agreement made in writing by the parties thereto and filed with the registrar, or may be varied by another industrial agreement so made and filed.

35 If not so rescinded the agreement or varied agreement shall be in force for the term specified in the agreement, and unless any party thereto gives to the registrar, at least one month before the expiration on such term, a notice in writing of intention to terminate the agreement or varied agreement at such expiration the agreement or

40 varied agreement shall continue in force until the expiration of one month after notice in writing of intention to terminate it has been given to the registrar by any party thereto.

Industrial Arbitration.

(2) Every industrial agreement or varied agreement shall be binding—

- 5 (a) on the parties thereto during the currency of the agreement or varied agreement, and on such parties in respect of anything done or suffered under or by virtue of it during its currency;
- 10 (b) on every person during the currency of the agreement or varied agreement while he is a member of any industrial union which is a party thereto, and on every person in respect of anything done or suffered under or by virtue of it during its currency and while he is such member.

15 15. An industrial agreement as between the parties bound by the same shall have the same effect and may be enforced in the same way as an award of the court of arbitration, and the court shall have full and exclusive jurisdiction in respect thereof. To have same effect as award of court of arbitration.

Constitution of the Court of Arbitration.

16. There shall be a court of arbitration for the hearing and determination of industrial disputes and of references and applications under this Act. The court shall be a court of record and shall have a seal, which shall be judicially noticed. Constitution of court.

The court shall consist of a president and two members.

17. The president of the court shall be such a Judge of the Supreme Court ~~or of a District Court as may from time to time to be~~ named by the Governor. The Governor may on the request of the president appoint a Judge of the Supreme Court as deputy president, to act in respect of any matter mentioned in his appointment; and the said deputy shall, in respect of the said matter, have all the rights, powers, jurisdictions, and privileges of the president under this Act. How members of court are appointed.

18. The two members of the court shall be appointed by the Governor, one from among the persons recommended in the manner and subject to the conditions prescribed in Schedule Two by a body of delegates from industrial unions of employers, and the other from among the persons recommended as aforesaid by a body of delegates from industrial unions of employees; but, if any such body fails to make such recommendation, the Governor may appoint such person as he thinks fit.

19. The president and members of the court shall be appointed as soon as practicable after the commencement of this Act, and every three years after such first appointment, ~~Each member and~~ shall hold office until the time of the next triennial appointment to the office, but the members shall not be eligible for re-appointment. Times and periods of appointments.

20. Any vacancy in the office of member of the court occasioned by death, resignation, or removal from office shall be filled by appointment Vacancies.

on

Industrial Arbitration.

on such recommendation as aforesaid, and the person so appointed shall hold office until the time of the next triennial appointment, but shall **not** be eligible for re-appointment.

Where a member of the court is absent from his office by reason of illness or other cause, his office shall be filled by appointment as aforesaid, and the person so appointed shall hold office during such absence.

20. During his term of office the president or a member of the court shall, except where otherwise provided in this Act, be liable to removal from office in such manner and upon such grounds only as a Supreme Court Judge is by law liable to be removed from his office. Removal of members of court.

21. The members of the court shall be paid a salary of seven hundred and fifty pounds per annum each, and such remuneration for expenses while travelling and while holding views and inspections as may be prescribed. Payment of members of court.

22. The court may be constituted by the president or any member for the purpose of being adjourned. Quorum of court.

23. When an industrial dispute involving technical questions is referred to it, the court may appoint two assessors for the purpose of advising it on such questions. Appointment of assessors.

One of such assessors shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employers, and the other shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employees.

If default is made in nominating any of such assessors, or if the parties consent, the court may appoint an assessor or assessors without any nomination.

Board of reference.

24. There shall be a board of reference consisting of representatives of the industrial unions chosen and appointed as hereinafter prescribed. Constitution of board.

Each industrial union may, within three months after its registration under this Act and within the same period after the expiration of every successive three years after such registration, choose one of its members and submit his name to the registrar as a member of the board.

The Governor may thereupon appoint the persons whose names have been so submitted to be members of the board until the appointment of their successors on the expiration of the next triennial period.

But if no name is so submitted by any such union or if any member of such union whose name has been submitted or who has been appointed member of the board refuses to act or resigns from the board, or dies, or is incapable to act, the Governor may appoint any member of the union in his place who shall hold office until the next triennial appointment of the board.

Industrial Arbitration.

25. There shall be a president of the board, who shall be a ^{The president.} District Court Judge, to be named as occasion arises by the Governor.

26. After the reference to it of any industrial dispute or matter, ^{Reference of dispute to committee of board.} and before or during the hearing, the court, of its own motion or ^{Constitution of committee.} on the application of any of the parties, and on such terms as it thinks fit, may refer the dispute or matter, or any question incidental thereto, to a committee of five members of the board of reference constituted as follows:—

- 10 (a) The president of the board shall ex officio be a member of the committee;
- (b) two members of the committee shall be appointed respectively by the two parties to the dispute or matter who in the opinion of the court represent adverse interests;
- 15 (c) the president and the two members appointed under the last preceding subsection shall together appoint two other members of the committee from among members of the board who do not belong to any industrial union which is a party to the dispute or matter.

27. The committee shall take such steps as seem best calculated ^{Duties of committee.} to bring about a settlement of the dispute or matter, and shall, whether such settlement has or has not been arrived at, send a report in writing to the court of its proceedings with or without a recommendation.

The proceedings of the committee and its report and recommendation shall be kept secret by the committee, but the report sent to the court may be kept secret or may be made public by the court in its discretion.

28. If all parties consent, any recommendation of the board ^{Court may order settlement to be carried out.} may be made an order of the court in the reference, otherwise the court shall proceed with the reference.

Disqualifications for office.

29. 24. The following persons shall be disqualified from being ^{Disqualifications for office.} recommended or appointed, or holding office as a member of the court of arbitration, ~~or from being chosen or appointed or holding office as a member of the board of reference—~~

- 35 (a) a bankrupt who has not obtained his certificate of discharge;
- (b) any person of unsound mind;
- (c) ~~any person who is an alien.~~

30. 25. The Governor shall remove from office any member of the ^{Persons disqualified may be removed from office by the Governor.} court of arbitration or any member of the board of reference who becomes disqualified under the last preceding section, or is proved to the satisfaction of the Supreme Court, or a Judge thereof, to be guilty of inciting any industrial union or employer to commit any breach of an industrial agreement or award, or to be guilty of any offence under ^{Jurisdiction} sections thirty-one or thirty-two of this Act.

*Industrial Arbitration.**Jurisdiction and procedure of the court.*

31. 26. The court shall have jurisdiction and power— Jurisdiction and powers of court.
- (a) on reference in pursuance of this Act to hear and determine, according to equity and good conscience—
- 5 (i) any industrial dispute; or
- (ii) any industrial matter referred to it by an industrial union or by the Attorney-General registrar;
- (iii) any application under this Act;
- 10 (b) to make any order or award or give any direction in pursuance of such hearing or determination;
- (b c) subject to the approval of the Governor to make rules regulating the practice and procedure of the court, and more especially but not so as to limit the generality of its powers in the premises with reference to;
- 15 (i) the times and places of sitting;
- (ii) the summoning of parties and witnesses;
- (iii) the persons by whom and conditions upon which parties may be represented;
- (iv) the rules of evidence;
- 20 (v) the enforcement of its orders;
- (vi) allowances to witnesses, costs, court fees;
- (vii) generally regulating the procedure of the court;
- (viii) appeals under this Act;
- (ix) the reference of any matter;
- 25 (e d) to dismiss any matter at any stage of the proceedings where it thinks the dispute trivial;
- (d e) to dismiss any proceeding without giving a decision, where, in the opinion of the court, an amicable settlement can and should be brought about;
- 30 (e f) to order any party to pay to any other party such costs and expenses (including expenses of witnesses) as may be specified in the order, and at any time to vary such order; but no costs shall be allowed for the attendance before the court of any counsel, solicitor, or agent for any party;
- 35 (f g) at any stage of the proceedings of its own motion, or on the application of any of the parties, and upon such terms as it thinks fit—
- (i) to direct parties to be joined or struck out;
- (ii) to amend or waive any error or defect in the proceedings;
- 40 (iii) to extend the time within which anything is to be done by any party, whether within or after the prescribed time; and
- (iv) generally to give such directions as are deemed necessary or expedient in the premises;

(g h)

Industrial Arbitration.

- (g h) to proceed and act in any proceedings in the absence of any party who has been duly served with notice to appear therein as fully as if such party had duly attended ;
- 5 (h i) to sit in any place for the hearing and determining of any matter lawfully before it; provided that, as far as practicable, the court shall sit in the locality within which the subject-matter of the proceeding before it arose ;
- 10 (i j) on its own motion, or at the request of any of the parties to the dispute, to direct that the proceedings of the court be conducted in private, and that all persons other than the parties, their representatives, and any witnesses under examination shall withdraw from the court ;
- (j k) to adjourn any proceeding to any time and place ;
- 15 (k l) to refer to an expert the taking of accounts, estimates of quantities, calculations of strains, and other technical matters, and to accept the report of such experts as evidence ;
- (l m) to exercise in respect of the summoning, sending for, and examination of witnesses and documents, and in respect of persons summoned or giving evidence before it, or on affidavit, the same powers as are by section one hundred and forty of the Parliamentary Electorates and Elections Act of 1893 conferred on the committee of elections and qualifications constituted by that Act; Provided that no party to an industrial dispute shall be required to produce his books except by order of the president, and that such books when produced shall not, except by the consent of the party producing them, be inspected by anyone except the president or members of the court, who shall not divulge the contents thereof under penalty of dismissal from office ;
- 20 (m n) to deal with all offences and enforce all orders under this Act ;
- (n o) at any time to vary its own orders and re-open any reference ;
- (o p) to admit and call for such evidence as in good conscience it thinks to be the best available whether strictly legal evidence or not: Provided that any question as to the admissibility of evidence shall be decided by the president alone.
- 35 ~~22.~~ 27. The president and each member of the court shall be sworn in the manner and before the persons prescribed before entering upon the hearing of any dispute, not to disclose to any person whatsoever, any matters or evidence relating to any trade secret or to the profits or financial position of any witness or party, and shall be liable to a penalty not exceeding five hundred pounds and dismissal from office for a violation of such oath, and shall at the request of any party or witness hear such evidence in camera. Disclosure of profits.
- 45 ~~23.~~ 28. No matter within the jurisdiction of the court may be referred to the court, nor may any application to the court be made except by an industrial union or by any person affected or aggrieved by an order of the court. Reference of dispute to court.
But

Industrial Arbitration.

But no industrial dispute shall be referred to the court for determination, and no application shall be made to the court for the enforcement of any award of the court by an industrial union, except in pursuance—

- 5 (a) of a resolution passed by the majority of the members present at a meeting of such union specially summoned by notice sent by post to each member or given in the manner prescribed by rules of the union, and stating the nature of the proposal to be submitted to the meeting; or
- 10 (b) where in the opinion of the registrar it is impracticable to summon a meeting of all the members of the union a resolution passed, in accordance with rules made by the court in that behalf, by a majority of the officers of the union specified in such rules.

15 Notwithstanding anything in this section the Attorney-General registrar may—

- (1) Inform the court of any breach of this Act or of any order or award of the court.
- 20 (2) Refer to the court an industrial dispute when the parties thereto or some or one of them are or is not an industrial union.

24. 29. Any union or person entitled to refer an industrial dispute, or any matter, to the court, may make application to the registrar in the prescribed form. Method of reference to court.

25 35. 30. (1) Any party to a reference may at any time take out a summons, in the form prescribed by the rules of the court, returnable before the president of the court sitting in chambers. Summons for directions.

At the hearing of the summons the president may make such order as may be just with respect to all the interlocutory proceedings to be taken before the hearing by the court of the dispute, and as to the costs thereof, and with respect to the issues to be submitted to the court, the persons to be served with notice of the proceedings of the court, particulars of the claims of the parties, admissions, discovery, interrogatories, inspection of documents, inspection of real or personal property, commissions, examination of witnesses, and the place and mode of hearing. The court may at the hearing of any dispute reference revoke or amend any such order of the president, and may make any order which the president may make under this section.

(2) In addition to the powers conferred by this section, Additional powers.

40 the president of the court sitting in chambers for the purpose of administering this Act shall have all the powers of a Judge of the Supreme Court sitting in chambers for the purpose of any matter before that Court.

36. 31. The court and, on being authorised in writing by the court, View by, or by direction of court.

45 any member or officer of the court or any other person may at any time

Industrial Arbitration.

time enter any building, mine, mine-workings, ship, vessel, place, or premises of any kind whatsoever, 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, which
 5 has been made the subject of a reference to the court, and inspect and view any work, material, machinery, appliances, or article therein.

And any person who hinders or obstructs the court, or any such member, officer, or person as aforesaid, in the exercise of any power conferred by this section, shall for every such offence be liable
 10 to a penalty not exceeding five pounds, and every officer of the court or such other person so authorised as aforesaid shall be required to take the like oath as is prescribed in section thirty-two, **in the manner and before the persons prescribed** and shall be liable to a like penalty for the violation thereof.

15 ~~37.~~ **32.** Proceedings in the court of arbitration shall not be removable No certiorari. to any other court by certiorari or otherwise; and no award, order, or proceeding of the court of arbitration shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any
 20 court of judicature on any account whatsoever.

~~38.~~ **33.** No proceedings in the court shall abate by reason of the No abatement on death of party. death of any party, but such proceedings may, by order of the court, be continued on such terms as the court thinks fit by or against the legal representative of such party.

25 ~~39.~~ **34.** Whoever—

(1) does any act or thing in the nature of a lock-out or strike; or Prohibition of strikes or lock outs. suspends or discontinues employment or work in any industry ~~so that thereby any industrial dispute is removed out of the jurisdiction of the court; or~~

30 (2) instigates to or aids in any of the abovementioned acts, either—

(a) before a reasonable time has elapsed for a reference to the court of the matter in dispute; or

35 (b) during the pendency of any proceedings in the court in relation to an industrial dispute,

shall be guilty of a misdemeanour, and upon conviction be liable to a fine not exceeding one thousand pounds, or imprisonment not exceeding two months:

40 Provided that nothing in this section shall prohibit the suspension or discontinuance of any industry or the working of any persons therein for any other good cause:

And provided that no prosecution under this section shall be begun except by leave of the court.

Industrial Arbitration.

40. 35. If an employer dismisses from his employment any employee by reason merely of the fact that the employee is a member of an industrial union, ~~trade union, or branch,~~ or is entitled to the benefit of an award, order, or agreement, such employer shall be liable to a 5 penalty not exceeding twenty pounds for each employee so dismissed.

In what cases dismissal of employee is breach of an award, order, or industrial agreement.

In every case it shall lie on the employer to satisfy the court that such employee was so dismissed by reason of some facts other than those above mentioned in this section: **Provided that no proceedings shall be begun under this section except by leave of the Court.**

10 41. 36. The court of ~~arbitration~~ in its award or by order made on the application of any party to the proceedings before it, at any time in the period during which the award is binding, may—

Minimum wage and employment of members of unions.

15 (a) prescribe a minimum rate of wages or other remuneration, with provision for the fixing in such manner and subject to such conditions as may be specified in the award or order, by some tribunal specified in the award or order, of a lower rate in the case of employees who are unable to earn the prescribed minimum; and

20 (b) direct that as between members of an industrial union of employees and other persons, offering their labour at the same time, such members shall be employed in preference to such other persons, other things being equal, and appoint a tribunal to finally decide in what cases an employer to whom any such direction applies may employ a person who is not 25 a member of any such union or branch.

42. 37. In any proceeding before it the court may do all or any of the following things with a view to the enforcement of its award, order, or direction—

Methods of enforcing orders.

30 (1) declare that any practice, regulation, rule, custom, term of agreement, condition of employment, or dealing whatsoever in relation to an industrial matter, shall be a common rule of an industry affected by the proceeding;

35 (2) direct within what limits of area and subject to what conditions and exceptions ~~this~~ such common rule shall be binding upon persons engaged in the said industry, whether as employer or as employee, and whether members of an industrial union or not;

40 (3) fix penalties for any breach or non-observance of such common rule so declared as aforesaid, and specify to whom the same shall be paid;

(4) grant an injunction to restrain any person from breaking or non-observing any order, award, or direction of the court;

(5) impose a penalty not exceeding five hundred pounds upon an industrial union;

(6)

Industrial Arbitration.

- (6) impose a penalty not exceeding five pounds on any individual member of an industrial union ;
- (7 5) order the cancellation of the registration of an industrial union ;
- 5 (8 6) order that any member of an industrial union shall cease to be a member thereof from a date and for a period to be named in the said order ;
- (9 7) fix penalties for a breach or nonobservance of any term of an award or order or direction not exceeding five hundred pounds in the case of an industrial union, or five pounds in the case of any individual member of the said union, and specifying specify the persons to whom such penalty shall be paid ;
- 10 (10 8) impose a fine not exceeding one thousand five hundred pounds on any person bound by the said award, order, or declaration for any breach or nonobservance of an award, order, or direction by a person bound by such award, order, or direction who is not a member of an industrial union ;
- 15

and all fines and penalties for any breach of an award, order, or declaration direction of the court may be sued for and recovered either—

- 20 (a) in the court by the persons entitled to receive the same ; or
- (b) in any court of petty sessions presided over by a Police or Stipendiary Magistrate, by the same persons in the same way as penalties for breaches of regulations an inspector under the Factories and Shops Act of 1896, or any Act amending the same :
- 25

Provided that any appeal from an order of a court of petty sessions under this section shall lie to the court on the terms and in the manner prescribed by the rules of the said court.

- 30 ~~43.~~ **38.** Any person or industrial union who is aggrieved affected by any order, award, or declaration direction of the court may, whether such person or union was or was not a party to the proceedings in which the order, award, or declaration direction complained of was made, apply at any time to the court to be relieved from any obligation imposed by such order, award, or declaration direction. And the court
- 35 in entertaining and dealing with such application shall have all the powers conferred upon it by this Act.

- 40 ~~44.~~ **39.** The prothonotary, master in equity, sheriff, bailiffs, and other officers of the Supreme Court and the bailiffs of the District Courts and Courts of Petty Sessions shall be deemed to be also officers of the court of arbitration, and shall exercise the powers and perform the duties prescribed by any rules of court made under this Act ; and for the purpose of carrying out the provisions of this Act, and in relation to any proceedings before the court of arbitration or the president of that the court and in relation to the making, carrying out,
- 45 and enforcing of any award, order, or direction of the said court or president, shall, except where provided in any rules made as aforesaid, exercise

Appeals by parties aggrieved affected.

Officers of supreme court, district courts, and courts of petty sessions to be deemed officers of the court of arbitration.

Industrial Arbitration.

exercise the same powers and perform the same duties as they may exercise and perform in relation to any judgment, order, direction, or conviction of the Supreme Court or any District Court or Court of Petty Sessions.

- 5 45. **40.** Where the award or order of the court, or an industrial agreement, binds specifically a corporation, person, industrial union, trade union, or branch, any property held by such corporation, person, union, or branch, or by any trustee on his or its behalf, shall be available to answer such award, order, or agreement, and any process
10 for enforcing the same; and in the case of any such union or branch, if the property so held is insufficient to fully satisfy the said award, order, agreement, or process, the members of such union or branch shall be liable for such deficiency: Provided that no member shall be so liable for more than ten pounds.
- 15 46. **41.** Any person or union ~~or branch~~ aggrieved by a decision of the registrar may appeal therefrom in the prescribed manner to the president of the court. The president may direct the issue to the registrar of a writ of mandamus ~~and~~ or of prohibition. Property to answer award or order of court. Appeal.

Supplemental.

- 20 47. **42.** No stamp duty shall be payable on or in respect of any registration, certificate, agreement, order, statutory declaration, or instrument affected, issued, or made under this Act. No stamp duty payable.
48. **43.** Evidence of any order of the court ~~of arbitration~~ may be given by the production of a copy thereof certified under the hand of
25 the registrar. Evidence of order of court.
49. **44.** Evidence of any proclamation, notification, **rule**, or regulation required by this Act to be proclaimed, notified, or published in the Gazette may be given by the production of a copy of the Gazette containing or purporting to contain such proclamation, notification,
30 **rule**, or regulation. Evidence of proclamations or regulations.
50. **45.** The Governor may, subject to the provisions of this Act, make regulations—Regulations.
- (a) prescribing the powers and duties of the registrar, ~~the district registrars, and the clerk of the court~~ and of persons acting in the execution of this Act;
- 35 (b) prescribing the persons by whom and the manner in which applications for the registration of industrial unions may be made;
- (c) regulating the conditions on which branches may be registered;
- 40 (d) prescribing the matters to be contained in the rules of any industrial unions, and regulating the names under which industrial unions may be registered;
- (e) regulating the keeping of the register, and the granting of certificates of incorporation of industrial unions;

(f)

Industrial Arbitration.

- (f) prescribing the persons by whom and the manner in which applications for the cancellation of the registration and incorporation of industrial unions may be made, and the evidence to be furnished and the conditions to be performed prior to such cancellation, and prescribing the manner of such cancellation;
- (g) prescribing the sending to the registrar of copies of rules and lists of members of industrial unions;
- (h) prescribing the conditions under which and the manner in which persons may be recommended by industrial unions for appointment to the court of arbitration;
- (i) regulating the nomination and remuneration of assessors to the court of arbitration;
- (j) ~~for any purpose for which by this Act regulations may be made;~~ generally for carrying the provisions of this Act into effect; and may in those regulations fix any penalty not exceeding twenty pounds for any breach of the same, to be recovered in a summary way in a court of petty sessions.

51. 46. All rules and regulations made in pursuance of this Act shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days after such publication for approval or amendment, if Parliament be then sitting, but if not, then within fourteen days after the next meeting of Parliament, and in that case such rules and regulations shall in the meantime be applied temporarily after publication in the Gazette, until Parliament meets, and thereafter shall have the force of law until Parliament otherwise decide.

47. This Act shall continue in force until the thirtieth day of June, one thousand nine hundred and eight, and no longer.

SCHEDULES.

SCHEDULE ONE.

Matters to be contained in the rules, articles, and regulations of a company, association, trade union, or branch applying to be registered as an industrial union.

1. The appointment and removal of a committee of management, a chairman or president, a secretary, and, except in the case of an incorporated company, a trustee or trustees, and the filling of any vacancies in such offices.
2. The powers and duties of such committee and officers, and the control to be exercised by special or general meetings over the committee.
3. The manner of calling such meetings, the quorum, and the manner of voting thereat.
4. The mode in which industrial agreements and other instruments shall be made by or on behalf of the company, association, trade union, or branch.
5. The manner in which the company, association, trade union, or branch, may be represented in any proceeding before the court.
6. The custody and use of the seal.
7. The control of the property and the investment of the funds, and the periodical audit of the accounts of the company, association, trade union, or branch: audit to be made once a year.

Industrial Arbitration.

8. Provision for keeping a register of members.

9. The terms on which persons may become or cease to be members of the company, association, trade union, or branch, including provision for the payment and recovery of subscriptions by members, and in the case of a trade union or branch, provision that a
5 person shall not cease to be a member unless he has given at least three months' written notice to the secretary, and has paid all fees and dues owing by him to the trade union or branch, and provision that reasonable facilities shall be given to become members of the union.

10. The description of the registered officer of the company, association, trade
10 union, or branch.

SCHEDULE TWO.

1. Each industrial union of employers may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union
15 applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the company or persons constituting the union employ, on the average of the next preceding month, not less than one hundred nor more than two hundred and fifty employees, the union may choose one delegate; where such
20 employees number more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates.

2. Each industrial union of employees may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union
25 applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the financial members of the union number, on the average of the next preceding month, not less than one hundred nor more than two hundred and fifty, the union may choose one delegate; and an additional delegate for each
30 five hundred financial members of such union. No union having less than one hundred financial members shall choose a delegate; where such number is more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates; where more than one thousand, four delegates; where more than fifteen hundred,
35 five delegates.

3. Any dispute occurring at any time respecting the number of delegates which may be chosen by any union shall be determined by the registrar, who may, if he determines that the number already chosen is greater than the number which any union is entitled to choose, decide who of the members chosen shall be the delegate or
40 delegates to represent the union. The determination or decision of the registrar shall be final.

4. The delegates chosen respectively by the unions of employers and unions of employees shall respectively meet in separate places and at the respective times fixed by the registrar, and shall respectively recommend a fit person or fit persons for the office
45 of a member of the court of arbitration. The voting shall be by ballot, and each delegate shall have one vote.

5. Any recommendation of any such delegates shall not be vitiated by any informality in the choosing of any delegates or from the fact that any unions have omitted to choose delegates, or by any informality in the proceedings of the delegates in
50 making the recommendation.

1901.

Legislative Council.

INDUSTRIAL ARBITRATION BILL.

(Amendments to be proposed in Committee of the Whole by
THE HON. B. R. WISE, ATTORNEY-GENERAL.)

- Page 3, clause 3, line 16. *After* "prescribed" *add* "and may appoint
"such officers as may be required to administer this Act"
- Page 3, clause 4, subsection (a), line 22. *After* "person" *insert* "or
"association of persons"
- Page 3, clause 4, line 24. *After* "which" *omit* "have or"
- Page 3, clause 4, subsection (c), line 29. *After* "branch" *omit* "of
"a trade union"
- Page 3, clause 5. *After* line 41 *add* new subsection—
(d) if made by an association of trade unions, be signed by a
majority of the general committee of management of each
associated union.
- Page 5, clause 12, line 40. *Omit* "or trade"
- Page 5, clause 12, line 41. *Omit* "or branch" (twice)
- Page 5, clause 12, line 42. *Omit* "or branch"
- Page 5, clause 12, line 44. *Omit* "or branch"
- Page 6, clause 12, line 2. *Omit* "or branch"
- Page 6, clause 17, line 38. *Omit* "such" *insert* "a"
- Page 6, clause 17, line 39. *Omit* "as may from time to time"
- Page 6, clause 17, line 40. *After* "Governor" *insert* "The Governor
"may on the request of the president appoint a Judge of the
"Supreme or District Court as deputy president, to act in
"respect of any matter mentioned in his appointment; and
"the said deputy shall, in respect of the said matter, have all
"the rights, powers, jurisdictions, and privileges of the
"president under this Act"
- Page 7, clause 19, line 11. *After* "death" *insert* "resignation"
- Page 7, clause 24, line 42. *Omit* "the"
- Page 9, clause 29, line 8. *Omit* "any person who is"
- Page 12, clause 35, line 1. *Omit* "dispute" *insert* "reference"
- Page 12, clause 39, lines 36 and 37. *Omit* "so that thereby any
"industrial dispute is removed out of the jurisdiction of the
"court"
- Page 13, clause 40, line 8. *Omit* "trade union, or branch"
- Page 14, clause 42, line 13. *Omit* "specifying" *insert* "specify"
- Page 15, clause 46, line 15. *Omit* "or branch"
- Page 15, clause 50, lines 33 and 34. *Omit* "the district registrars, and
"the clerk of the court"
- Page 17, Schedule Two, line 29. *After* "delegate" *insert* "where such
"number is more than two hundred and fifty but not more
"than five hundred, two delegates; where more than five
"hundred, three delegates"
- Page 17, Schedule Two, line 29. *Omit* "and an additional delegate for
"each five hundred financial members of such union"

INSTITUTIONAL REFORMATION

(The following is a list of the names of the members of the Board of Trustees of the Institution, as of the 1st day of January, 1885.)

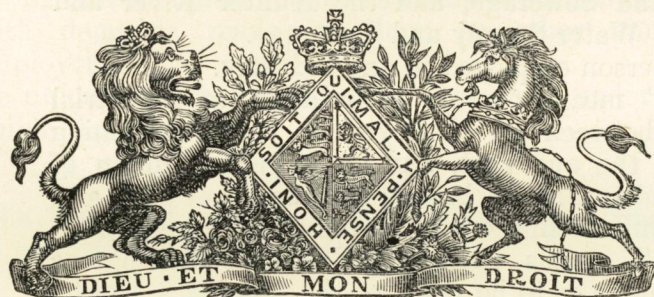
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This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 26 September, 1901.* }

F. W. WEBB,
Clerk of the Legislative Assembly.

New South Wales.



ANNO PRIMO

EDWARDI VII REGIS.

Act No. , 1901.

An Act to provide for the registration and incorporation of industrial unions and the making and enforcing of industrial agreements; to constitute a court of arbitration for the hearing and determination of industrial disputes, and matters referred to it; to define the jurisdiction, powers, and procedure of such court; to provide for the enforcement of its awards and orders; to provide for a committee of reference from such court; and for purposes consequent on or incidental to those objects.

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:—

5

Preliminary.

1. This Act may be cited as the "Industrial Arbitration Act, Short title. 1901."

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83—A

2.

Industrial Arbitration.

2. In this Act, unless the context otherwise shows—

Definitions.

“Branch” means branch of a trade-union which is registered or has its principal office outside the State.

“Court” means court of arbitration constituted by this Act.

5 “Employer” means person, firm, company, or corporation employing persons working in any industry, and includes the Railway Commissioners of New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage.

10 “Employee” means person employed in any industry.

“Industrial dispute” means dispute in relation to industrial matters arising between an employer or industrial union of employers on the one part, and an industrial union of employees or trade-union or branch on the other part, and includes any dispute arising out of an industrial agreement.

15 “Industrial matters” means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and, without limiting the general nature of the above definition, includes all or any matters relating to—

25 (a) the wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the prices paid or to be paid therein in respect of such employment;

(b) the hours of employment, sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment;

30 (c) the employment of children or young persons, or of any person or persons or class of persons in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein;

(d) any established custom or usage of any industry, either generally or in any particular locality;

35 (e) the interpretation of an industrial agreement.

“Industrial union” means industrial union registered and incorporated under this Act.

40 “Industry” means business, trade, manufacture, undertaking, calling, or employment in which persons of either sex are employed, for hire or reward, and includes the management and working of the Government Railways and Tramways, the Sydney Harbour Trust, the Metropolitan Board of Water Supply and Sewerage, and the Hunter River and District Board of Water Supply and Sewerage.

45

“Lock-out”

Industrial Arbitration.

- “Lock-out” means the closing of a place of employment or the suspension of work by an employer done with a view to compel his employees or to aid another employer in compelling his employees to accept a term or terms of employment.
- 5 “Prescribed” means prescribed by this Act or any regulations made thereunder.
- “Registrar” means registrar appointed under this Act.
- “Strike” shall mean the cessation of work by a body of employees acting in combination done as a means of enforcing compliance with demands made by them or other employees on employers.
- 10 “Trade union” means trade union registered under the Trade Union Act, 1881.

The registrar.

- 15 3. The Governor shall appoint a registrar who shall have the powers and perform the duties prescribed. Appoin'tment of officers.

Industrial unions.

4. Where the registrar, or in case of appeal, the court is satisfied that the provisions of this Act have been complied with, the registrar shall, in the prescribed manner and form, register as an industrial union— Registration of industrial unions.
- 20

- (a) any person or any incorporated company or any association of incorporated companies, or of incorporated companies and persons who or which have or has in the aggregate throughout the six months next preceding the date of the application for registration employed on an average, taken per month, not less than fifty employees ;
- 25 (b) any trade union or association of trade unions ;
- (c) any branch of a trade union ;

30 and shall issue a certificate of incorporation, which shall be conclusive evidence in all courts, until cancelled, that the requirements of this Act in respect of incorporation have been complied with.

5. An application to register an industrial union shall be made in writing in the prescribed form, and shall— Applications for registration.
- 35

- (a) if made by an incorporated company, be signed by a majority of the directors or managers thereof resident in the State ; and
- (b) if made by an association of persons, be signed by every such person ; and
- 40 (c) if made by a trade union or branch, be signed by a majority of the general committee of management thereof.

And the registrar may require such proof as he thinks necessary of the authority of the said persons to make the said application.

But

Industrial Arbitration.

But no industrial union shall be registered unless the registrar is satisfied that the rules or articles of the company, association of persons, trade union or branch applying to be registered include provisions as to the matters set out in Schedule One. And any application
 5 to register an industrial union may be refused if another industrial union to which the applicants might conveniently belong has already been registered. And no branch shall be registered unless it is a bona fide branch of a trade union and of sufficient importance to be registered separately.

10 The Governor may from time to time, by regulations made under this Act, alter, repeal, or amend the said Schedule.

6. Any company, association of persons, trade union, or branch
 applying to be registered as an industrial union may, on application
 to the Governor, obtain his leave to adopt, and may thereupon adopt,
 15 any rules dealing with the matters mentioned in Schedule One, or
 in any regulations made under the last preceding section, as part of
 the rules of the company, association, union, or branch; and upon
 such leave being obtained, the said rules, when adopted in pursuance
 of this section, shall, notwithstanding any memorandum or articles
 20 of association or any rules of such company, association, union, or
 branch, become binding on all members of the same.

7. (1) Upon the issue of a certificate of incorporation, the
 members for the time being of the company, association, trade union,
 or branch incorporated in the industrial union shall, until the
 25 registration and incorporation of the union is cancelled in pursuance
 of this Act be a body corporate by the name mentioned in such
 certificate, and shall have for the purposes of this Act perpetual
 succession and a common seal.

(2) An industrial union—
 30 (a) may purchase, take on lease, hold, sell, lease, mortgage,
 exchange, and otherwise own, possess, and deal with any real
 or personal property: Provided that nothing in this Act shall
 render an industrial union liable to be sued, or the property
 of an industrial union, or of any member thereof, liable to be
 35 taken in execution by any process in law other than in
 pursuance of this Act or in respect of obligations incurred
 in the exercise of rights and powers conferred by this Act;
 (b) shall forward to the registrar, subject to the prescribed
 penalties, at the prescribed dates, and verified in the pre-
 40 scribed manner, lists of its members and copies of its rules,
 and copies of industrial agreements to which it is a party.

8. If it appears to the registrar—
 (a) that for any reasons which appear to him to be good the
 registration of an industrial union ought to be cancelled; or
 45 (b) that an industrial union has been registered erroneously or
 by mistake; or
 (c)

Rules to be adopted.

Incorporation of industrial union.

Power to hold land.

Lists of members to be furnished.

Cancellation of registration of union.

Industrial Arbitration.

- (c) that the provisions of the rules, articles, or regulations of the union as to any of the matters mentioned in Schedule One as amended under this Act are inadequate, or have not bona fide been observed ; or
- 5 (d) that the proper authority of the union wilfully neglects to provide for the levying and collection of subscriptions, fees, or penalties from members of the union ; or
- (e) that the accounts of the union have not been audited in pursuance of the rules, articles, or regulations, or that the
- 10 accounts of the union or of the auditor do not disclose the true financial position of the union ;
- (f) that any industrial union has wilfully neglected to obey any order of the court ;

he shall make application to the court for the cancellation of the

15 registration of the union, giving notice thereof to the secretary of the union.

The court shall hear the said application, and if it is of opinion that the registration of the union should be cancelled, it shall so order, and thereupon the registration and incorporation of the union under

20 this Act shall be void :

Provided that such cancellation shall not relieve the industrial union, or any member thereof, from the obligation of any industrial agreement or award or order of the court, nor from any penalty or liability incurred prior to such cancellation."

25 **9.** During the pendency of any reference to the court no application for the cancellation of the registration of an industrial union shall be made or received, and no resignation or discharge of the membership of any industrial union or of any company, association, trade union or branch, constituting an industrial union, shall have effect.

No cancellation during pendency of proceedings.

30 **10.** Nothing in this Act shall prevent a transfer of shares in any registered company, or in any association of persons which is, or is a member of, an industrial union :

Saving of right to transfer shares in company.

Provided that no such transfer shall relieve the transferor from any liability incurred by him under this Act up to the date of

35 such transfer.

11. Industrial unions shall be classified by the registrar as industrial unions of employers and industrial unions of employees, and the certificate of incorporation shall state the class of the industrial union mentioned therein.

Classification of industrial unions.

12. Every dispute between a member of an industrial or trade union or branch and such union or branch shall be decided in the manner directed by the rules of such union or branch ; and the president of the court, on the application of the trustees or other officers authorised to sue on behalf of such union or branch, may order the payment by

45 any member of any fine, penalty, or subscription payable in pursuance of the

Recovery of subscriptions and contributions from members of unions.

Industrial Arbitration.

the rules aforesaid, or any contribution to a penalty incurred or money payable by the union or branch under an award or order of the court :

Provided that no such contribution shall exceed the sum of ten pounds.

5

Industrial agreements.

13. Any industrial union may make an agreement in writing relating to any industrial matter— Industrial agreements may be made.

(a) with another industrial union ; or

(b) with an employer ;

10 which, if it is made for a specified term not exceeding three years from the making of the agreement, and if a copy thereof is filed with the registrar, shall be or become an industrial agreement within the meaning of this Act.

15 14. Every industrial agreement shall be binding during its currency— On whom industrial agreements are binding.

(a) on the parties thereto ;

(b) where the agreement is made by an industrial union on the persons who, during the term of the agreement, are members of such union ;

20 but may by such parties be rescinded by agreement in writing made and filed with the registrar, or varied by another industrial agreement, to have effect for the residue of the term for which the former agreement was made :

25 Provided that notwithstanding the expiry of the term of an agreement, it shall continue in force for one month after one party shall have notified to the registrar his intention to terminate it, unless all parties agree to terminate it at an earlier date.

30 15. An industrial agreement as between the parties bound by the same shall have the same effect and may be enforced in the same way as an award of the court of arbitration, and the court shall have full and exclusive jurisdiction in respect thereof. To have same effect as award of court of arbitration.

Constitution of the Court of Arbitration.

35 16. There shall be a court of arbitration for the hearing and determination of industrial disputes and of references and applications under this Act. The court shall be a court of record and shall have a seal, which shall be judicially noticed. Constitution of court.

The court shall consist of a president and two members.

40 17. The president of the court shall be such Judge of the Supreme Court or of a District Court as may from time to time be named by the Governor. How members of court are appointed.

The two members of the court shall be appointed by the Governor, one from among the persons recommended in the manner and subject to the conditions prescribed in Schedule Two by a body of delegates from industrial unions of employers, and the other from among

Industrial Arbitration.

among the persons recommended as aforesaid by a body of delegates from industrial unions of employees; but, if any such body fails to make such recommendation, the Governor may appoint such person as he thinks fit.

- 5 **18.** The members of the court shall be appointed as soon as practicable after the commencement of this Act, and every three years after such first appointment. Each member shall hold office until the time of the next triennial appointment to the office, but shall be eligible for re-appointment. Times and periods of appointments.
- 10 **19.** Any vacancy in the office of member of the court occasioned by death or removal from office shall be filled by appointment on such recommendation as aforesaid, and the person so appointed shall hold office until the time of the next triennial appointment, but shall be eligible for re-appointment. Vacancies.
- 15 Where a member of the court is absent from his office by reason of illness or other cause, his office shall be filled by appointment as aforesaid, and the person so appointed shall hold office during such absence.
- 20 **20.** During his term of office the President or a member of the court shall, except where otherwise provided in this Act, be liable to removal from office in such manner and upon such grounds only as a Supreme Court Judge is by law liable to be removed from his office. Removal of members of court.
- 25 **21.** The members of the court shall be paid a salary of seven hundred and fifty pounds per annum each, and such remuneration for expenses while travelling and while holding views and inspections as may be prescribed. Payment of members of court.
- 30 **22.** The court may be constituted by the president or any member for the purpose of being adjourned. Quorum of court.
- 35 **23.** When an industrial dispute involving technical questions is referred to it, the court may appoint two assessors for the purpose of advising it on such questions. Appointment of assessors.
- 40 One of such assessors shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employers, and the other shall be a person nominated by such of the parties to the dispute as, in the opinion of the court, have interests in common with the employees.
- 45 If default is made in nominating any of such assessors, or if the parties consent, the court may appoint an assessor or assessors without any nomination.
- Board of reference.*
- 45 **24.** There shall be a board of reference consisting of representatives of the industrial unions chosen and appointed as hereinafter prescribed. Constitution of board.
- Each industrial union may, within three months after its registration under this Act and within the same period after the expiration

Industrial Arbitration.

expiration of every successive three years after such registration, choose one of its members and submit his name to the registrar as a member of the board.

The Governor may thereupon appoint the persons whose names
5 have been so submitted to be members of the board until the appointment of their successors on the expiration of the next triennial period.

But if no name is so submitted by any such union or if any member of such union whose name has been submitted or who has been appointed member of the board refuses to act or resigns from the
10 board, or dies, or is incapable to act, the Governor may appoint any member of the union in his place who shall hold office until the next triennial appointment of the board.

25. There shall be a president of the board, who shall be a
District Court Judge, to be named as occasion arises by the Governor.

15 26. After the reference to it of any industrial dispute or matter,
and before or during the hearing, the court, of its own motion or on the application of any of the parties, and on such terms as it
thinks fit, may refer the dispute or matter, or any question incidental
thereto, to a committee of five members of the board of reference
20 constituted as follows:—

- (a) The president of the board shall ex officio be a member of the committee;
- (b) two members of the committee shall be appointed respectively
25 by the two parties to the dispute or matter who in the opinion of the court represent adverse interests;
- (c) the president and the two members appointed under the last preceding subsection shall together appoint two other members of the committee from among members of the board who do not belong to any industrial union which is a party
30 to the dispute or matter.

27. The committee shall take such steps as seem best calculated
to bring about a settlement of the dispute or matter, and shall,
whether such settlement has or has not been arrived at, send a report
in writing to the court of its proceedings with or without a recom-
35 mendation.

The proceedings of the committee and its report and recommendation shall be kept secret by the committee, but the report sent to the court may be kept secret or may be made public by the court in its discretion.

40 28. If all parties consent, any recommendation of the board
may be made an order of the court in the reference, otherwise the
court shall proceed with the reference.

Disqualifications

*Industrial Arbitration.**Disqualifications for office.*

29. The following persons shall be disqualified from being recommended or appointed, or holding office as a member of the court of arbitration, or from being chosen or appointed or holding office as a member of the board of reference—
- (a) a bankrupt who has not obtained his certificate of discharge ;
 (b) any person of unsound mind ;
 (c) any person who is an alien.
30. The Governor shall remove from office any member of the court of arbitration or any member of the board of reference who becomes disqualified under the last preceding section, or is proved to the satisfaction of the Supreme Court, or a Judge thereof, to be guilty of inciting any industrial union or employer to commit any breach of an industrial agreement or award.

Disqualifications
for office.Persons disqualified
may be removed
from office by the
Governor.15 *Jurisdiction and procedure of the court.*

31. The court shall have jurisdiction and power—
- (a) on reference in pursuance of this Act to hear and determine, according to equity and good conscience—
- (i) any industrial dispute ; or
 (ii) any industrial matter referred to it by an industrial union or by the Attorney-General ;
 (iii) any application under this Act ;
- (b) subject to the approval of the Governor to make rules regulating the practice and procedure of the court, and more especially but not so as to limit the generality of its powers in the premises with reference to ;
- (i) the times and places of sitting ;
 (ii) the summoning of parties and witnesses ;
 (iii) the persons by whom and conditions upon which parties may be represented ;
 (iv) the rules of evidence ;
 (v) the enforcement of its orders ;
 (vi) allowances to witnesses, costs, court fees ;
 (vii) generally regulating the procedure of the court ;
 (viii) appeals under this Act ;
 (ix) the reference of any matter ;
- (c) to dismiss any matter at any stage of the proceedings where it thinks the dispute trivial ;
- (d) to dismiss any proceeding without giving a decision, where, in the opinion of the court, an amicable settlement can and should be brought about ;

Jurisdiction and
powers of court.

(e)

Industrial Arbitration.

- 5 (e) to order any party to pay to any other party such costs and expenses (including expenses of witnesses) as may be specified in the order, and at any time to vary such order; but no costs shall be allowed for the attendance before the court of any counsel, solicitor, or agent for any party;
- (f) at any stage of the proceedings of its own motion, or on the application of any of the parties, and upon such terms as it thinks fit—
- 10 (i) to direct parties to be joined or struck out;
- (ii) to amend or waive any error or defect in the proceedings;
- (iii) to extend the time within which anything is to be done by any party, whether within or after the prescribed time; and
- (iv) generally to give such directions as are deemed necessary or expedient in the premises;
- 15 (g) to proceed and act in any proceedings in the absence of any party who has been duly served with notice to appear therein as fully as if such party had duly attended;
- (h) to sit in any place for the hearing and determining of any matter lawfully before it; provided that, as far as practicable,
- 20 the court shall sit in the locality within which the subject-matter of the proceeding before it arose;
- (i) on its own motion, or at the request of any of the parties to the dispute, to direct that the proceedings of the court be conducted in private, and that all persons other than the
- 25 parties, their representatives, and any witnesses under examination shall withdraw from the court;
- (j) to adjourn any proceeding to any time and place;
- (k) to refer to an expert the taking of accounts, estimates of quantities, calculations of strains, and other technical
- 30 matters, and to accept the report of such experts as evidence;
- (l) to exercise in respect of the summoning, sending for, and examination of witnesses and documents, and in respect of persons summoned or giving evidence before it, or on affidavit,
- 35 the same powers as are by section one hundred and forty of the Parliamentary Electorates and Elections Act of 1893 conferred on the committee of elections and qualifications constituted by that Act; Provided that no party to an industrial dispute shall be required to produce his books
- 40 except by order of the president, and that such books when produced shall not, except by the consent of the party producing them, be inspected by anyone except the president or members of the court, who shall not divulge the contents thereof under penalty of dismissal from office;
- (m) to deal with all offences and enforce all orders under this Act;
- 45 (n) at any time to vary its own orders and re-open any reference;
- (o)

Industrial Arbitration.

(o) to admit and call for such evidence as in good conscience it thinks to be the best available whether strictly legal evidence or not: Provided that any question as to the admissibility of evidence shall be decided by the president alone.

5 **32.** The president and each member of the court shall be Disclosure of profits.
sworn, before entering upon the hearing of any dispute, not to disclose
to any person whatsoever, any matters or evidence relating to any
trade secret or to the profits or financial position of any witness or
party, and shall be liable to a penalty not exceeding five hundred
10 pounds and dismissal from office for a violation of such oath, and shall
at the request of any party or witness hear such evidence in camera.

33. No matter within the jurisdiction of the court may be Reference of dispute
to court.
referred to the court, nor may any application to the court be made
except by an industrial union or by any person affected or aggrieved
15 by an order of the court.

But no industrial dispute shall be referred to the court for
determination, and no application shall be made to the court for the
enforcement of any award of the court by an industrial union, except
in pursuance of a resolution passed by the majority of the members
20 present at a meeting of such union specially summoned by notice
sent by post to each member or given in the manner prescribed by
rules of the union, and stating the nature of the proposal to be
submitted to the meeting.

Notwithstanding anything in this section the Attorney-General
25 may—

- (1) Inform the court of any breach of this Act or of any order or
award of the court.
- (2) Refer to the court an industrial dispute when the parties
thereto or some or one of them are or is not an industrial
30 union.

34. Any union or person entitled to refer an industrial dispute, Method of reference
to court.
or any matter, to the court, may make application to the registrar in
the prescribed form.

35. (1) Any party to a reference may at any time take out a Summons for
directions.
35 summons, in the form prescribed by the rules of the court, returnable
before the president of the court sitting in chambers.

At the hearing of the summons the president may make such
order as may be just with respect to all the interlocutory proceedings
to be taken before the hearing by the court of the dispute, and as to
40 the costs thereof, and with respect to the issues to be submitted to
the court, the persons to be served with notice of the proceedings
of the court, particulars of the claims of the parties, admissions,
discovery, interrogatories, inspection of documents, inspection of real
or personal property, commissions, examination of witnesses, and the
45 place and mode of hearing. The court may at the hearing of any
dispute

Industrial Arbitration.

dispute revoke or amend any such order of the president, and may make any order which the president may make under this section.

(2) In addition to the powers conferred by this section, Additional powers. the president of the court sitting in chambers for the purpose of administering this Act shall have all the powers of a Judge of the Supreme Court sitting in chambers for the purpose of any matter before that Court.

36. The court and, on being authorised in writing by the court, View by, or by direction of court. any member or officer of the court or any other person may at any time enter any building, mine, mine-workings, ship, vessel, place, or premises of any kind whatsoever, 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, which has been made the subject of a reference to the court, and inspect and view any work, material, machinery, appliances, or article therein.

And any person who hinders or obstructs the court, or any such member, officer, or person as aforesaid, in the exercise of any power conferred by this section, shall for every such offence be liable to a penalty not exceeding five pounds, and every officer of the court or such other person so authorised as aforesaid shall be required to take the like oath as is prescribed in section thirty-two, and shall be liable to a like penalty for the violation thereof.

37. Proceedings in the court of arbitration shall not be removable No certiorari. to any other court by certiorari or otherwise; and no award, order, or proceeding of the court of arbitration shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever.

38. No proceedings in the court shall abate by reason of the No abatement on death of party. death of any party, but such proceedings may, by order of the court, be continued on such terms as the court thinks fit by or against the legal representative of such party.

39. Whoever—

- Prohibition of strikes or lock-outs.
- (1) does any act or thing in the nature of a lock-out or strike; or suspends or discontinues employment or work in any industry so that thereby any industrial dispute is removed out of the jurisdiction of the court;
- (2) instigates to or aids in any of the abovementioned acts,
- either—
- (a) before a reasonable time has elapsed for a reference to the court of the matter in dispute; or
- (b) during the pendency of any proceedings in the court in relation to an industrial dispute,

shall be guilty of a misdemeanour, and upon conviction be liable to fine not exceeding one thousand pounds, or imprisonment not exceeding two months:

Provided

Industrial Arbitration.

Provided that nothing in this section shall prohibit the suspension or discontinuance of any industry or the working of any persons therein for any other good cause :

And provided that no prosecution under this section shall be
5 begun except by leave of the court.

40. If an employer dismisses from his employment any employee
by reason merely of the fact that the employee is a member of an
industrial union, trade union, or branch, or is entitled to the benefit of
an award, order, or agreement, such employer shall be liable to a
10 penalty not exceeding twenty pounds for each employee so dismissed.

In what cases
dismissal of employee
is breach of an
award, order, or
industrial agreement.

In every case it shall lie on the employer to satisfy the court
that such employee was so dismissed by reason of some facts other
than those abovementioned in this section.

41. The court of arbitration in its award or by order made on
15 the application of any party to the proceedings before it, at any time
in the period during which the award is binding, may—

Minimum wage and
employment of
members of unions.

(a) prescribe a minimum rate of wages or other remuneration,
with provision for the fixing in such manner and subject to
20 such conditions as may be specified in the award or order, by
some tribunal specified in the award or order, of a lower rate
in the case of employees who are unable to earn the pre-
scribed minimum ; and

(b) direct that as between members of an industrial union of
25 employees and other persons, offering their labour at the
same time, such members shall be employed in preference to
such other persons, other things being equal, and appoint a
tribunal to finally decide in what cases an employer to whom
any such direction applies may employ a person who is not
a member of any such union or branch.

42. In any proceeding before it the court may do all or any of
30 the following things with a view to the enforcement of its award, order,
or direction—

Methods of enforcing
orders.

(1) declare that any practice, regulation, rule, custom, term of
35 agreement, condition of employment, or dealing whatsoever
in relation to an industrial matter, shall be a common rule
of an industry affected by the proceeding ;

(2) direct within what limits of area and subject to what conditions
and exceptions this common rule shall be binding upon
40 persons engaged in the said industry, whether as employer or
as employee, and whether members of industrial union or not ;

(3) fix penalties for any breach or non-observance of such
common rule so declared as aforesaid, and specify to whom
the same shall be paid ;

(4) grant an injunction to restrain any person from breaking or
45 non-observing any order, award, or direction of the court ;

(5)

Industrial Arbitration.

- (5) impose a penalty not exceeding five hundred pounds upon an industrial union ;
- (6) impose a penalty not exceeding five pounds on any individual member of an industrial union ;
- 5 (7) order the cancellation of the registration of an industrial union ;
- (8) order that any member of an industrial union shall cease to be a member thereof from a date and for a period to be named in the said order ;
- 10 (9) fix penalties for a breach of any term of an award or order not exceeding five hundred pounds in the case of an industrial union, or five pounds in the case of any individual member of the said union, and specifying the persons to whom such penalty shall be paid ;
- 15 (10) impose a fine not exceeding one thousand pounds on any person bound by the said award, order, or declaration who is not a member of an industrial union ;

and all fines and penalties for any breach of an award, order, or declaration of the court may be sued for and recovered either—

- 20 (a) in the court by the persons entitled to receive the same ; or
- (b) in any court of petty sessions presided over by a Police or Stipendiary Magistrate, by the same persons in the same way as penalties for breaches of regulations under the Factories and Shops Act of 1896, or any Act amending the
- 25 same :

Provided that any appeal from an order of a court of petty sessions under this section shall lie to the court on the terms and in the manner prescribed by the rules of the said court.

30 **43.** Any person or industrial union who is aggrieved by any order, award, or declaration of the court may, whether such person or union was or was not a party to the proceedings in which the order, award, or declaration complained of was made, apply at any time to the court to be relieved from any obligation imposed by such order, award, or declaration. And the court in entertaining and dealing with

35 such application shall have all the powers conferred upon it by this Act.

44. The prothonotary, master in equity, sheriff, bailiffs, and other officers of the Supreme Court and the bailiffs of the District Courts and Courts of Petty Sessions shall be deemed to be also officers of the court of arbitration, and shall exercise the powers and

40 perform the duties prescribed by any rules of court made under this Act ; and for the purpose of carrying out the provisions of this Act, and in relation to any proceedings before the court of arbitration or the president of that court and in relation to the making, carrying out, and enforcing of any award, order, or direction of the said court or

45 president, shall, except where provided in any rules made as aforesaid, exercise

Appeals by parties aggrieved.

Officers of supreme court, district courts, and courts of petty sessions to be deemed officers of the court of arbitration.

Industrial Arbitration.

exercise the same powers and perform the same duties as they may exercise and perform in relation to any judgment, order, direction, or conviction of the Supreme Court or any District Court or Court of Petty Sessions.

- 5 **45.** Where the award or order of the court, or an industrial agreement, binds specifically a corporation, person, industrial union, trade union, or branch, any property held by such corporation, person, union, or branch, or by any trustee on his or its behalf, shall be available to answer such award, order, or agreement, and any process
10 for enforcing the same; and in the case of any such union or branch, if the property so held is insufficient to fully satisfy the said award, order, agreement, or process, the members of such union or branch shall be liable for such deficiency: Provided that no member shall be so liable for more than ten pounds.
- 15 **46.** Any person, union, or branch aggrieved by a decision of the registrar may appeal therefrom in the prescribed manner to the president of the court. The president may direct the issue to the registrar of a writ of mandamus and of prohibition.

Property to answer award or order of court.

Appeal.

Supplemental.

- 20 **47.** No stamp duty shall be payable on or in respect of any registration, certificate, agreement, order, statutory declaration, or instrument affected, issued, or made under this Act.
- 25 **48.** Evidence of any order of the court of arbitration may be given by the production of a copy thereof certified under the hand of the registrar.
- 30 **49.** Evidence of any proclamation, notification, or regulation required by this Act to be proclaimed, notified, or published in the Gazette may be given by the production of a copy of the Gazette containing or purporting to contain such proclamation, notification, or regulation.
- 35 **50.** The Governor may, subject to the provisions of this Act, make regulations—
- 40 (a) prescribing the powers and duties of the registrar, the district registrars, and the clerk of the court and of persons acting in the execution of this Act;
- (b) prescribing the persons by whom and the manner in which applications for the registration of industrial unions may be made;
- (c) regulating the conditions on which branches may be registered;
- (d) prescribing the matters to be contained in the rules of any industrial unions, and regulating the names under which industrial unions may be registered;
- (e) regulating the keeping of the register, and the granting of certificates of incorporation of industrial unions;

No stamp duty payable.

Evidence of order of court.

Evidence of proclamations or regulations.

Regulations.

(f)

Industrial Arbitration.

- (f) prescribing the persons by whom and the manner in which applications for the cancellation of the registration and incorporation of industrial unions may be made, and the evidence to be furnished and the conditions to be performed prior to such cancellation, and prescribing the manner of such cancellation;
- (g) prescribing the sending to the registrar of copies of rules and lists of members of industrial unions;
- (h) prescribing the conditions under which and the manner in which persons may be recommended by industrial unions for appointment to the court of arbitration;
- (i) regulating the nomination and remuneration of assessors to the court of arbitration;
- (j) for any purpose for which by this Act regulations may be made;
- and may in those regulations fix any penalty not exceeding twenty pounds for any breach of the same, to be recovered in a summary way in a court of petty sessions.

51. All rules and regulations made in pursuance of this Act shall be published in the Gazette, and shall be laid before both Houses of Parliament within fourteen days after such publication for approval or amendment, if Parliament be then sitting, but if not, then within fourteen days after the next meeting of Parliament, and in that case such rules and regulations shall in the meantime be applied temporarily after publication in the Gazette, until Parliament meets, and thereafter shall have the force of law until Parliament otherwise decide.

SCHEDULES.

SCHEDULE ONE.

Matters to be contained in the rules, articles, and regulations of a company, association, trade union, or branch applying to be registered as an industrial union.

1. The appointment and removal of a committee of management, a chairman or president, a secretary, and, except in the case of an incorporated company, a trustee or trustees, and the filling of any vacancies in such offices.
2. The powers and duties of such committee and officers, and the control to be exercised by special or general meetings over the committee.
3. The manner of calling such meetings, the quorum, and the manner of voting thereat.
4. The mode in which industrial agreements and other instruments shall be made by or on behalf of the company, association, trade union, or branch.
5. The manner in which the company, association, trade union, or branch, may be represented in any proceeding before the court.
6. The custody and use of the seal.
7. The control of the property and the investment of the funds, and the periodical audit of the accounts of the company, association, trade union, or branch: audit to be made once a year.
- 8.

Industrial Arbitration.

8. Provision for keeping a register of members.

9. The terms on which persons may become or cease to be members of the company, association, trade union, or branch, including provision for the payment and recovery of subscriptions by members, and in the case of a trade union or branch, provision that a
5 person shall not cease to be a member unless he has given at least three months' written notice to the secretary, and has paid all fees and dues owing by him to the trade union or branch, and provision that reasonable facilities shall be given to become members of the union.

10. The description of the registered officer of the company, association, trade
10 union, or branch.

SCHEDULE TWO.

1. Each industrial union of employers may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union
15 applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the company or persons constituting the union employ, on the average of the next preceding month, not less than one hundred nor more than two hundred and fifty employees, the union may choose one delegate; where such
20 employees number more than two hundred and fifty, but not more than five hundred, two delegates; where more than five hundred, three delegates.

2. Each industrial union of employees may choose a delegate or delegates for the purpose of recommending persons for the office of member of the court of arbitration.

The delegates shall be chosen, so far as practicable, under the rules of the union
25 applicable for that purpose.

The number of delegates shall be in accordance with the following scale:—

Where the financial members of the union number, on the average of the next preceding month, not less than one hundred nor more than two hundred and fifty, the union may choose one delegate, and an additional delegate for each
30 five hundred financial members of such union. No union having less than one hundred financial members shall choose a delegate.

3. Any dispute occurring at any time respecting the number of delegates which may be chosen by any union shall be determined by the registrar, who may, if he determines that the number already chosen is greater than the number which any union
35 is entitled to choose, decide who of the members chosen shall be the delegate or delegates to represent the union. The determination or decision of the registrar shall be final.

4. The delegates chosen respectively by the unions of employers and unions of employees shall respectively meet in separate places and at the respective times fixed by
40 the registrar, and shall respectively recommend a fit person or fit persons for the office of a member of the court of arbitration. The voting shall be by ballot, and each delegate shall have one vote.

5. Any recommendation of any such delegates shall not be vitiated by any informality in the choosing of any delegates or from the fact that any unions have
45 omitted to choose delegates, or by any informality in the proceedings of the delegates in making the recommendation.

