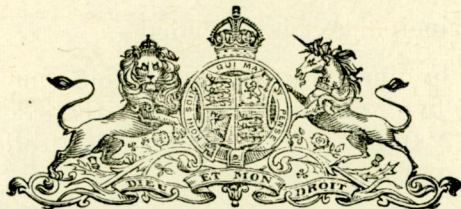


New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

Act No. 10, 1951.

An Act to amend the Industrial Arbitration Act, 1940-1950, in certain respects; and for purposes connected therewith. [Assented to, 20th June, 1951.]

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

1. (1) This Act may be cited as the “Industrial Arbitration (Amendment) Act, 1951.”

Short title,
citation and
commence-
ment.

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

Industrial Arbitration (Amendment).

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1951.

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

Amendment of
Act No. 2,
1940.
Sec. 5.
(Interpreta-
tion.)

2. The Principal Act is amended—

(a) (i) by inserting in subsection one of section five at the end of the definition of “Industrial matters” the following new paragraph:—

(h) the mode, terms and conditions of employment of any persons employed in any industry as staff employees and the rights of employers to require such employees to cease to be or to refrain from becoming members of a trade union or to perform work of the nature usually performed by any such members.

(ii) by inserting in subsection two of the same section after the words “delivery of goods” the words “or in the transportation of passengers”;

Sec. 8.
(Registra-
tion of
industrial
union of
employees.)

(b) by omitting from subsection three of section eight the words “which has not since the twenty-second day of March, one thousand nine hundred and eighteen, taken part in, aided, or abetted an illegal strike”;

New sec. 10A

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

Proof of
registration
of
industrial
union, etc.

10A. (1) Where it is necessary in any proceedings in any court to prove—

(a) the registration of an industrial union,
or

(b)

Industrial Arbitration (Amendment).

(b) that a specified person is, or was at any specified time, the secretary of any specified industrial union,
a certificate under the hand of the registrar stating any such facts shall be prima facie evidence of such facts without proof of the registrar's signature.

(2) (a) Any certificate under paragraph (b) of subsection one of this section may be issued by the registrar upon proof to his satisfaction that such person has been duly elected or appointed as the secretary of the industrial union and that the requirements of the rules of the industrial union relating to such election or appointment have been duly complied with.

(b) The person to whom any certificate has been issued under this section stating that such person is the secretary of an industrial union shall upon ceasing to hold office as such secretary or upon request so to do by the registrar forthwith return the certificate to the registrar for cancellation. Any person failing to comply with the provisions of this paragraph shall be liable to a penalty not exceeding one hundred pounds.

3. The Principal Act is further amended by inserting at the end of paragraph (b) of subsection eight of section fourteen the following new paragraph:—

Further amendment of Act No. 2, 1940.

On any such appeal the commission shall have full discretionary power to receive further evidence upon questions of fact. Such evidence shall be admitted on special grounds only and not without special leave of the commission.

Sec. 14.
(Industrial commission.)

4. The Principal Act is further amended—

Further amendment of Act No. 2, 1940.

(a) (i) by omitting from paragraph (a) of subsection one of section twenty the words "twenty pounds" and by inserting in lieu thereof the words "thirty-five pounds";

Sec. 20.
(Original jurisdiction of committees.)

Industrial Arbitration (Amendment).

(ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "one thousand seven hundred and fifty pounds";

(iii) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph:—

(g) prescribing that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award;

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

(2) (a) Where a committee prescribes that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award pursuant to paragraph (g) of subsection one of this section the committee shall also prescribe that the employer of any person to whom a certificate for the time being in force has been issued by the registrar as hereinafter provided shall be exempt from the provisions of such award prescribing preference of employment as aforesaid.

(b) Any person who—

(i) objects on religious grounds to being a member of an industrial union of employees and satisfies the registrar that his religious objections are genuine; and

(ii) pays to the registrar an amount equivalent to the subscription prescribed by the rules of the industrial union of employees for membership of the union;

shall

Industrial Arbitration (Amendment).

shall be issued by the registrar with a certificate exempting him from union membership.

Any such certificate shall remain in force for the period specified therein and may be renewed from time to time by the registrar upon payment of such amount not exceeding the amount referred to in paragraph (b) aforesaid as the registrar may require.

(c) Any amount received by the registrar pursuant to this subsection shall be paid by him to the credit of the Consolidated Revenue Fund.

(b) (i) by inserting in subsection seven of section twenty-four after the words "award of a committee" the words "or of a conciliation commissioner"; Sec. 24.
(Appeal from committees.)

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

(8) Any party, employer or industrial union affected by an order, award or decision of a committee or of a conciliation commissioner may, within the prescribed time and in the prescribed manner,—

(a) appeal to the commission from the order, award or decision;

(b) apply to the commission for a suspension of the order, award or decision.

(c) by inserting next after section twenty-eight the following new section:— New sec. 28A

28A. The apprenticeship commissioner may summon any person before him for the purpose of conference or of giving evidence. Apprenticeship commissioner may summon witnesses.

Every

Industrial Arbitration (Amendment).

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

Further
amendment of
Act No. 2,
1940.
New sec.
61 BA.

5. The Principal Act is further amended—

- (a) by inserting next after section 61B the following new section:—

Awards and
agreements
existing at
commence-
ment of
Industrial
Arbitration
(Amend-
ment)
Act, 1951.

61BA. (1) This section shall apply to and in respect of all awards and industrial agreements made or deemed to have been made under this Act which were in force at the commencement of the Industrial Arbitration (Amendment) Act, 1951, and which—

- (a) fix rates of wages for employees by reference to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but with the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment; or
- (b) fix rates of wages exclusively for employees of the Crown (as defined in section fifty-four of this Act) and for such employees only, whether or not such rates are fixed on an annual basis.

(2) Every award or industrial agreement to which this section applies shall be deemed to be varied so as to provide that the basic wage for adult males and the basic wage for adult females which shall apply to that award or industrial agreement shall be the basic wage for adult males and the basic wage for adult females

Industrial Arbitration (Amendment).

females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

Such variation shall take effect as from the commencement of the first pay period to commence after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

(3) As soon as practicable after the commencement of the Industrial Arbitration (Amendment) Act, 1951, the registrar shall vary the terms of each award to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award as he may think necessary or desirable to enable full effect to be given to the provisions of this section.

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

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

(b) by omitting section 61c;

Sec. 61c.

(Uniformity of basis of awards with basis of Commonwealth awards in same industry.)

(c) by omitting section 61d;

Sec. 61d.

(Power to alter basis of awards.)

(d)

Industrial Arbitration (Amendment).

Sec. 61E.
(Future
awards and
industrial
agreements.)

- (d) by omitting subsection one of section 61E and by inserting in lieu thereof the following subsection:—

(1) (a) This subsection shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

(b) Subject to paragraph (d) of this subsection all awards and industrial agreements to which this subsection applies (other than awards or industrial agreements to which paragraph (c) of this subsection applies) shall in so far as they fix rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

(c) Subject to paragraph (d) of this subsection all awards or industrial agreements to which this subsection applies which fix rates of wages for employees within the County of Yancowinna (whether or not for such employees exclusively) shall—

- (i) in so far as they fix rates of wages for employees within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Broken Hill contained in the Retail Price Index Numbers; and

(ii)

Industrial Arbitration (Amendment).

(ii) in so far as they fix rates of wages for employees not within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

(d) Notwithstanding anything contained in paragraph (b) or paragraph (c) of this subsection, the parties to any award or industrial agreement to which this subsection applies and which fixes rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females, may by consent, at the time the award or industrial agreement is made or upon any application for variation of the award or industrial agreement, adopt the basic wage for adult males or the basic wage for adult females assessed on the index number for such place within New South Wales or such combination of places (of which Sydney or some other town in New South Wales is one) contained in the Retail Price Index Numbers as may be specified in the award or industrial agreement.

(e) by inserting in subsection three of section 61F after the word "section" the following new paragraph:—

Sec. 61F.
(Automatic
adjustment
of awards.)

The terms of any award affecting rates of pay may to the extent practicable be expressed by the registrar in such a form as will render unnecessary the variation of such award under
this

Industrial Arbitration (Amendment).

this subsection consequent upon subsequent variations in the rates of pay pursuant to the operation of this section.

6. The Principal Act is further amended—

- (a) by omitting section 88A and by inserting in lieu thereof the following section:—

88A. In respect of employees of the Crown the commission or a committee shall not—

- (a) award any conditions less favourable than those awarded to employees (other than employees of the Crown) who are doing substantially the same class of work, or
- (b) fix rates of wages or other payments at amounts less than the rates of wages or other payments fixed for employees (other than employees of the Crown) who are doing substantially the same class of work.

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

In this section the expression “employees of the Crown” includes employees of the Government or of any department of the Government or of any person or corporation employing persons on behalf of the Government and without limiting the generality of the foregoing includes employees of any of the following corporations, that is to say—

The Commissioner for Railways,

The Commissioner for Road Transport and Tramways,

The Commissioner for Main Roads,

The

Further amendment of Act No. 2, 1940.

Subst. sec. 88A.

Crown employees.

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

- (b) by inserting next after section 88B the following New sec. 88c.
 new section:—

88c. (1) The commission or a committee shall Long service
leave and
sick leave.
 upon application therefor insert (by way of
 variation or otherwise) in any award or indus-
 trial agreement whether made before or after
 the commencement of the Industrial Arbitration
 (Amendment) Act, 1951, provisions entitling
 employees to long service leave on full pay.

The amount of long service leave to which
 employees shall be entitled pursuant to this sub-
 section shall—

- (a) (i) in the case of employees who have
 whether before or after such com-
 mencement completed at least
 twenty years' service with an
 employer, be three months; and
 (ii) in the case of employees who have
 whether before or after such com-
 mencement completed at least ten
 years' service but less than twenty
 years' service with an employer
 and

Industrial Arbitration (Amendment).

and whose services are terminated by the employer for any cause other than serious misconduct, be a proportionate amount on the basis of three months for twenty years' service; or

- (b) be such amount and in respect of such qualifying periods not less favourable than the foregoing as the commission or committee, as the case may be, determines.

(2) The commission, a committee or an apprenticeship council shall upon application made therefor insert (by way of variation or otherwise) in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions entitling every employee to one week's sick leave on full pay for each year of service with an employer.

(3) The commission, committee or apprenticeship council inserting provisions of the nature referred to in subsections one and two of this section in any award or industrial agreement may include such provisions as to the mode, terms and conditions under which long service leave or sick leave may be given and taken as it deems necessary or desirable and without limiting the generality of the foregoing may—

- (a) provide that any leave in the nature of long service leave taken by an employee before the insertion of any such provisions shall be deducted from the period of long service leave to which such employee may be entitled pursuant to such insertion;
- (b) impose limitations upon the amount of sick leave which may be accumulated by an employee.

(4)

Industrial Arbitration (Amendment).

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

(5) Nothing in this section relating to long service leave or sick leave shall apply where employees are by or under any Act other than this Act entitled to leave in the nature of long service leave or sick leave, as the case may be.

(6) For the purposes of subsection one of this section any period during which a person served as a member of the naval, military or air forces of the Commonwealth or of the Civil Construction Corps established under the National Security Act 1939, as amended by subsequent Acts, of the Parliament of the Commonwealth, shall be deemed to be service with the employer by whom such person was last employed before he commenced to serve as such member.

7. The Principal Act is further amended—

- (a) by omitting from subsection two of section ninety-two the words "six months" and by inserting in lieu thereof the words "twelve months";

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

(b)

Industrial Arbitration (Amendment).

New sec.
95A.

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

Particulars
of wages and
deductions
therefrom to
be given on
pay envelope
or in state-
ments.

9 Geo. VI,
No. 14,
(Qld.) s. 4.

95A. On the payment, by an employer, of any wages to an employee covered by any award or industrial agreement such employer shall indicate either by noting on the pay envelope of the employee or by way of a statement in writing handed to the employee at the time of paying his wages how the payment is made up by including in such noting or statement such particulars as may be prescribed as regards the date of payment, the period covered thereby, the rate of wages, the number of hours worked, overtime payments and details of any deductions and other prescribed matters.

Any employer refusing or failing to comply with the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

Further
amendment
of Act No. 2,
1940.

New secs. 111A-
111M.

Applications
for inquiries
respecting
elections.

8. The Principal Act is further amended by inserting next after section one hundred and eleven the following new sections:—

111A. (1) Where a member of a trade union, or a person who, within the preceding period of twelve months, has been a member of a trade union, claims that there has been an irregularity in or in connection with an election for an office in the trade union, or in a branch of the trade union, he may lodge an application for an inquiry by the commission into the matter.

(2) An application under this section shall—

- (a) be in writing in or to the effect of the form prescribed;
- (b) be lodged with the registrar before the completion of the election or within such time after the completion of the election as may be prescribed;

(c)

Industrial Arbitration (Amendment).

(c) specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state the facts relied on in support of the application; and

(d) be accompanied by a statutory declaration by the applicant declaring that the facts stated in the application are, to the best of the applicant's knowledge and belief, true.

111B. (1) Where any such application is lodged with the registrar, he shall— Action by registrar.

(a) if he is satisfied—

(i) that there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election, which may have affected or may affect the result of the election, and

(ii) that the circumstances of the matter justify an inquiry by the commission,

grant the application and refer the matter to the commission; or

(b) if he is not so satisfied, refuse the application and inform the applicant accordingly.

(2) The registrar may exercise his powers under subsection one of this section upon the basis of the matters stated in the application but he may nevertheless take into account any relevant information coming to his knowledge.

(3) Any act or decision of the registrar under this section shall not be subject to appeal to the commission.

111c. Upon any reference by the registrar pursuant to section 111B of this Act the commission shall as soon as practicable proceed to inquire into the alleged irregularity Inquiry by commission.

111d

Industrial Arbitration (Amendment).

Interim
orders.

111b. (1) At any time after an inquiry in connection with an election has been instituted, the commission may make such orders as it deems just and necessary.

Without limiting the generality of the foregoing such orders may include—

- (a) an order that no further steps shall be taken in the conduct of the election or in carrying into effect the result of the election;
- (b) an order that a person who has assumed an office, continued to act in an office, or claims to occupy an office, being an office to which the inquiry relates, shall not act in that office;
- (c) an order that a person who holds, or who last held before the election, an office to which the inquiry relates may act or continue to act in that office;
- (d) where the commission considers that an order under paragraph (c) of this subsection would not be practicable or would be prejudicial to the efficient conduct of the affairs of the trade union or a branch thereof or would be inappropriate having regard to the nature of the inquiry, an order that a member of the trade union or branch or another person specified in the order may act in an office to which the inquiry relates;
- (e) an order for the recounting of votes; and
- (f) an order varying or discharging an order under this subsection.

(2) Where the commission orders that a person may act, or continue to act, in an office, that person shall, while the order remains in force, and notwithstanding anything contained in the rules of the trade union or of a branch thereof, be deemed, for all purposes, to hold the office.

(3)

Industrial Arbitration (Amendment).

(3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of proceedings before the commission in connection with the election and of all matters ordered (otherwise than under this section) by the commission in those proceedings.

111E. (1) The commission shall allow to appear or be represented at an inquiry all persons who apply to the commission for leave to appear or be represented, being persons who appear to the commission to be justly entitled to be heard, and the commission may order any other person so to appear or be represented. Procedure at hearing.

(2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry shall be deemed to be parties to the proceedings.

111F. (1) At an inquiry the commission shall inquire into and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the commission thinks necessary. Functions and powers of commission.

(2) If the commission finds that an irregularity has occurred, the commission may, in its discretion, but subject to subsection three of this section, make such orders as it deems just and necessary.

Without limiting the generality of the foregoing such orders may include—

- (a) an order declaring the election, or any steps taken in or in connection with the election, to be void;
- (b) an order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected;

(c)

Industrial Arbitration (Amendment).

- (c) an order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under paragraph (d) of this subsection) with the rules of the trade union or branch; and
- (d) an order directing, notwithstanding anything contained in the rules of the trade union or branch, the taking of such safeguards as the commission thinks necessary against irregularities in or in connection with—
 - (i) any such new election;
 - (ii) any such step so ordered to be taken again; or
 - (iii) any uncompleted steps in the election,

and, for the purposes of any such order, an order appointing and authorising a person to act as a returning officer in conjunction with the returning officer (if any) acting under the rules of the trade union or branch in connection with the election, and to exercise such powers as the commission directs.

(3) The commission shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the commission is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities.

Validation
of certain
acts, etc.

111g. (1) Where the commission declares void the election of a person who has, since the election, purported to act in the office to which he purported to have

Industrial Arbitration (Amendment).

have been elected, all acts done by him while so purporting to act and which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes.

(2) The commission may, if it considers it desirable so to do, declare any such act to have been void, and thereupon that act shall, for all purposes, be deemed not to have been validly done.

(3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the commission, that election or step shall not be invalidated by reason only of any departure from the rules of the trade union or branch involved in compliance with the order of the commission.

111H. (1) The commission may make such order Costs. as to the costs and expenses (including expenses of witnesses) of proceedings before the commission in or in connection with an inquiry under section 111C of this Act as may be thought just and may assess the amount of such costs.

(2) Where upon any such inquiry the commission finds that an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorise payment by the State to the person who applied for the inquiry of the whole or a part of his costs and expenses (including expenses of witnesses).

(3) Where, upon any such inquiry, the commission does not find that any irregularity has occurred, but certifies that the person who applied for the inquiry acted reasonably in so applying, the Attorney-General may authorise payment by the State to that person of the whole or a part of his costs and expenses (including expenses of witnesses).

(4) Where the Attorney-General is satisfied that, having regard to the findings of the commission upon any such inquiry, it is not just that a person (not being the person who applied for the inquiry)

c

should

Industrial Arbitration (Amendment).

should be required to bear, or to bear in full, any expenses (including expenses of witnesses) incurred by him in connection with the inquiry, the Attorney-General may authorise payment by the State of the whole or a part of those expenses.

(5) Where the commission orders—

- (a) a new election to be held;
- (b) any step in or in connection with an election to be taken again; or
- (c) any safeguards, not provided for in the rules of the trade union or branch, to be taken in or in connection with any uncompleted steps in an election,

the Attorney-General may, if he is satisfied that the nature of the irregularity found by the commission to have occurred is such that it would be unreasonable for the trade union to be required to bear, or to bear in full, the expenses involved in compliance with the order of the commission, authorise payment by the State of the whole or part of those expenses.

Ballot
papers, etc.,
to be
preserved.

111i. Notwithstanding anything contained in the rules of a trade union or of a branch of a trade union, a trade union and every officer of a trade union or branch who is able to do so, shall take such steps as are necessary to ensure that all ballot papers, envelopes, lists and other documents used in connection with or relevant to an election for an office are preserved and kept at the registered office of the union for a period of one year after the completion of the election.

The penalty for any breach of this section shall as against any trade union be a sum not exceeding one hundred pounds and as against any individual a sum not exceeding fifty pounds or imprisonment for a period not exceeding twelve months or both.

Registrar
to conduct
elections
upon
request.

111j. (1) A trade union or a branch of a trade union may request the registrar to conduct an election for an office in the trade union or in the branch
(as

Industrial Arbitration (Amendment).

(as the case may be) with a view to ensuring that no irregularity occurs in or in connection with the election.

(2) Upon the making of such a request, the registrar may, if he considers that it is practicable for him to do so, conduct the election, and may, notwithstanding anything contained in the rules of the trade union or branch, take such action and give such directions as he considers necessary with a view to ensuring that no irregularities occur in or in connection with the election.

(3) A person shall not—

- (a) refuse or fail to comply with a direction of the registrar under this section; or
- (b) obstruct or hinder the registrar in the taking of any action under this section or any person in the carrying out of a direction of the registrar under this section.

Any person contravening or failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred pounds or imprisonment for a period not exceeding twelve months, or both.

(4) Where the registrar is conducting, or has conducted, an election, the provisions of sections 111A to 111I of this Act shall not apply in relation to the election.

(5) An election shall not be invalidated by reason of any breach of the rules of the trade union or branch involved in any act, or in compliance with any direction, of the registrar under this section.

111K. (1) A person shall not, without lawful authority or excuse, in or in connection with an election for an office—

Offences in
connection
with
elections.

- (a) personate another person to secure a ballot-paper to which the personator is not entitled, or personate another person for the purpose of voting;

(b)

Industrial Arbitration (Amendment).

- (b) destroy, deface, alter, take or otherwise interfere with a nomination paper, ballot-paper or envelope;
 - (c) put or deliver a ballot-paper or other paper—
 - (i) into a ballot-box or other ballot receptacle; or
 - (ii) into the post; or
 - (iii) to a person receiving ballot-papers for the purposes of the election;
 - (d) record a vote which he is not entitled to record;
 - (e) record more than one vote;
 - (f) forge or utter, knowing the same to be forged, a nomination paper, ballot-paper or envelope;
 - (g) supply a ballot-paper;
 - (h) obtain, or have in his possession, a ballot-paper; or
 - (i) destroy, take, open or otherwise interfere with a ballot-box.
- (2) A person shall not, in or in connection with an election for an office—
- (a) threaten, offer or suggest any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—
 - (i) any candidature or withdrawal of candidature;
 - (ii) any vote or omission to vote;
 - (iii) any support or opposition to any candidate; or
 - (iv) any promise of any vote, omission, support or opposition; or
 - (b) use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support or opposition.

Industrial Arbitration (Amendment).

(3) Any person contravening or failing to comply with any provision of this section shall be liable to a penalty not exceeding one hundred pounds or imprisonment for twelve months, or both.

111L. For the purposes of sections 111A to 111K inclusive, of this Act—

Definitions
for purposes
of secs. 111A-
111K.

“Irregularity” in relation to an election for an office includes a breach of the rules of a trade union or of a branch of a trade union and any act, omission or other means whereby the full and free recording of votes by all persons entitled to record votes and by no other persons or a correct ascertainment or declaration of the results of the voting is or is attempted to be prevented or hindered.

“Office” in relation to a trade union or branch of a trade union means—

- (a) the office of a member of the committee of management of the trade union or branch;
- (b) the office of a person holding, whether as trustee or otherwise, property of the trade union or branch or property in which the trade union or branch has any beneficial interest; and
- (c) every office within the trade union or branch for the filling of which an election is conducted within the trade union or branch.

111M. Nothing contained in sections 111A to 111L, inclusive, of this Act shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission by any other provision of this Act.

Savings
as to
commission's
powers.

9. The Principal Act is further amended—

Further
amendment of
Act No. 2,
1940.

- (a) by inserting in subsection one of section one hundred and twenty after the words “of the penalty” the words “or remit the matter to the registrar,

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

Industrial Arbitration (Amendment).

registrar, magistrate or justices with the opinion of the commission thereon”;

Sec. 122.
(Penalties
to be paid
to
Consolidated
Revenue.)

- (b) by inserting in section one hundred and twenty-two next after the word “paid” where secondly occurring the words “to the registrar, and by him paid”;

Sec. 123.
(Orders
for costs.)

- (c) (i) by inserting at the end of subsection one of section one hundred and twenty-three the following new subsection:—

(1A) Where an industrial or other magistrate or justices has or have ordered costs to be paid in any proceedings for a penalty or prosecution under this Act—

- (a) such costs shall be paid to the registrar and by him paid in accordance with the terms of the order;

- (b) the provisions of section eighty-two of the Justices Act, 1902-1947, shall, *mutatis mutandis*, apply to and in respect of such costs and the persons against whom the order is made.

- (ii) by omitting from subsection two of the same section the words “or the industrial magistrate” and by inserting in lieu thereof the words “and every order for the payment of costs other than costs referred to in subsection (1A) of this section made by the industrial magistrate.”

Further
amendment
of Act No. 2,
1940.
New sec.
129A.

10. The Principal Act is further amended by inserting next after section one hundred and twenty-nine the following new section:—

Entry and
inspection by
accredited
union repre-
sentative.

129A. (1) The commission or a conciliation committee shall upon application made therefor insert in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions providing that the secretary or a duly accredited representative of an industrial union of employees
whose

Industrial Arbitration (Amendment).

whose members are engaged in an industry in respect of which the award or industrial agreement is in force may, subject to such conditions as the commission or committee may deem necessary or desirable in order to prevent any misuse of the powers referred to in paragraphs (a) and (b) of this subsection or any undue interference with work being carried out by or on behalf of any employer engaged in such industry,—

- (a) enter the premises of any employer engaged in any such industry—
 - (i) during any lunch hour or non-working time for the purpose of interviewing employees on legitimate union business;
 - (ii) during working hours for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry;
- (b) for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry require any employer engaged in such industry to produce for his inspection during the usual office hours at the employer's office or other convenient place any time and pay sheets kept by him in regard to employees in such industry and to make copies of the entries in such time and pay sheets relating to any such suspected breach.

In this subsection "premises" includes any building, mine, mine working, ship, vessel, or place of any kind wherein or in respect of which any industry is carried on or any work is being or has been done or commenced.

Industrial Arbitration (Amendment.)

(2) Nothing in this section shall authorise a secretary or duly accredited representative of an industrial union of employees to enter a private dwelling house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

(3) A duly accredited representative of an industrial union of employees for the purposes of this section means a person who for the time being is the holder of a certificate signed by the secretary of that industrial union and bearing the seal of that industrial union certifying that such person is a duly accredited representative of that industrial union.

(4) Any person who hinders or obstructs any secretary or duly accredited representative of an industrial union of employees in the exercise of any powers conferred on him by any provision inserted in an award or industrial agreement pursuant to subsection one of this section shall be deemed guilty of a breach of an award or industrial agreement, as the case may be.

Further
amendment
of Act No. 2,
1940.

Sec. 131.

(Employees
in rural
industries.)

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

By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1951.

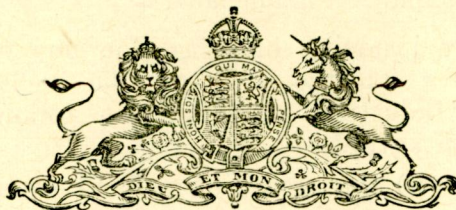
[1s. 4d.]

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

H. ROBBINS,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 13 June, 1951.*

New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

Act No. 10, 1951.

An Act to amend the Industrial Arbitration Act, 1940-1950, in certain respects; and for purposes connected therewith. [Assented to, 20th June, 1951.]

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

1. (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1951."

Short title,
citation and
commence-
ment.

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

(3)

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

G. BOOTH,
Chairman of Committees of the Legislative Assembly.

Industrial Arbitration (Amendment).

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1951.

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

Amendment of
Act No. 2,
1940.
Sec. 5.
(Interpreta-
tion.)

2. The Principal Act is amended—

(a) (i) by inserting in subsection one of section five at the end of the definition of "Industrial matters" the following new paragraph:—

(h) the mode, terms and conditions of employment of any persons employed in any industry as staff employees and the rights of employers to require such employees to cease to be or to refrain from becoming members of a trade union or to perform work of the nature usually performed by any such members.

(ii) by inserting in subsection two of the same section after the words "delivery of goods" the words "or in the transportation of passengers";

Sec. 8.
(Registra-
tion of
industrial
union of
employees.)

(b) by omitting from subsection three of section eight the words "which has not since the twenty-second day of March, one thousand nine hundred and eighteen, taken part in, aided, or abetted an illegal strike";

New sec. 10A

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

Proof of
registration
of
industrial
union, etc.

10A. (1) Where it is necessary in any proceedings in any court to prove—

(a) the registration of an industrial union,
or

(b)

Industrial Arbitration (Amendment).

(b) that a specified person is, or was at any specified time, the secretary of any specified industrial union, a certificate under the hand of the registrar stating any such facts shall be prima facie evidence of such facts without proof of the registrar's signature.

(2) (a) Any certificate under paragraph (b) of subsection one of this section may be issued by the registrar upon proof to his satisfaction that such person has been duly elected or appointed as the secretary of the industrial union and that the requirements of the rules of the industrial union relating to such election or appointment have been duly complied with.

(b) The person to whom any certificate has been issued under this section stating that such person is the secretary of an industrial union shall upon ceasing to hold office as such secretary or upon request so to do by the registrar forthwith return the certificate to the registrar for cancellation. Any person failing to comply with the provisions of this paragraph shall be liable to a penalty not exceeding one hundred pounds.

3. The Principal Act is further amended by inserting at the end of paragraph (b) of subsection eight of section fourteen the following new paragraph:—

Further amendment of Act No. 2, 1940.

On any such appeal the commission shall have full discretionary power to receive further evidence upon questions of fact. Such evidence shall be admitted on special grounds only and not without special leave of the commission.

Sec. 14.
(Industrial commission.)

4. The Principal Act is further amended—

Further amendment of Act No. 2, 1940.

(a) (i) by omitting from paragraph (a) of subsection one of section twenty the words "twenty pounds" and by inserting in lieu thereof the words "thirty-five pounds";

Sec. 20.
(Original jurisdiction of committees.)

(ii)

Industrial Arbitration (Amendment).

- (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "one thousand seven hundred and fifty pounds";
- (iii) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph:—

- (g) prescribing that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award;

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

- (2) (a) Where a committee prescribes that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award pursuant to paragraph (g) of subsection one of this section the committee shall also prescribe that the employer of any person to whom a certificate for the time being in force has been issued by the registrar as hereinafter provided shall be exempt from the provisions of such award prescribing preference of employment as aforesaid.

- (b) Any person who—

- (i) objects on religious grounds to being a member of an industrial union of employees and satisfies the registrar that his religious objections are genuine; and
 - (ii) pays to the registrar an amount equivalent to the subscription prescribed by the rules of the industrial union of employees for membership of the union;

shall

Industrial Arbitration (Amendment).

shall be issued by the registrar with a certificate exempting him from union membership.

Any such certificate shall remain in force for the period specified therein and may be renewed from time to time by the registrar upon payment of such amount not exceeding the amount referred to in paragraph (b) aforesaid as the registrar may require.

(c) Any amount received by the registrar pursuant to this subsection shall be paid by him to the credit of the Consolidated Revenue Fund.

(b) (i) by inserting in subsection seven of section twenty-four after the words "award of a committee" the words "or of a conciliation commissioner"; Sec. 24. (Appeal from committees.)

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

(8) Any party, employer or industrial union affected by an order, award or decision of a committee or of a conciliation commissioner may, within the prescribed time and in the prescribed manner,—

(a) appeal to the commission from the order, award or decision;

(b) apply to the commission for a suspension of the order, award or decision.

(c) by inserting next after section twenty-eight the following new section:— New sec. 28A

28A. The apprenticeship commissioner may summon any person before him for the purpose of conference or of giving evidence. Apprenticeship commissioner may summon witnesses.

Every

Industrial Arbitration (Amendment).

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

5. The Principal Act is further amended—

Further
amendment of
Act No. 2,
1940.
New sec.
61 BA.

Awards and
agreements
existing at
commence-
ment of
Industrial
Arbitration
(Amend-
ment)
Act, 1951.

- (a) by inserting next after section 61B the following new section:—

61BA. (1) This section shall apply to and in respect of all awards and industrial agreements made or deemed to have been made under this Act which were in force at the commencement of the Industrial Arbitration (Amendment) Act, 1951, and which—

- (a) fix rates of wages for employees by reference to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but with the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment; or
- (b) fix rates of wages exclusively for employees of the Crown (as defined in section fifty-four of this Act) and for such employees only, whether or not such rates are fixed on an annual basis.

(2) Every award or industrial agreement to which this section applies shall be deemed to be varied so as to provide that the basic wage for adult males and the basic wage for adult females which shall apply to that award or industrial agreement shall be the basic wage for adult males and the basic wage for adult females

Industrial Arbitration (Amendment).

females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

Such variation shall take effect as from the commencement of the first pay period to commence after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

(3) As soon as practicable after the commencement of the Industrial Arbitration (Amendment) Act, 1951, the registrar shall vary the terms of each award to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award as he may think necessary or desirable to enable full effect to be given to the provisions of this section.

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

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

(b) by omitting section 61c;

Sec. 61c.
(Uniformity
of basis of
awards with
basis of
Commonwealth
awards in
same industry.)

(c) by omitting section 61d;

Sec. 61d.
(Power to alter
basis of
awards.)

(d)

Industrial Arbitration (Amendment).

Sec. 61E.
(Future
awards and
industrial
agreements.)

(d) by omitting subsection one of section 61E and by inserting in lieu thereof the following subsection:—

(1) (a) This subsection shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

(b) Subject to paragraph (d) of this subsection all awards and industrial agreements to which this subsection applies (other than awards or industrial agreements to which paragraph (c) of this subsection applies) shall in so far as they fix rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

(c) Subject to paragraph (d) of this subsection all awards or industrial agreements to which this subsection applies which fix rates of wages for employees within the County of Yancowinna (whether or not for such employees exclusively) shall—

(i) in so far as they fix rates of wages for employees within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Broken Hill contained in the Retail Price Index Numbers; and

(ii)

Industrial Arbitration (Amendment).

(ii) in so far as they fix rates of wages for employees not within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

(d) Notwithstanding anything contained in paragraph (b) or paragraph (c) of this subsection, the parties to any award or industrial agreement to which this subsection applies and which fixes rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females, may by consent, at the time the award or industrial agreement is made or upon any application for variation of the award or industrial agreement, adopt the basic wage for adult males or the basic wage for adult females assessed on the index number for such place within New South Wales or such combination of places (of which Sydney or some other town in New South Wales is one) contained in the Retail Price Index Numbers as may be specified in the award or industrial agreement.

(e) by inserting in subsection three of section 61F after the word "section" the following new paragraph:—

Sec. 61F.
(Automatic
adjustment
of awards.)

The terms of any award affecting rates of pay may to the extent practicable be expressed by the registrar in such a form as will render unnecessary the variation of such award under this

Industrial Arbitration (Amendment).

this subsection consequent upon subsequent variations in the rates of pay pursuant to the operation of this section.

Further
amendment
of Act No. 2,
1940.

Subst.
sec. 88A.

6. The Principal Act is further amended—

- (a) by omitting section 88A and by inserting in lieu thereof the following section:—

Crown
employees.

88A. In respect of employees of the Crown the commission or a committee shall not—

- (a) award any conditions less favourable than those awarded to employees (other than employees of the Crown) who are doing substantially the same class of work, or
- (b) fix rates of wages or other payments at amounts less than the rates of wages or other payments fixed for employees (other than employees of the Crown) who are doing substantially the same class of work.

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

In this section the expression “employees of the Crown” includes employees of the Government or of any department of the Government or of any person or corporation employing persons on behalf of the Government and without limiting the generality of the foregoing includes employees of any of the following corporations, that is to say—

The Commissioner for Railways,

The Commissioner for Road Transport and Tramways,

The Commissioner for Main Roads,

The

Industrial Arbitration (Amendment).

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

- (b) by inserting next after section 88B the following New sec. 88c.
new section:—

88c. (1) The commission or a committee shall Long service
leave and
sick leave.
upon application therefor insert (by way of
variation or otherwise) in any award or indus-
trial agreement whether made before or after
the commencement of the Industrial Arbitration
(Amendment) Act, 1951, provisions entitling
employees to long service leave on full pay.

The amount of long service leave to which
employees shall be entitled pursuant to this sub-
section shall—

- (a) (i) in the case of employees who have
whether before or after such com-
mencement completed at least
twenty years' service with an
employer, be three months; and
(ii) in the case of employees who have
whether before or after such com-
mencement completed at least ten
years' service but less than twenty
years' service with an employer
and

Industrial Arbitration (Amendment).

and whose services are terminated by the employer for any cause other than serious misconduct, be a proportionate amount on the basis of three months for twenty years' service; or

- (b) be such amount and in respect of such qualifying periods not less favourable than the foregoing as the commission or committee, as the case may be, determines.

(2) The commission, a committee or an apprenticeship council shall upon application made therefor insert (by way of variation or otherwise) in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions entitling every employee to one week's sick leave on full pay for each year of service with an employer.

(3) The commission, committee or apprenticeship council inserting provisions of the nature referred to in subsections one and two of this section in any award or industrial agreement may include such provisions as to the mode, terms and conditions under which long service leave or sick leave may be given and taken as it deems necessary or desirable and without limiting the generality of the foregoing may—

- (a) provide that any leave in the nature of long service leave taken by an employee before the insertion of any such provisions shall be deducted from the period of long service leave to which such employee may be entitled pursuant to such insertion;
- (b) impose limitations upon the amount of sick leave which may be accumulated by an employee.

(4)

Industrial Arbitration (Amendment).

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

(5) Nothing in this section relating to long service leave or sick leave shall apply where employees are by or under any Act other than this Act entitled to leave in the nature of long service leave or sick leave, as the case may be.

(6) For the purposes of subsection one of this section any period during which a person served as a member of the naval, military or air forces of the Commonwealth or of the Civil Construction Corps established under the National Security Act 1939, as amended by subsequent Acts, of the Parliament of the Commonwealth, shall be deemed to be service with the employer by whom such person was last employed before he commenced to serve as such member.

7. The Principal Act is further amended—

- (a) by omitting from subsection two of section ninety-two the words "six months" and by inserting in lieu thereof the words "twelve months";

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

(b)

Industrial Arbitration (Amendment).

New sec.
95A.

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

Particulars
of wages and
deductions
therefrom to
be given on
pay envelope
or in state-
ments.

9 Geo. VI,
No. 14,
(Qld.) s. 4.

95A. On the payment, by an employer, of any wages to an employee covered by any award or industrial agreement such employer shall indicate either by noting on the pay envelope of the employee or by way of a statement in writing handed to the employee at the time of paying his wages how the payment is made up by including in such noting or statement such particulars as may be prescribed as regards the date of payment, the period covered thereby, the rate of wages, the number of hours worked, overtime payments and details of any deductions and other prescribed matters.

Any employer refusing or failing to comply with the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

Further
amendment
of Act No. 2,
1940.

New secs. 111A-
111M.

Applications
for inquiries
respecting
elections.

8. The Principal Act is further amended by inserting next after section one hundred and eleven the following new sections:—

111A. (1) Where a member of a trade union, or a person who, within the preceding period of twelve months, has been a member of a trade union, claims that there has been an irregularity in or in connection with an election for an office in the trade union, or in a branch of the trade union, he may lodge an application for an inquiry by the commission into the matter.

(2) An application under this section shall—

- (a) be in writing in or to the effect of the form prescribed;
- (b) be lodged with the registrar before the completion of the election or within such time after the completion of the election as may be prescribed;

(c)

Industrial Arbitration (Amendment).

(c) specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state the facts relied on in support of the application; and

(d) be accompanied by a statutory declaration by the applicant declaring that the facts stated in the application are, to the best of the applicant's knowledge and belief, true.

111B. (1) Where any such application is lodged with the registrar, he shall— Action by registrar.

(a) if he is satisfied—

(i) that there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election, which may have affected or may affect the result of the election, and

(ii) that the circumstances of the matter justify an inquiry by the commission, grant the application and refer the matter to the commission; or

(b) if he is not so satisfied, refuse the application and inform the applicant accordingly.

(2) The registrar may exercise his powers under subsection one of this section upon the basis of the matters stated in the application but he may nevertheless take into account any relevant information coming to his knowledge.

(3) Any act or decision of the registrar under this section shall not be subject to appeal to the commission.

111C. Upon any reference by the registrar pursuant to section 111B of this Act the commission shall as soon as practicable proceed to inquire into the alleged irregularity. Inquiry by commission.

Industrial Arbitration (Amendment).

Interim
orders.

111b. (1) At any time after an inquiry in connection with an election has been instituted, the commission may make such orders as it deems just and necessary.

Without limiting the generality of the foregoing such orders may include—

- (a) an order that no further steps shall be taken in the conduct of the election or in carrying into effect the result of the election;
- (b) an order that a person who has assumed an office, continued to act in an office, or claims to occupy an office, being an office to which the inquiry relates, shall not act in that office;
- (c) an order that a person who holds, or who last held before the election, an office to which the inquiry relates may act or continue to act in that office;
- (d) where the commission considers that an order under paragraph (c) of this subsection would not be practicable or would be prejudicial to the efficient conduct of the affairs of the trade union or a branch thereof or would be inappropriate having regard to the nature of the inquiry, an order that a member of the trade union or branch or another person specified in the order may act in an office to which the inquiry relates;
- (e) an order for the recounting of votes; and
- (f) an order varying or discharging an order under this subsection.

(2) Where the commission orders that a person may act, or continue to act, in an office, that person shall, while the order remains in force, and notwithstanding anything contained in the rules of the trade union or of a branch thereof, be deemed, for all purposes, to hold the office.

(3)

Industrial Arbitration (Amendment).

(3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of proceedings before the commission in connection with the election and of all matters ordered (otherwise than under this section) by the commission in those proceedings.

111E. (1) The commission shall allow to appear or be represented at an inquiry all persons who apply to the commission for leave to appear or be represented, being persons who appear to the commission to be justly entitled to be heard, and the commission may order any other person so to appear or be represented. Procedure at hearing.

(2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry shall be deemed to be parties to the proceedings.

111F. (1) At an inquiry the commission shall inquire into and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the commission thinks necessary. Functions and powers of commission.

(2) If the commission finds that an irregularity has occurred, the commission may, in its discretion, but subject to subsection three of this section, make such orders as it deems just and necessary.

Without limiting the generality of the foregoing such orders may include—

- (a) an order declaring the election, or any steps taken in or in connection with the election, to be void;
- (b) an order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected;

(c)

Industrial Arbitration (Amendment).

(c) an order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under paragraph (d) of this subsection) with the rules of the trade union or branch; and

(d) an order directing, notwithstanding anything contained in the rules of the trade union or branch, the taking of such safeguards as the commission thinks necessary against irregularities in or in connection with—

(i) any such new election;

(ii) any such step so ordered to be taken again; or

(iii) any uncompleted steps in the election,

and, for the purposes of any such order, an order appointing and authorising a person to act as a returning officer in conjunction with the returning officer (if any) acting under the rules of the trade union or branch in connection with the election, and to exercise such powers as the commission directs.

(3) The commission shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the commission is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities.

Validation
of certain
acts, etc.

111g. (1) Where the commission declares void the election of a person who has, since the election, purported to act in the office to which he purported to have

Industrial Arbitration (Amendment).

have been elected, all acts done by him while so purporting to act and which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes.

(2) The commission may, if it considers it desirable so to do, declare any such act to have been void, and thereupon that act shall, for all purposes, be deemed not to have been validly done.

(3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the commission, that election or step shall not be invalidated by reason only of any departure from the rules of the trade union or branch involved in compliance with the order of the commission.

111H. (1) The commission may make such order as to the costs and expenses (including expenses of witnesses) of proceedings before the commission in or in connection with an inquiry under section 111C of this Act as may be thought just and may assess the amount of such costs.

(2) Where upon any such inquiry the commission finds that an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorise payment by the State to the person who applied for the inquiry of the whole or a part of his costs and expenses (including expenses of witnesses).

(3) Where, upon any such inquiry, the commission does not find that any irregularity has occurred, but certifies that the person who applied for the inquiry acted reasonably in so applying, the Attorney-General may authorise payment by the State to that person of the whole or a part of his costs and expenses (including expenses of witnesses).

(4) Where the Attorney-General is satisfied that, having regard to the findings of the commission upon any such inquiry, it is not just that a person (not being the person who applied for the inquiry) should

Industrial Arbitration (Amendment).

should be required to bear, or to bear in full, any expenses (including expenses of witnesses) incurred by him in connection with the inquiry, the Attorney-General may authorise payment by the State of the whole or a part of those expenses.

(5) Where the commission orders—

- (a) a new election to be held;
- (b) any step in or in connection with an election to be taken again; or
- (c) any safeguards, not provided for in the rules of the trade union or branch, to be taken in or in connection with any uncompleted steps in an election,

the Attorney-General may, if he is satisfied that the nature of the irregularity found by the commission to have occurred is such that it would be unreasonable for the trade union to be required to bear, or to bear in full, the expenses involved in compliance with the order of the commission, authorise payment by the State of the whole or part of those expenses.

Ballot
papers, etc.,
to be
preserved.

111I. Notwithstanding anything contained in the rules of a trade union or of a branch of a trade union, a trade union and every officer of a trade union or branch who is able to do so, shall take such steps as are necessary to ensure that all ballot papers, envelopes, lists and other documents used in connection with or relevant to an election for an office are preserved and kept at the registered office of the union for a period of one year after the completion of the election.

The penalty for any breach of this section shall as against any trade union be a sum not exceeding one hundred pounds and as against any individual a sum not exceeding fifty pounds or imprisonment for a period not exceeding twelve months or both.

Registrar
to conduct
elections
upon
request.

111J. (1) A trade union or a branch of a trade union may request the registrar to conduct an election for an office in the trade union or in the branch
(as

Industrial Arbitration (Amendment).

(as the case may be) with a view to ensuring that no irregularity occurs in or in connection with the election.

(2) Upon the making of such a request, the registrar may, if he considers that it is practicable for him to do so, conduct the election, and may, notwithstanding anything contained in the rules of the trade union or branch, take such action and give such directions as he considers necessary with a view to ensuring that no irregularities occur in or in connection with the election.

(3) A person shall not—

- (a) refuse or fail to comply with a direction of the registrar under this section; or
- (b) obstruct or hinder the registrar in the taking of any action under this section or any person in the carrying out of a direction of the registrar under this section.

Any person contravening or failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred pounds or imprisonment for a period not exceeding twelve months, or both.

(4) Where the registrar is conducting, or has conducted, an election, the provisions of sections 111A to 111I of this Act shall not apply in relation to the election.

(5) An election shall not be invalidated by reason of any breach of the rules of the trade union or branch involved in any act, or in compliance with any direction, of the registrar under this section.

111K. (1) A person shall not, without lawful authority or excuse, in or in connection with an election for an office—

Offences in connection with elections.

- (a) personate another person to secure a ballot-paper to which the personator is not entitled, or personate another person for the purpose of voting;

(b)

Industrial Arbitration (Amendment).

- (b) destroy, deface, alter, take or otherwise interfere with a nomination paper, ballot-paper or envelope;
 - (c) put or deliver a ballot-paper or other paper—
 - (i) into a ballot-box or other ballot receptacle; or
 - (ii) into the post; or
 - (iii) to a person receiving ballot-papers for the purposes of the election;
 - (d) record a vote which he is not entitled to record;
 - (e) record more than one vote;
 - (f) forge or utter, knowing the same to be forged, a nomination paper, ballot-paper or envelope;
 - (g) supply a ballot-paper;
 - (h) obtain, or have in his possession, a ballot-paper; or
 - (i) destroy, take, open or otherwise interfere with a ballot-box.
- (2) A person shall not, in or in connection with an election for an office—
- (a) threaten, offer or suggest any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—
 - (i) any candidature or withdrawal of candidature;
 - (ii) any vote or omission to vote;
 - (iii) any support or opposition to any candidate; or
 - (iv) any promise of any vote, omission, support or opposition; or
 - (b) use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support or opposition.

(3)

Industrial Arbitration (Amendment).

(3) Any person contravening or failing to comply with any provision of this section shall be liable to a penalty not exceeding one hundred pounds or imprisonment for twelve months, or both.

111L. For the purposes of sections 111A to 111K inclusive, of this Act—

Definitions
for purposes
of secs. 111A-
111K.

“Irregularity” in relation to an election for an office includes a breach of the rules of a trade union or of a branch of a trade union and any act, omission or other means whereby the full and free recording of votes by all persons entitled to record votes and by no other persons or a correct ascertainment or declaration of the results of the voting is or is attempted to be prevented or hindered.

“Office” in relation to a trade union or branch of a trade union means—

- (a) the office of a member of the committee of management of the trade union or branch;
- (b) the office of a person holding, whether as trustee or otherwise, property of the trade union or branch or property in which the trade union or branch has any beneficial interest; and
- (c) every office within the trade union or branch for the filling of which an election is conducted within the trade union or branch.

111M. Nothing contained in sections 111A to 111L, inclusive, of this Act shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission by any other provision of this Act.

Savings
as to
commission's
powers.

9. The Principal Act is further amended—

Further
amendment of
Act No. 2,
1940.

- (a) by inserting in subsection one of section one hundred and twenty after the words “of the penalty” the words “or remit the matter to the registrar,

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

Industrial Arbitration (Amendment).

registrar, magistrate or justices with the opinion of the commission thereon”;

Sec. 122.
(Penalties
to be paid
to
Consolidated
Revenue.)

- (b) by inserting in section one hundred and twenty-two next after the word “paid” where secondly occurring the words “to the registrar, and by him paid”;

Sec. 123.
(Orders
for costs.)

- (c) (i) by inserting at the end of subsection one of section one hundred and twenty-three the following new subsection:—

(1A) Where an industrial or other magistrate or justices has or have ordered costs to be paid in any proceedings for a penalty or prosecution under this Act—

- (a) such costs shall be paid to the registrar and by him paid in accordance with the terms of the order;

- (b) the provisions of section eighty-two of the Justices Act, 1902-1947, shall, *mutatis mutandis*, apply to and in respect of such costs and the persons against whom the order is made.

- (ii) by omitting from subsection two of the same section the words “or the industrial magistrate” and by inserting in lieu thereof the words “and every order for the payment of costs other than costs referred to in subsection (1A) of this section made by the industrial magistrate.”

10. The Principal Act is further amended by inserting next after section one hundred and twenty-nine the following new section:—

Further
amendment
of Act No. 2,
1940.
New sec.
129A.

Entry and
inspection by
accredited
union repre-
sentative.

129A. (1) The commission or a conciliation committee shall upon application made therefor insert in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions providing that the secretary or a duly accredited representative of an industrial union of employees whose

Industrial Arbitration (Amendment).

whose members are engaged in an industry in respect of which the award or industrial agreement is in force may, subject to such conditions as the commission or committee may deem necessary or desirable in order to prevent any misuse of the powers referred to in paragraphs (a) and (b) of this subsection or any undue interference with work being carried out by or on behalf of any employer engaged in such industry,—

(a) enter the premises of any employer engaged in any such industry—

(i) during any lunch hour or non-working time for the purpose of interviewing employees on legitimate union business;

(ii) during working hours for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry;

(b) for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry require any employer engaged in such industry to produce for his inspection during the usual office hours at the employer's office or other convenient place any time and pay sheets kept by him in regard to employees in such industry and to make copies of the entries in such time and pay sheets relating to any such suspected breach.

In this subsection "premises" includes any building, mine, mine working, ship, vessel, or place of any kind wherein or in respect of which any industry is carried on or any work is being or has been done or commenced.

(2)

Industrial Arbitration (Amendment.)

(2) Nothing in this section shall authorise a secretary or duly accredited representative of an industrial union of employees to enter a private dwelling house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

(3) A duly accredited representative of an industrial union of employees for the purposes of this section means a person who for the time being is the holder of a certificate signed by the secretary of that industrial union and bearing the seal of that industrial union certifying that such person is a duly accredited representative of that industrial union.

(4) Any person who hinders or obstructs any secretary or duly accredited representative of an industrial union of employees in the exercise of any powers conferred on him by any provision inserted in an award or industrial agreement pursuant to subsection one of this section shall be deemed guilty of a breach of an award or industrial agreement, as the case may be.

Further
amendment
of Act No. 2,
1940.

Sec. 131.

(Employees
in rural
industries.)

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

(S)

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

J. NORTHCOTT,
Governor.

*Government House,
Sydney, 20th June, 1951.*

INDUSTRIAL ARBITRATION (AMENDMENT) BILL.

*Schedule of an amendment referred to in Legislative Council's Message of
13th June, 1951, a.m.*

Page 4, clause 4, line 14. After "section" insert "and by inserting in lieu thereof the following subsection:—

(2) (a) Where a committee prescribes that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award pursuant to paragraph (g) of subsection one of this section the committee shall also prescribe that the employer of any person to whom a certificate for the time being in force has been issued by the registrar as hereinafter provided shall be exempt from the provisions of such award prescribing preference of employment as aforesaid.

(b) Any person who—

- (i) objects on religious grounds to being a member of an industrial union of employees and satisfies the registrar that his religious objections are genuine; and
- (ii) pays to the registrar an amount equivalent to the subscription prescribed by the rules of the industrial union of employees for membership of the union;

shall be issued by the registrar with a certificate exempting him from union membership.

Any such certificate shall remain in force for the period specified therein and may be renewed from time to time by the registrar upon payment of such amount not exceeding the amount referred to in paragraph (b) aforesaid as the registrar may require.

(c) Any amount received by the registrar pursuant to this subsection shall be paid by him to the credit of the Consolidated Revenue Fund."

LABORER AND EMPLOYEE REPRESENTATION

Section 10 of the National Labor Relations Act, as amended, Chapter 477, Title 29, United States Code, 1947, reads:

"and by meeting in lieu thereof the following subsection:

(2) (a) Where a committee prescribes that preference of employment shall be given to the members of any industrial union or union of employees specified in the award pursuant to paragraph (2) of subsection one of this section the committee shall also prescribe that the employer of any person to whom a certificate for the time being in force has been issued by the registrar as hereinafter provided shall be exempt from the provisions of such award prescribing preference of employment as aforesaid.

(b) Any person who—

(i) objects on religious grounds to being a member of an industrial union of employees and notifies the registrar that his religious objections are genuine; and

(ii) pays to the registrar an amount equivalent to the subscription prescribed by the rules of the industrial union of employees for membership of the union;

shall be issued by the registrar with a certificate exempting him from union membership.

Any such certificate shall remain in force for the period specified therein and may be renewed from time to time by the registrar upon payment of such amount not exceeding the amount related to paragraph (b) aforesaid as the registrar may require.

(c) Any amount received by the registrar pursuant to this subsection shall be paid by him to the credit of the Consolidated Revenue Fund.

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.

H. ROBBINS,
Clerk of the Legislative Assembly.

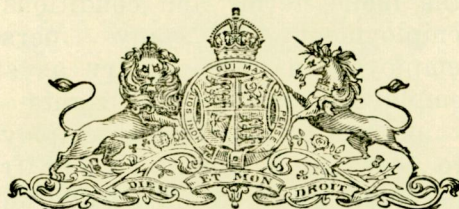
*Legislative Assembly Chamber,
Sydney, 31 May, 1951.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with
an Amendment.*

W. K. CHARLTON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 13th June, 1951, a.m.*

New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

Act No. , 1951.

An Act to amend the Industrial Arbitration Act,
1940-1950, in certain respects; and for
purposes connected therewith.

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

1. (1) This Act may be cited as the "Industrial
Arbitration (Amendment) Act, 1951."

Short title,
citation and
commence-
ment.

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

76727 97—A

(3)

NOTE.—The words to be inserted are printed in black letter.

Industrial Arbitration (Amendment).

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1951.

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

2. The Principal Act is amended—

Amendment of
Act No. 2,
1940.

(a) (i) by inserting in subsection one of section five at the end of the definition of "Industrial matters" the following new paragraph:—

Sec. 5.
(Interpreta-
tion.)

(h) the mode, terms and conditions of employment of any persons employed in any industry as staff employees and the rights of employers to require such employees to cease to be or to refrain from becoming members of a trade union or to perform work of the nature usually performed by any such members.

(ii) by inserting in subsection two of the same section after the words "delivery of goods" the words "or in the transportation of passengers";

(b) by omitting from subsection three of section eight the words "which has not since the twenty-second day of March, one thousand nine hundred and eighteen, taken part in, aided, or abetted an illegal strike";

Sec. 8.
(Registra-
tion of
industrial
union of
employees.)

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

New sec. 10A

10A. (1) Where it is necessary in any proceedings in any court to prove—

Proof of
registration
of
industrial
union, etc.

(a) the registration of an industrial union,
or

(b)

Industrial Arbitration (Amendment).

(b) that a specified person is, or was at any specified time, the secretary of any specified industrial union,

5 a certificate under the hand of the registrar stating any such facts shall be prima facie evidence of such facts without proof of the registrar's signature.

10 (2) (a) Any certificate under paragraph (b) of subsection one of this section may be issued by the registrar upon proof to his satisfaction that such person has been duly elected or appointed as the secretary of the industrial union and that the requirements of the rules of the industrial union relating to such election or appointment have been duly complied with.

20 (b) The person to whom any certificate has been issued under this section stating that such person is the secretary of an industrial union shall upon ceasing to hold office as such secretary or upon request so to do by the registrar forthwith return the certificate to the registrar for cancellation. Any person failing to comply with the provisions of this paragraph shall be liable to a penalty not exceeding one hundred pounds.

3. The Principal Act is further amended by inserting at the end of paragraph (b) of subsection eight of section fourteen the following new paragraph:—

30 On any such appeal the commission shall have full discretionary power to receive further evidence upon questions of fact. Such evidence shall be admitted on special grounds only and not without special leave of the commission.

35 4. The Principal Act is further amended—

(a) (i) by omitting from paragraph (a) of subsection one of section twenty the words "twenty pounds" and by inserting in lieu thereof the words "thirty-five pounds";

(ii)

Further amendment of Act No. 2, 1940.

Sec. 14. (Industrial commission.)

Further amendment of Act No. 2, 1940.

Sec. 20. (Original jurisdiction of committees.)

Industrial Arbitration (Amendment).

- (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "one thousand seven hundred and fifty pounds";
- 5 (iii) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 10 (g) prescribing that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award;
- 15 (iv) by omitting subsection two of the same section and by inserting in lieu thereof the following subsection:—
- (2) (a) Where a committee prescribes that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award pursuant to paragraph (g) of subsection one of this section the committee shall also prescribe that the employer of any person to whom a certificate for the time being in force has been issued by the registrar as hereinafter provided shall be exempt from the provisions of such award prescribing preference of employment as aforesaid.
- 20
- 25 (b) Any person who—
- 30 (i) objects on religious grounds to being a member of an industrial union of employees and satisfies the registrar that his religious objections are genuine; and
- 35 (ii) pays to the registrar an amount equivalent to the subscription prescribed by the rules of the industrial union of employees for membership of the union;
- shall

Industrial Arbitration (Amendment).

shall be issued by the registrar with a certificate exempting him from union membership.

5 Any such certificate shall remain in force for the period specified therein and may be renewed from time to time by the registrar upon payment of such amount not exceeding the amount referred to in paragraph (b) aforesaid as the registrar may require.

10 (c) Any amount received by the registrar pursuant to this subsection shall be paid by him to the credit of the Consolidated Revenue Fund.

15 (b) (i) by inserting in subsection seven of section twenty-four after the words "award of a committee" the words "or of a conciliation commissioner"; Sec. 24. (Appeal from committees.)

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

25 (8) Any party, employer or industrial union affected by an order, award or decision of a committee or of a conciliation commissioner may, within the prescribed time and in the prescribed manner,—

(a) appeal to the commission from the order, award or decision;

30 (b) apply to the commission for a suspension of the order, award or decision.

(c) by inserting next after section twenty-eight the following new section:— New sec. 28A

35 28A. The apprenticeship commissioner may summon any person before him for the purpose of conference or of giving evidence. Apprenticeship commissioner may summon witnesses.

Every

Industrial Arbitration (Amendment).

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

5 5. The Principal Act is further amended—

- (a) by inserting next after section 61B the following new section:—

Further amendment of Act No. 2, 1940.
New sec.
61 BA.

10 61BA. (1) This section shall apply to and in respect of all awards and industrial agreements made or deemed to have been made under this Act which were in force at the commencement of the Industrial Arbitration (Amendment) Act, 1951, and which—

Awards and agreements existing at commencement of Industrial Arbitration (Amendment) Act, 1951.

15 (a) fix rates of wages for employees by reference to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but with the
20 differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment; or

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

30 (2) Every award or industrial agreement to which this section applies shall be deemed to be varied so as to provide that the basic wage for adult males and the basic wage for adult females which shall apply to that award
35 or industrial agreement shall be the basic wage for adult males and the basic wage for adult females

Industrial Arbitration (Amendment).

5 females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

10 Such variation shall take effect as from the commencement of the first pay period to commence after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

15 (3) As soon as practicable after the commencement of the Industrial Arbitration (Amendment) Act, 1951, the registrar shall vary the terms of each award to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award as he may think necessary or desirable to enable full effect to be given to the provisions of this section.

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

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

(b) by omitting section 61c;

Sec. 61c.
(Uniformity of basis of awards with basis of Commonwealth awards in same industry.)

35 (c) by omitting section 61d;

Sec. 61d.
(Power to alter basis of awards.)

(d)

Industrial Arbitration (Amendment).

- (d) by omitting subsection one of section 61E and by inserting in lieu thereof the following subsection:—
- Sec. 61E.
(Future awards and industrial agreements.)

5 (1) (a) This subsection shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

10 (b) Subject to paragraph (d) of this subsection all awards and industrial agreements to which this subsection applies (other than awards or industrial agreements to which paragraph (c) of this subsection applies) shall in so far as they fix rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

25 (c) Subject to paragraph (d) of this subsection all awards or industrial agreements to which this subsection applies which fix rates of wages for employees within the County of Yancowinna (whether or not for such employees exclusively) shall—

30 (i) in so far as they fix rates of wages for employees within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Broken Hill contained in the Retail Price Index Numbers; and

(ii)

Industrial Arbitration (Amendment).

5 (ii) in so far as they fix rates of wages for
employees not within the County of
Yancowinna by reference or in relation
to the basic wage for adult males or the
basic wage for adult females be made
by reference or in relation to the basic
wage for adult males or the basic wage
for adult females assessed on the index
10 number for Sydney contained in the
Retail Price Index Numbers but with-
out the differentiation in the rates
for different districts approved and
adopted by the Commonwealth Court of
15 Conciliation and Arbitration in the
Commonwealth Judgment.

20 (d) Notwithstanding anything contained
in paragraph (b) or paragraph (c) of this sub-
section, the parties to any award or industrial
agreement to which this subsection applies and
which fixes rates of wages by reference or in
relation to the basic wage for adult males or the
basic wage for adult females, may by consent,
at the time the award or industrial agreement
is made or upon any application for variation
25 of the award or industrial agreement, adopt the
basic wage for adult males or the basic wage for
adult females assessed on the index number for
such place within New South Wales or such com-
bination of places (of which Sydney or some
30 other town in New South Wales is one) con-
tained in the Retail Price Index Numbers as
may be specified in the award or industrial
agreement.

35 (e) by inserting in subsection three of section 61F Sec. 61F.
after the word "section" the following new para- (Automatic
adjustment
of awards.)
graph:—

40 The terms of any award affecting rates of pay
may to the extent practicable be expressed by
the registrar in such a form as will render
unnecessary the variation of such award under
this

Industrial Arbitration (Amendment).

this subsection consequent upon subsequent variations in the rates of pay pursuant to the operation of this section.

6. The Principal Act is further amended—

Further
amendment
of Act No. 2,
1940.

- 5 (a) by omitting section 88A and by inserting in lieu thereof the following section:—

Subst.
sec. 88A.

88A. In respect of employees of the Crown the commission or a committee shall not—

Crown
employees.

- 10 (a) award any conditions less favourable than those awarded to employees (other than employees of the Crown) who are doing substantially the same class of work, or
- 15 (b) fix rates of wages or other payments at amounts less than the rates of wages or other payments fixed for employees (other than employees of the Crown) who are doing substantially the same class of work.

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

25 In this section the expression “employees of the Crown” includes employees of the Government or of any department of the Government or of any person or corporation employing persons on behalf of the Government and without limiting the generality of the foregoing includes

30 employees of any of the following corporations, that is to say—

- 35 The Commissioner for Railways,
The Commissioner for Road Transport and Tramways,
The Commissioner for Main Roads,

The

Industrial Arbitration (Amendment).

The Metropolitan Meat Industry Board,
The Maritime Services Board of New South
Wales,

The Metropolitan Water Sewerage and
Drainage Board.

The Water Conservation and Irrigation
Commission.

The Forestry Commission of New South
Wales.

The Board of Fire Commissioners of
New South Wales.

The Hunter District Water Board, and

The Hospitals Commission of New South
Wales.

15 (b) by inserting next after section 88B the following New sec. 88C.
new section:—

88c. (1) The commission or a committee shall upon application therefor insert (by way of variation or otherwise) in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions entitling employees to long service leave on full pay.

25 The amount of long service leave to which employees shall be entitled pursuant to this subsection shall—

30 (a) (i) in the case of employees who have
whether before or after such com-
mencement completed at least
twenty years' service with an
employer, be three months; and

35 (ii) in the case of employees who have whether before or after such commencement completed at least ten years' service but less than twenty years' service with an employer and

Industrial Arbitration (Amendment).

and whose services are terminated by the employer for any cause other than serious misconduct, be a proportionate amount on the basis of three months for twenty years' service; or

(b) be such amount and in respect of such qualifying periods not less favourable than the foregoing as the commission or committee, as the case may be, determines.

(2) The commission, a committee or an apprenticeship council shall upon application made therefor insert (by way of variation or otherwise) in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions entitling every employee to one week's sick leave on full pay for each year of service with an employer.

(3) The commission, committee or apprenticeship council inserting provisions of the nature referred to in subsections one and two of this section in any award or industrial agreement may include such provisions as to the mode, terms and conditions under which long service leave or sick leave may be given and taken as it deems necessary or desirable and without limiting the generality of the foregoing may—

(a) provide that any leave in the nature of long service leave taken by an employee before the insertion of any such provisions shall be deducted from the period of long service leave to which such employee may be entitled pursuant to such insertion;

(b) impose limitations upon the amount of sick leave which may be accumulated by an employee.

(4)

Industrial Arbitration (Amendment).

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

15 (5) Nothing in this section relating to
long service leave or sick leave shall apply where
employees are by or under any Act other than
this Act entitled to leave in the nature of long
service leave or sick leave, as the case may be.

20 (6) For the purposes of subsection one
of this section any period during which a person
served as a member of the naval, military or air
forces of the Commonwealth or of the Civil
Construction Corps established under the
25 National Security Act 1939, as amended by
subsequent Acts, of the Parliament of the
Commonwealth, shall be deemed to be service
with the employer by whom such person was
last employed before he commenced to serve as
30 such member.

7. The Principal Act is further amended—

(a) by omitting from subsection two of section
ninety-two the words “six months” and by
inserting in lieu thereof the words “twelve
35 months”;

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

(b)

Industrial Arbitration (Amendment).

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

New sec.
95A.

- 5 95A. On the payment, by an employer, of any wages to an employee covered by any award or industrial agreement such employer shall indicate either by noting on the pay envelope of the employee or by way of a statement in writing handed to the employee at the time of paying his wages how the payment is made up by including
10 in such noting or statement such particulars as may be prescribed as regards the date of payment, the period covered thereby, the rate of wages, the number of hours worked, overtime payments and details of any deductions and
15 other prescribed matters.

Particulars
of wages and
deductions
therefrom to
be given on
pay envelope
or in state-
ments.

9 Geo. VI,
No. 14,
(Qld.) s. 4.

Any employer refusing or failing to comply with the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

- 20 8. The Principal Act is further amended by inserting next after section one hundred and eleven the following new sections:—

Further
amendment
of Act No. 2,
1940.

New secs. 111A-
111M.

- 25 111A. (1) Where a member of a trade union, or a person who, within the preceding period of twelve months, has been a member of a trade union, claims that there has been an irregularity in or in connection with an election for an office in the trade union, or in a branch of the trade union, he may lodge an application for an inquiry by the commission into the matter.

Applications
for inquiries
respecting
elections.

- 30 (2) An application under this section shall—
 (a) be in writing in or to the effect of the form prescribed;
 (b) be lodged with the registrar before the completion of the election or within such
35 time after the completion of the election as may be prescribed;

(c).

Industrial Arbitration (Amendment).

5 (c) specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state the facts relied on in support of the application; and

(d) be accompanied by a statutory declaration by the applicant declaring that the facts stated in the application are, to the best of the applicant's knowledge and belief, true.

10 111B. (1) Where any such application is lodged with the registrar, he shall— Action by registrar.

(a) if he is satisfied—

15 (i) that there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election, which may have affected or may affect the result of the election, and

20 (ii) that the circumstances of the matter justify an inquiry by the commission, grant the application and refer the matter to the commission; or

(b) if he is not so satisfied, refuse the application and inform the applicant accordingly.

25 (2) The registrar may exercise his powers under subsection one of this section upon the basis of the matters stated in the application but he may nevertheless take into account any relevant information coming to his knowledge.

30 (3) Any act or decision of the registrar under this section shall not be subject to appeal to the commission.

35 111c. Upon any reference by the registrar pursuant to section 111B of this Act the commission shall as soon as practicable proceed to inquire into the alleged irregularity. Inquiry by commission.

Industrial Arbitration (Amendment).

111b. (1) At any time after an inquiry in connection with an election has been instituted, the commission may make such orders as it deems just and necessary. Interim orders.

- 5 Without limiting the generality of the foregoing such orders may include—
- 10 (a) an order that no further steps shall be taken in the conduct of the election or in carrying into effect the result of the election;
- 15 (b) an order that a person who has assumed an office, continued to act in an office, or claims to occupy an office, being an office to which the inquiry relates, shall not act in that office;
- 20 (c) an order that a person who holds, or who last held before the election, an office to which the inquiry relates may act or continue to act in that office;
- 25 (d) where the commission considers that an order under paragraph (c) of this subsection would not be practicable or would be prejudicial to the efficient conduct of the affairs of the trade union or a branch thereof or would be inappropriate having regard to the nature of the inquiry, an order that a member of the trade union or branch or another person specified in the order may act in an office to which the inquiry relates;
- 30 (e) an order for the recounting of votes; and
- (f) an order varying or discharging an order under this subsection.

- 35 (2) Where the commission orders that a person may act, or continue to act, in an office, that person shall, while the order remains in force, and notwithstanding anything contained in the rules of the trade union or of a branch thereof, be deemed, for all purposes, to hold the office.

(3)

Industrial Arbitration (Amendment).

5 (3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of proceedings before the commission in connection with the election and of all matters ordered (otherwise than under this section) by the commission in those proceedings.

10 111E. (1) The commission shall allow to appear or be represented at an inquiry all persons who apply to the commission for leave to appear or be represented, being persons who appear to the commission to be justly entitled to be heard, and the commission may order any other person so to appear or be represented. Procedure at hearing.

15 (2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry shall be deemed to be parties to the proceedings.

20 111F. (1) At an inquiry the commission shall inquire into and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the commission thinks necessary. Functions and powers of commission.

25 (2) If the commission finds that an irregularity has occurred, the commission may, in its discretion, but subject to subsection three of this section, make such orders as it deems just and necessary.

30 Without limiting the generality of the foregoing such orders may include—

- (a) an order declaring the election, or any steps taken in or in connection with the election, to be void;
- 35 (b) an order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected;

Industrial Arbitration (Amendment).

5 (c) an order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under paragraph (d) of this subsection) with the rules of the trade union or branch; and

10 (d) an order directing, notwithstanding anything contained in the rules of the trade union or branch, the taking of such safeguards as the commission thinks necessary against irregularities in or in connection with—

- 15 (i) any such new election;
- (ii) any such step so ordered to be taken again; or
- (iii) any uncompleted steps in the election,

20 and, for the purposes of any such order, an order appointing and authorising a person to act as a returning officer in conjunction with the returning officer (if any) acting under the rules of the trade union or branch in connection with the election, and to exercise such powers as the commission directs.

25 (3) The commission shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the commission is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities.

35 111g. (1) Where the commission declares void the election of a person who has, since the election, purported to act in the office to which he purported to have

Validation of certain acts, etc.

Industrial Arbitration (Amendment).

have been elected, all acts done by him while so purporting to act and which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes.

5 (2) The commission may, if it considers it desirable so to do, declare any such act to have been void, and thereupon that act shall, for all purposes, be deemed not to have been validly done.

10 (3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the commission, that election or step shall not be invalidated by reason only of any departure from the rules of the trade union or branch involved in compliance with the order of the commission.

15 111H. (1) The commission may make such order as to the costs and expenses (including expenses of witnesses) of proceedings before the commission in or in connection with an inquiry under section 111C of this Act as may be thought just and may assess the amount of such costs. **Costs.**

20 (2) Where upon any such inquiry the commission finds that an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorise payment by the State to the person who applied for the inquiry of the whole or a part of his costs and expenses (including expenses of witnesses).

25 (3) Where, upon any such inquiry, the commission does not find that any irregularity has occurred, but certifies that the person who applied for the inquiry acted reasonably in so applying, the Attorney-General may authorise payment by the State to that person of the whole or a part of his costs and expenses (including expenses of witnesses).

30 (4) Where the Attorney-General is satisfied that, having regard to the findings of the commission upon any such inquiry, it is not just that a person (not being the person who applied for the inquiry) **should**

Industrial Arbitration (Amendment).

5 should be required to bear, or to bear in full, any expenses (including expenses of witnesses) incurred by him in connection with the inquiry, the Attorney-General may authorise payment by the State of the whole or a part of those expenses.

(5) Where the commission orders—

- 10 (a) a new election to be held;
(b) any step in or in connection with an election to be taken again; or
(c) any safeguards, not provided for in the rules of the trade union or branch, to be taken in or in connection with any uncompleted steps in an election,

15 the Attorney-General may, if he is satisfied that the nature of the irregularity found by the commission to have occurred is such that it would be unreasonable for the trade union to be required to bear, or to bear in full, the expenses involved in compliance with the order of the commission, authorise payment
20 by the State of the whole or part of those expenses.

111r. Notwithstanding anything contained in the rules of a trade union or of a branch of a trade union, a trade union and every officer of a trade union or branch who is able to do so, shall take such steps as
25 are necessary to ensure that all ballot papers, envelopes, lists and other documents used in connection with or relevant to an election for an office are preserved and kept at the registered office of the union for a period of one year after the completion
30 of the election.

The penalty for any breach of this section shall as against any trade union be a sum not exceeding one hundred pounds and as against any individual a sum not exceeding fifty pounds or imprisonment
35 for a period not exceeding twelve months or both.

111j. (1) A trade union or a branch of a trade union may request the registrar to conduct an election for an office in the trade union or in the branch
(as

Ballot
papers, etc.,
to be
preserved.

Registrar
to conduct
elections
upon
request.

Industrial Arbitration (Amendment).

(as the case may be) with a view to ensuring that no irregularity occurs in or in connection with the election.

5 (2) Upon the making of such a request, the registrar may, if he considers that it is practicable for him to do so, conduct the election, and may, notwithstanding anything contained in the rules of the trade union or branch, take such action and give such directions as he considers necessary with a view to
10 ensuring that no irregularities occur in or in connection with the election.

(3) A person shall not—

- 15 (a) refuse or fail to comply with a direction of the registrar under this section; or
(b) obstruct or hinder the registrar in the taking of any action under this section or any person in the carrying out of a direction of the registrar under this section.

20 Any person contravening or failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred pounds or imprisonment for a period not exceeding twelve months, or both.

25 (4) Where the registrar is conducting, or has conducted, an election, the provisions of sections 111A to 111I of this Act shall not apply in relation to the election.

30 (5) An election shall not be invalidated by reason of any breach of the rules of the trade union or branch involved in any act, or in compliance with any direction, of the registrar under this section.

111K. (1) A person shall not, without lawful authority or excuse, in or in connection with an election for an office—

- 35 (a) personate another person to secure a ballot-paper to which the personator is not entitled, or personate another person for the purpose of voting;

(b)

Offences in connection with elections.

Industrial Arbitration (Amendment).

- (b) destroy, deface, alter, take or otherwise interfere with a nomination paper, ballot-paper or envelope;
- 5 (c) put or deliver a ballot-paper or other paper—
 - (i) into a ballot-box or other ballot receptacle; or
 - (ii) into the post; or
 - 10 (iii) to a person receiving ballot-papers for the purposes of the election;
- (d) record a vote which he is not entitled to record;
- (e) record more than one vote;
- 15 (f) forge or utter, knowing the same to be forged, a nomination paper, ballot-paper or envelope;
- (g) supply a ballot-paper;
- (h) obtain, or have in his possession, a ballot-paper; or
- 20 (i) destroy, take, open or otherwise interfere with a ballot-box.
- (2) A person shall not, in or in connection with an election for an office—
- 25 (a) threaten, offer or suggest any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—
 - (i) any candidature or withdrawal of candidature;
 - 30 (ii) any vote or omission to vote;
 - (iii) any support or opposition to any candidate; or
 - (iv) any promise of any vote, omission, support or opposition; or
- 35 (b) use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support or opposition.

(3).

Industrial Arbitration (Amendment).

(3) Any person contravening or failing to comply with any provision of this section shall be liable to a penalty not exceeding one hundred pounds or imprisonment for twelve months, or both.

5 111L. For the purposes of sections 111A to 111K inclusive, of this Act—

Definitions
for purposes
of secs. 111A-
111K.

10 “Irregularity” in relation to an election for an office includes a breach of the rules of a trade union or of a branch of a trade union and any act, omission or other means whereby the full and free recording of votes by all persons entitled to record votes and by no other persons or a correct ascertainment or declaration of the results of the voting is or is attempted to be prevented or hindered.

15 “Office” in relation to a trade union or branch of a trade union means—

- 20 (a) the office of a member of the committee of management of the trade union or branch;
- 25 (b) the office of a person holding, whether as trustee or otherwise, property of the trade union or branch or property in which the trade union or branch has any beneficial interest; and
- 30 (c) every office within the trade union or branch for the filling of which an election is conducted within the trade union or branch.

35 111M. Nothing contained in sections 111A to 111L, inclusive, of this Act shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission by any other provision of this Act.

Savings
as to
commission's
powers.

9. The Principal Act is further amended—

- (a) by inserting in subsection one of section one hundred and twenty after the words “of the penalty” the words “or remit the matter to the registrar,

Further
amendment of
Act No. 2,
1940.
Sec. 120.
(Appeal
from
registrar or
magistrate.)

Industrial Arbitration (Amendment).

registrar, magistrate or justices with the opinion of the commission thereon”;

5 (b) by inserting in section one hundred and twenty-two next after the word “paid” where secondly occurring the words “to the registrar, and by him paid”; Sec. 122. (Penalties to be paid to Consolidated Revenue.)

(c) (i) by inserting at the end of subsection one of section one hundred and twenty-three the following new subsection:— Sec. 123. (Orders for costs.)

10 (1A) Where an industrial or other magistrate or justices has or have ordered costs to be paid in any proceedings for a penalty or prosecution under this Act—

15 (a) such costs shall be paid to the registrar and by him paid in accordance with the terms of the order;

20 (b) the provisions of section eighty-two of the Justices Act, 1902-1947, shall, mutatis mutandis, apply to and in respect of such costs and the persons against whom the order is made.

25 (ii) by omitting from subsection two of the same section the words “or the industrial magistrate” and by inserting in lieu thereof the words “and every order for the payment of costs other than costs referred to in subsection (1A) of this section made by the industrial magistrate.”

30 10. The Principal Act is further amended by inserting next after section one hundred and twenty-nine the following new section:— Further amendment of Act No. 2, 1940. Now sec. 129A.

35 129A. (1) The commission or a conciliation committee shall upon application made therefor insert in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions providing that the secretary or a duly accredited representative of an industrial union of employees whose Entry and inspection by accredited union representative.

Industrial Arbitration (Amendment).

whose members are engaged in an industry in respect of which the award or industrial agreement is in force may, subject to such conditions as the commission or committee may deem necessary or desirable in order to prevent any misuse of the powers referred to in paragraphs (a) and (b) of this subsection or any undue interference with work being carried out by or on behalf of any employer engaged in such industry,—

10 (a) enter the premises of any employer engaged in any such industry—

(i) during any lunch hour or non-working time for the purpose of interviewing employees on legitimate union business;

15 (ii) during working hours for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry;

20 (b) for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry require any employer engaged in such industry to produce for his inspection during the usual office hours at the employer's office or other convenient place any time and pay sheets kept by him in regard to employees in such industry and to make copies of the entries in such time and pay sheets relating to any such suspected breach.

25 In this subsection "premises" includes any building, mine, mine working, ship, vessel, or place of any kind wherein or in respect of which any industry is carried on or any work is being or has been done or commenced.

(2)

Industrial Arbitration (Amendment.)

5 (2) Nothing in this section shall authorise a secretary or duly accredited representative of an industrial union of employees to enter a private dwelling house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

10 (3) A duly accredited representative of an industrial union of employees for the purposes of this section means a person who for the time being is the holder of a certificate signed by the secretary of that industrial union and bearing the seal of that industrial union certifying that such person is a duly accredited representative of that industrial union.

15 (4) Any person who hinders or obstructs any secretary or duly accredited representative of an industrial union of employees in the exercise of any powers conferred on him by any provision inserted in an award or industrial agreement pursuant to subsection one of this section shall be
20 deemed guilty of a breach of an award or industrial agreement, as the case may be.

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

Further amendment of Act No. 2, 1940.

Sec. 131.

(Employees in rural industries.)

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.

H. ROBBINS,

Clerk of the Legislative Assembly.

Legislative Assembly Chamber,

Sydney, 31 May, 1951.

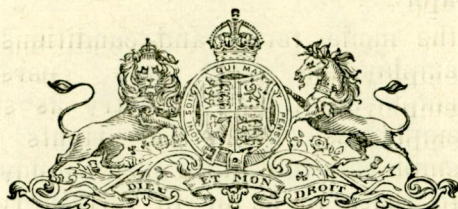
The LEGISLATIVE COUNCIL has this day agreed to this Bill with an Amendment.

Clerk of the Parliaments.

Legislative Council Chamber,

Sydney, June, 1951.

New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

Act No. , 1951.

An Act to amend the Industrial Arbitration Act, 1940-1950, in certain respects; and for purposes connected therewith.

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

1. (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1951."

Short title, citation and commencement.

(2) The Industrial Arbitration Act, 1940, as amended by subsequent Acts, is in this Act referred to 10 as the Principal Act.

76727

97—A

(3)

NOTE.—The words to be *inserted* are printed in **black letter**.

Industrial Arbitration (Amendment).

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1951.

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

2. The Principal Act is amended—

(a) (i) by inserting in subsection one of section five at the end of the definition of “Industrial matters” the following new paragraph:—

(h) the mode, terms and conditions of employment of any persons employed in any industry as staff employees and the rights of employers to require such employees to cease to be or to refrain from becoming members of a trade union or to perform work of the nature usually performed by any such members.

(ii) by inserting in subsection two of the same section after the words “delivery of goods” the words “or in the transportation of passengers”;

(b) by omitting from subsection three of section eight the words “which has not since the twenty-second day of March, one thousand nine hundred and eighteen, taken part in, aided, or abetted an illegal strike”;

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

10A. (1) Where it is necessary in any proceedings in any court to prove—

(a) the registration of an industrial union, or

(b)

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

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

New sec. 10A

Proof of registration of industrial union, etc.

Industrial Arbitration (Amendment).

(b) that a specified person is, or was at any specified time, the secretary of any specified industrial union, a certificate under the hand of the registrar stating any such facts shall be prima facie evidence of such facts without proof of the registrar's signature.

(2) (a) Any certificate under paragraph (b) of subsection one of this section may be issued by the registrar upon proof to his satisfaction that such person has been duly elected or appointed as the secretary of the industrial union and that the requirements of the rules of the industrial union relating to such election or appointment have been duly complied with.

(b) The person to whom any certificate has been issued under this section stating that such person is the secretary of an industrial union shall upon ceasing to hold office as such secretary or upon request so to do by the registrar forthwith return the certificate to the registrar for cancellation. Any person failing to comply with the provisions of this paragraph shall be liable to a penalty not exceeding one hundred pounds.

3. The Principal Act is further amended by inserting at the end of paragraph (b) of subsection eight of section fourteen the following new paragraph:—

30 On any such appeal the commission shall have full discretionary power to receive further evidence upon questions of fact. Such evidence shall be admitted on special grounds only and not without special leave of the commission.

35 4. The Principal Act is further amended—

(a) (i) by omitting from paragraph (a) of subsection one of section twenty the words "twenty pounds" and by inserting in lieu thereof the words "thirty-five pounds";

Further amendment of Act No. 2, 1940.

Sec. 14. (Industrial commission.)

Further amendment of Act No. 2, 1940.

Sec. 20. (Original jurisdiction of committees.)

(ii)

Industrial Arbitration (Amendment).

- (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "one thousand seven hundred and fifty pounds";
- 5 (iii) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 10 (g) prescribing that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award;
- (iv) by omitting subsection two of the same section and by inserting in lieu thereof
- 15 the following subsection:—
- (2) (a) Where a committee prescribes that preference of employment shall be given to the members of any industrial union or unions of employees specified in
- 20 the award pursuant to paragraph (g) of subsection one of this section the committee shall also prescribe that the employer of any person to whom a certificate for the time being in force has been issued by the
- 25 registrar as hereinafter provided shall be exempt from the provisions of such award prescribing preference of employment as aforesaid.
- (b) Any person who—
- 30 (i) objects on religious grounds to being a member of an industrial union of employees and satisfies the registrar that his religious objections are genuine; and
- 35 (ii) pays to the registrar an amount equivalent to the subscription prescribed by the rules of the industrial union of employees for membership of the union;
- shall

(11)

Industrial Arbitration (Amendment).

shall be issued by the registrar with a certificate exempting him from union membership.

Any such certificate shall remain in force for the period specified therein and may be renewed from time to time by the registrar upon payment of such amount not exceeding the amount referred to in paragraph (b) aforesaid as the registrar may require.

(c) Any amount received by the registrar pursuant to this subsection shall be paid by him to the credit of the Consolidated Revenue Fund.

(b) (i) by inserting in subsection seven of section twenty-four after the words "award of a committee" the words "or of a conciliation commissioner";

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

(8) Any party, employer or industrial union affected by an order, award or decision of a committee or of a conciliation commissioner may, within the prescribed time and in the prescribed manner,—

(a) appeal to the commission from the order, award or decision;

(b) apply to the commission for a suspension of the order, award or decision.

(c) by inserting next after section twenty-eight the following new section:—

28A. The apprenticeship commissioner may summon any person before him for the purpose of conference or of giving evidence.

Every Apprenticeship commissioner may summon witnesses.

Industrial Arbitration (Amendment).

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

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

(a) by inserting next after section 61B the following new section:—

Further amendment of Act No. 2, 1940.

New sec. 61 BA.

10 61BA. (1) This section shall apply to and in respect of all awards and industrial agreements made or deemed to have been made under this Act which were in force at the commencement of the Industrial Arbitration (Amendment) Act, 1951, and which—

Awards and agreements existing at commencement of Industrial Arbitration (Amendment) Act, 1951.

15 (a) fix rates of wages for employees by reference to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but with the
20 differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment; or

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

30 (2) Every award or industrial agreement to which this section applies shall be deemed to be varied so as to provide that the basic wage for adult males and the basic wage for adult females which shall apply to that award
35 or industrial agreement shall be the basic wage for adult males and the basic wage for adult females

Industrial Arbitration (Amendment).

females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

Such variation shall take effect as from the commencement of the first pay period to commence after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

(3) As soon as practicable after the commencement of the Industrial Arbitration (Amendment) Act, 1951, the registrar shall vary the terms of each award to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award as he may think necessary or desirable to enable full effect to be given to the provisions of this section.

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

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

(b) by omitting section 61c;

Sec. 61c.
(Uniformity
of basis of
awards with
basis of
Commonwealth
awards in
same industry.)

(c) by omitting section 61d;

Sec. 61d.
(Power to alter
basis of
awards.)

(d)

Industrial Arbitration (Amendment).

- (d) by omitting subsection one of section 61E and by inserting in lieu thereof the following subsection:—
- Sec. 61E.
(Future awards and industrial agreements.)

5 (1) (a) This subsection shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

10 (b) Subject to paragraph (d) of this subsection all awards and industrial agreements to which this subsection applies (other than awards or industrial agreements to which paragraph (c) of this subsection applies) shall in so far as they fix rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

25 (c) Subject to paragraph (d) of this subsection all awards or industrial agreements to which this subsection applies which fix rates of wages for employees within the County of Yancowinna (whether or not for such employees exclusively) shall—

30 (i) in so far as they fix rates of wages for employees within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Broken Hill contained in the Retail Price Index Numbers; and

(ii)

Industrial Arbitration (Amendment).

(ii) in so far as they fix rates of wages for employees not within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

(d) Notwithstanding anything contained in paragraph (b) or paragraph (c) of this subsection, the parties to any award or industrial agreement to which this subsection applies and which fixes rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females, may by consent, at the time the award or industrial agreement is made or upon any application for variation of the award or industrial agreement, adopt the basic wage for adult males or the basic wage for adult females assessed on the index number for such place within New South Wales or such combination of places (of which Sydney or some other town in New South Wales is one) contained in the Retail Price Index Numbers as may be specified in the award or industrial agreement.

(e) by inserting in subsection three of section 61F after the word "section" the following new paragraph:—

Sec. 61F.
(Automatic
adjustment
of awards.)

The terms of any award affecting rates of pay may to the extent practicable be expressed by the registrar in such a form as will render unnecessary the variation of such award under this

Industrial Arbitration (Amendment).

this subsection consequent upon subsequent variations in the rates of pay pursuant to the operation of this section.

6. The Principal Act is further amended—

Further
amendment
of Act No. 2,
1940.
Subst.
sec. 88A.

- 5 (a) by omitting section 88A and by inserting in lieu thereof the following section:—

88A. In respect of employees of the Crown the commission or a committee shall not—

Crown
employees.

- 10 (a) award any conditions less favourable than those awarded to employees (other than employees of the Crown) who are doing substantially the same class of work, or

- 15 (b) fix rates of wages or other payments at amounts less than the rates of wages or other payments fixed for employees (other than employees of the Crown) who are doing substantially the same class of work.

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

- 25 In this section the expression "employees of the Crown" includes employees of the Government or of any department of the Government or of any person or corporation employing persons on behalf of the Government and without limiting the generality of the foregoing includes
30 employees of any of the following corporations, that is to say—

The Commissioner for Railways,

- 35 The Commissioner for Road Transport and Tramways,

The Commissioner for Main Roads,

The

Industrial Arbitration (Amendment).

The Metropolitan Meat Industry Board,
The Maritime Services Board of New South
Wales,

The Metropolitan Water Sewerage and
Drainage Board,

The Water Conservation and Irrigation
Commission,

The Forestry Commission of New South
Wales,

The Board of Fire Commissioners of
New South Wales,

The Hunter District Water Board, and

The Hospitals Commission of New South
Wales.

(b) by inserting next after section 88B the following new section:—

88c. (1) The commission or a committee shall upon application therefor insert (by way of variation or otherwise) in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions entitling employees to long service leave on full pay.

The amount of long service leave to which employees shall be entitled pursuant to this subsection shall—

(a) (i) in the case of employees who have whether before or after such commencement completed at least twenty years' service with an employer, be three months; and

(ii) in the case of employees who have whether before or after such commencement completed at least ten years' service but less than twenty years' service with an employer

and

(4)

New sec. 88c.
Long service
leave and
sick leave.

Industrial Arbitration (Amendment).

5 and whose services are terminated
by the employer for any cause
other than serious misconduct, be a
proportionate amount on the basis
of three months for twenty years'
service; or

10 (b) be such amount and in respect of such
qualifying periods not less favourable
than the foregoing as the commission
or committee, as the case may be,
determines.

15 (2) The commission, a committee or an
apprenticeship council shall upon application
made therefor insert (by way of variation or
otherwise) in any award or industrial agreement
whether made before or after the commencement
of the Industrial Arbitration (Amendment) Act,
1951, provisions entitling every employee to one
week's sick leave on full pay for each year of
20 service with an employer.

25 (3) The commission, committee or
apprenticeship council inserting provisions of
the nature referred to in subsections one and two
of this section in any award or industrial agree-
ment may include such provisions as to the mode,
terms and conditions under which long service
leave or sick leave may be given and taken as it
deems necessary or desirable and without limit-
ing the generality of the foregoing may—

30 (a) provide that any leave in the nature
of long service leave taken by an
employee before the insertion of any
such provisions shall be deducted from
the period of long service leave to which
35 such employee may be entitled pursuant
to such insertion;

(b) impose limitations upon the amount of
sick leave which may be accumulated by
an employee.

(4)

Industrial Arbitration (Amendment).

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

15 (5) Nothing in this section relating to
long service leave or sick leave shall apply where
employees are by or under any Act other than
this Act entitled to leave in the nature of long
service leave or sick leave, as the case may be.

20 (6) For the purposes of subsection one
of this section any period during which a person
served as a member of the naval, military or air
forces of the Commonwealth or of the Civil
Construction Corps established under the
25 National Security Act 1939, as amended by
subsequent Acts, of the Parliament of the
Commonwealth, shall be deemed to be service
with the employer by whom such person was
last employed before he commenced to serve as
30 such member.

7. The Principal Act is further amended—

35 (a) by omitting from subsection two of section
ninety-two the words "six months" and by
inserting in lieu thereof the words "twelve
months";

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

(b)

Industrial Arbitration (Amendment).

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

New sec.
95A.

- 5 95A. On the payment, by an employer, of any wages to an employee covered by any award or industrial agreement such employer shall indicate either by noting on the pay envelope of the employee or by way of a statement in writing handed to the employee at the time of paying his wages how the payment is made up by including in such noting or statement such particulars as may be prescribed as regards the date of payment, the period covered thereby, the rate of wages, the number of hours worked, overtime payments and details of any deductions and other prescribed matters.

Particulars
of wages and
deductions
therefrom to
be given on
pay envelope
or in state-
ments.

9 Geo. VI,
No. 14,
(Qld.) s. 4.

Any employer refusing or failing to comply with the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

8. The Principal Act is further amended by inserting next after section one hundred and eleven the following new sections:—

Further
amendment
of Act No. 2,
1940.

New secs. 111A-
111M.

- 25 111A. (1) Where a member of a trade union, or a person who, within the preceding period of twelve months, has been a member of a trade union, claims that there has been an irregularity in or in connection with an election for an office in the trade union, or in a branch of the trade union, he may lodge an application for an inquiry by the commission into the matter.

Applications
for inquiries
respecting
elections.

- 30 (2) An application under this section shall—

- (a) be in writing in or to the effect of the form prescribed;
- (b) be lodged with the registrar before the completion of the election or within such time after the completion of the election as may be prescribed;

(c).

Industrial Arbitration (Amendment).

(c) specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state the facts relied on in support of the application; and

(d) be accompanied by a statutory declaration by the applicant declaring that the facts stated in the application are, to the best of the applicant's knowledge and belief, true.

111B. (1) Where any such application is lodged with the registrar, he shall— Action by registrar.

(a) if he is satisfied—
(i) that there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election, which may have affected or may affect the result of the election, and

(ii) that the circumstances of the matter justify an inquiry by the commission, grant the application and refer the matter to the commission; or

(b) if he is not so satisfied, refuse the application and inform the applicant accordingly.

(2) The registrar may exercise his powers under subsection one of this section upon the basis of the matters stated in the application but he may nevertheless take into account any relevant information coming to his knowledge.

(3) Any act or decision of the registrar under this section shall not be subject to appeal to the commission.

111c. Upon any reference by the registrar pursuant to section 111B of this Act the commission shall as soon as practicable proceed to inquire into the alleged irregularity, Inquiry by commission.

Industrial Arbitration (Amendment).

111d. (1) At any time after an inquiry in connection with an election has been instituted, the commission may make such orders as it deems just and necessary. Interim orders.

5 Without limiting the generality of the foregoing such orders may include—

- (a) an order that no further steps shall be taken in the conduct of the election or in carrying into effect the result of the election;
- 10 (b) an order that a person who has assumed an office, continued to act in an office, or claims to occupy an office, being an office to which the inquiry relates, shall not act in that office;
- 15 (c) an order that a person who holds, or who last held before the election, an office to which the inquiry relates may act or continue to act in that office;
- 20 (d) where the commission considers that an order under paragraph (c) of this subsection would not be practicable or would be prejudicial to the efficient conduct of the affairs of the trade union or a branch thereof or would be inappropriate having regard to
- 25 the nature of the inquiry, an order that a member of the trade union or branch or another person specified in the order may act in an office to which the inquiry relates;
- (e) an order for the recounting of votes; and
- 30 (f) an order varying or discharging an order under this subsection.

35 (2) Where the commission orders that a person may act, or continue to act, in an office, that person shall, while the order remains in force, and notwithstanding anything contained in the rules of the trade union or of a branch thereof, be deemed, for all purposes, to hold the office.

(3)

Industrial Arbitration (Amendment).

5 (3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of proceedings before the commission in connection with the election and of all matters ordered (otherwise than under this section) by the commission in those proceedings.

10 111E. (1) The commission shall allow to appear or be represented at an inquiry all persons who apply to the commission for leave to appear or be represented, being persons who appear to the commission to be justly entitled to be heard, and the commission may order any other person so to appear or be represented. Procedure at hearing.

15 (2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry shall be deemed to be parties to the proceedings.

20 111F. (1) At an inquiry the commission shall inquire into and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the commission thinks necessary. Functions and powers of commission.

25 (2) If the commission finds that an irregularity has occurred, the commission may, in its discretion, but subject to subsection three of this section, make such orders as it deems just and necessary.

30 Without limiting the generality of the foregoing such orders may include—

- 35 (a) an order declaring the election, or any steps taken in or in connection with the election, to be void;
- (b) an order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected;

Industrial Arbitration (Amendment).

5 (c) an order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under paragraph (d) of this subsection) with the rules of the trade union or branch; and

10 (d) an order directing, notwithstanding anything contained in the rules of the trade union or branch, the taking of such safeguards as the commission thinks necessary against irregularities in or in connection with—

(i) any such new election;

15 (ii) any such step so ordered to be taken again; or

(iii) any uncompleted steps in the election,

20 and, for the purposes of any such order, an order appointing and authorising a person to act as a returning officer in conjunction with the returning officer (if any) acting under the rules of the trade union or branch in connection with the election, and to exercise such powers as the commission directs.

25 (3) The commission shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the commission is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities.

35 111g. (1) Where the commission declares void the election of a person who has, since the election, purported to act in the office to which he purported to have

Validation
of certain
acts, etc.

Industrial Arbitration (Amendment).

have been elected, all acts done by him while so purporting to act and which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes.

5 (2) The commission may, if it considers it desirable so to do, declare any such act to have been void, and thereupon that act shall, for all purposes, be deemed not to have been validly done.

10 (3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the commission, that election or step shall not be invalidated by reason only of any departure from the rules of the trade union or branch involved in compliance with the order of the
15 commission.

111H. (1) The commission may make such order **Costs. #** as to the costs and expenses (including expenses of witnesses) of proceedings before the commission in or in connection with an inquiry under section 111c
20 of this Act as may be thought just and may assess the amount of such costs.

(2) Where upon any such inquiry the commission finds that an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorise payment
25 by the State to the person who applied for the inquiry of the whole or a part of his costs and expenses (including expenses of witnesses).

(3) Where, upon any such inquiry, the commission does not find that any irregularity has occurred, but certifies that the person who applied for the inquiry acted reasonably in so applying, the Attorney-General may authorise payment by the State to that person of the whole or a part of his
30 costs and expenses (including expenses of witnesses).

(4) Where the Attorney-General is satisfied that, having regard to the findings of the commission upon any such inquiry, it is not just that a person (not being the person who applied for the inquiry)
35 should

Industrial Arbitration (Amendment).

should be required to bear, or to bear in full, any expenses (including expenses of witnesses) incurred by him in connection with the inquiry, the Attorney-General may authorise payment by the State of the whole or a part of those expenses.

(5) Where the commission orders—

(a) a new election to be held;

(b) any step in or in connection with an election to be taken again; or

(c) any safeguards, not provided for in the rules of the trade union or branch, to be taken in or in connection with any uncompleted steps in an election,

the Attorney-General may, if he is satisfied that the nature of the irregularity found by the commission to have occurred is such that it would be unreasonable for the trade union to be required to bear, or to bear in full, the expenses involved in compliance with the order of the commission, authorise payment by the State of the whole or part of those expenses.

111i. Notwithstanding anything contained in the rules of a trade union or of a branch of a trade union, a trade union and every officer of a trade union or branch who is able to do so, shall take such steps as are necessary to ensure that all ballot papers, envelopes, lists and other documents used in connection with or relevant to an election for an office are preserved and kept at the registered office of the union for a period of one year after the completion of the election.

Ballot
papers, etc.,
to be
preserved.

The penalty for any breach of this section shall as against any trade union be a sum not exceeding one hundred pounds and as against any individual a sum not exceeding fifty pounds or imprisonment for a period not exceeding twelve months or both.

111j. (1) A trade union or a branch of a trade union may request the registrar to conduct an election for an office in the trade union or in the branch (as

Registrar
to conduct
elections
upon
request.

Industrial Arbitration (Amendment).

(as the case may be) with a view to ensuring that no irregularity occurs in or in connection with the election.

5 (2) Upon the making of such a request, the registrar may, if he considers that it is practicable for him to do so, conduct the election, and may, notwithstanding anything contained in the rules of the trade union or branch, take such action and give such directions as he considers necessary with a view to ensuring that no irregularities occur in or in connection with the election.

10 (3) A person shall not—
 (a) refuse or fail to comply with a direction of the registrar under this section; or
 15 (b) obstruct or hinder the registrar in the taking of any action under this section or any person in the carrying out of a direction of the registrar under this section.

20 Any person contravening or failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred pounds or imprisonment for a period not exceeding twelve months, or both.

25 (4) Where the registrar is conducting, or has conducted, an election, the provisions of sections 111A to 111I of this Act shall not apply in relation to the election.

30 (5) An election shall not be invalidated by reason of any breach of the rules of the trade union or branch involved in any act, or in compliance with any direction, of the registrar under this section.

111K. (1) A person shall not, without lawful authority or excuse, in or in connection with an election for an office—

Offences in connection with elections.

35 (a) personate another person to secure a ballot-paper to which the personator is not entitled, or personate another person for the purpose of voting;

(b)

Industrial Arbitration (Amendment).

- (b) destroy, deface, alter, take or otherwise interfere with a nomination paper, ballot-paper or envelope;
- 5 (c) put or deliver a ballot-paper or other paper—
- (i) into a ballot-box or other ballot receptacle; or
- (ii) into the post; or
- 10 (iii) to a person receiving ballot-papers for the purposes of the election;
- (d) record a vote which he is not entitled to record;
- (e) record more than one vote;
- 15 (f) forge or utter, knowing the same to be forged, a nomination paper, ballot-paper or envelope;
- (g) supply a ballot-paper;
- (h) obtain, or have in his possession, a ballot-paper; or
- 20 (i) destroy, take, open or otherwise interfere with a ballot-box.
- (2) A person shall not, in or in connection with an election for an office—
- 25 (a) threaten, offer or suggest any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—
- (i) any candidature or withdrawal of candidature;
- 30 (ii) any vote or omission to vote;
- (iii) any support or opposition to any candidate; or
- (iv) any promise of any vote, omission, support or opposition; or
- 35 (b) use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support or opposition.

(3)

Industrial Arbitration (Amendment).

(3) Any person contravening or failing to comply with any provision of this section shall be liable to a penalty not exceeding one hundred pounds or imprisonment for twelve months, or both.

5 111L. For the purposes of sections 111A to 111K Definitions for purposes of secs. 111A-111K.
inclusive, of this Act—

10 “Irregularity” in relation to an election for an office includes a breach of the rules of a trade union or of a branch of a trade union and any act, omission or other means whereby the full and free recording of votes by all persons entitled to record votes and by no other persons or a correct ascertainment or declaration of the results of the voting is or is attempted to be prevented or hindered.

15 “Office” in relation to a trade union or branch of a trade union means—

- 20 (a) the office of a member of the committee of management of the trade union or branch;
- 25 (b) the office of a person holding, whether as trustee or otherwise, property of the trade union or branch or property in which the trade union or branch has any beneficial interest; and
- 30 (c) every office within the trade union or branch for the filling of which an election is conducted within the trade union or branch.

35 111M. Nothing contained in sections 111A to 111L, Savings as to commission's powers.
inclusive, of this Act shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission by any other provision of this Act.

9. The Principal Act is further amended—

- (a) by inserting in subsection one of section one hundred and twenty after the words “of the penalty” the words “or remit the matter to the registrar, (Appeal from registrar or magistrate.)” Further amendment of Act No. 2, 1940. Sec. 120.

Industrial Arbitration (Amendment).

registrar, magistrate or justices with the opinion of the commission thereon”;

5 (b) by inserting in section one hundred and twenty-two next after the word “paid” where secondly occurring the words “to the registrar, and by him paid”;

Sec. 122.
(Penalties to be paid to Consolidated Revenue.)

(c) (i) by inserting at the end of subsection one of section one hundred and twenty-three the following new subsection:—

Sec. 123.
(Orders for costs.)

10 (1A) Where an industrial or other magistrate or justices has or have ordered costs to be paid in any proceedings for a penalty or prosecution under this Act—

15 (a) such costs shall be paid to the registrar and by him paid in accordance with the terms of the order;

20 (b) the provisions of section eighty-two of the Justices Act, 1902-1947, shall, mutatis mutandis, apply to and in respect of such costs and the persons against whom the order is made.

25 (ii) by omitting from subsection two of the same section the words “or the industrial magistrate” and by inserting in lieu thereof the words “and every order for the payment of costs other than costs referred to in subsection (1A) of this section made by the industrial magistrate.”

30 10. The Principal Act is further amended by inserting next after section one hundred and twenty-nine the following new section:—

Further amendment of Act No. 2, 1940.
New sec. 129A.

35 129A. (1) The commission or a conciliation committee shall upon application made therefor insert in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions providing that the secretary or a duly accredited representative of an industrial union of employees whose

Entry and inspection by accredited union representative.

Industrial Arbitration (Amendment).

5 whose members are engaged in an industry in respect of which the award or industrial agreement is in force may, subject to such conditions as the commission or committee may deem necessary or desirable in order to prevent any misuse of the powers referred to in paragraphs (a) and (b) of this subsection or any undue interference with work being carried out by or on behalf of any employer engaged in such industry,—

10 (a) enter the premises of any employer engaged in any such industry—

15 (i) during any lunch hour or non-working time for the purpose of interviewing employees on legitimate union business;

20 (ii) during working hours for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry;

25 (b) for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry require any employer engaged in such industry to produce for his inspection during the usual office hours at the employer's office or other convenient place any time and pay sheets kept by him in regard to employees in such industry and to make copies of the entries in such time and pay sheets relating to any such suspected breach.

35 In this subsection "premises" includes any building, mine, mine working, ship, vessel, or place of any kind wherein or in respect of which any industry is carried on or any work is being or has been done or commenced.

(2)

Industrial Arbitration (Amendment.)

5 (2) Nothing in this section shall authorise a secretary or duly accredited representative of an industrial union of employees to enter a private dwelling house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

10 (3) A duly accredited representative of an industrial union of employees for the purposes of this section means a person who for the time being is the holder of a certificate signed by the secretary of that industrial union and bearing the seal of that industrial union certifying that such person is a duly accredited representative of that industrial union.

15 (4) Any person who hinders or obstructs any secretary or duly accredited representative of an industrial union of employees in the exercise of any powers conferred on him by any provision inserted in an award or industrial agreement pursuant to subsection one of this section shall be deemed guilty of a breach of an award or industrial agreement, as the case may be.

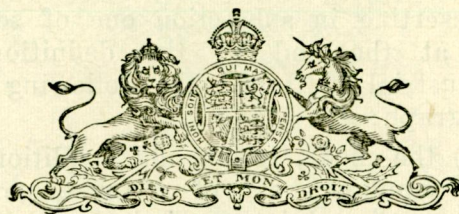
25 11. The Principal Act is further amended by omitting from subsection one of section one hundred and thirty-one the words "but no award relating to any such rural industry shall take effect unless the commission after public inquiry to which the Crown shall be a party certify to the Governor that the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

Further amendment of Act No. 2, 1940. Sec. 131. (Employees in rural industries.)

*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.*

H. ROBBINS,
Clerk of the Legislative Assembly.
*Legislative Assembly Chamber,
Sydney, 31 May, 1951.*

New South Wales.



ANNO QUINTO DECIMO

GEORGII VI REGIS.

Act No. , 1951.

An Act to amend the Industrial Arbitration Act,
1940-1950, in certain respects; and for
purposes connected therewith.

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

1. (1) This Act may be cited as the "Industrial
Arbitration (Amendment) Act, 1951."

Short title,
citation and
commence-
ment.

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

Industrial Arbitration (Amendment).

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1951.

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

2. The Principal Act is amended—

Amendment of
Act No. 2,
1940.

(a) (i) by inserting in subsection one of section five at the end of the definition of "Industrial matters" the following new paragraph:—

Sec. 5.
(Interpreta-
tion.)

(h) the mode, terms and conditions of employment of any persons employed in any industry as staff employees and the rights of employers to require such employees to cease to be or to refrain from becoming members of a trade union or to perform work of the nature usually performed by any such members.

(ii) by inserting in subsection two of the same section after the words "delivery of goods" the words "or in the transportation of passengers";

(b) by omitting from subsection three of section eight the words "which has not since the twenty-second day of March, one thousand nine hundred and eighteen, taken part in, aided, or abetted an illegal strike";

Sec. 8.
(Registra-
tion of
industrial
union of
employees.)

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

New sec. 10A

10A. (1) Where it is necessary in any proceedings in any court to prove—

Proof of
registration
of
industrial
union, etc.

(a) the registration of an industrial union,
or

(b)

Industrial Arbitration (Amendment).

(b) that a specified person is, or was at any specified time, the secretary of any specified industrial union,
5 a certificate under the hand of the registrar stating any such facts shall be prima facie evidence of such facts without proof of the registrar's signature.

(2) (a) Any certificate under paragraph (b) of subsection one of this section may be
10 issued by the registrar upon proof to his satisfaction that such person has been duly elected or appointed as the secretary of the industrial union and that the requirements of the rules of the industrial union relating to such
15 election or appointment have been duly complied with.

(b) The person to whom any certificate has been issued under this section stating that such person is the secretary of an
20 industrial union shall upon ceasing to hold office as such secretary or upon request so to do by the registrar forthwith return the certificate to the registrar for cancellation. Any person failing to comply with the provisions of this paragraph
25 shall be liable to a penalty not exceeding one hundred pounds.

3. The Principal Act is further amended by inserting at the end of paragraph (b) of subsection eight of section fourteen the following new paragraph:—

30 On any such appeal the commission shall have full discretionary power to receive further evidence upon questions of fact. Such evidence shall be admitted on special grounds only and not without special leave of the commission.

35 4. The Principal Act is further amended—

(a) (i) by omitting from paragraph (a) of subsection one of section twenty the words "twenty pounds" and by inserting in lieu thereof the words "thirty-five pounds";
(ii)

Further amendment of Act No. 2, 1940.

Sec. 14. (Industrial commission.)

Further amendment of Act No. 2, 1940.

Sec. 20. (Original jurisdiction of committees.)

Industrial Arbitration (Amendment).

- (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "one thousand seven hundred and fifty pounds";
- 5 (iii) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 10 (g) prescribing that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award;
- (iv) by omitting subsection two of the same section;
- 15 (b) (i) by inserting in subsection seven of section twenty-four after the words "award of a committee" the words "or of a conciliation commissioner"; Sec. 24. (Appeal from committees.)
- 20 (ii) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—
- (8) Any party, employer or industrial union affected by an order, award or decision of a committee or of a conciliation commissioner may, within the prescribed time and in the prescribed manner,—
- 25 (a) appeal to the commission from the order, award or decision;
- (b) apply to the commission for a suspension of the order, award or decision.
- 30 (c) by inserting next after section twenty-eight the following new section:—
- 35 28A. The apprenticeship commissioner may summon any person before him for the purpose of conference or of giving evidence. Apprenticeship commissioner may summon witnesses.
- Every

Industrial Arbitration (Amendment).

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

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

- (a) by inserting next after section 61B the following new section:—

Further
amendment of
Act No. 2,
1940.

New sec.

61 BA.

10

61BA. (1) This section shall apply to and in respect of all awards and industrial agreements made or deemed to have been made under this Act which were in force at the commencement of the Industrial Arbitration (Amendment) Act, 1951, and which—

Awards and
agreements
existing at
commence-
ment of
Industrial
Arbitration
(Amend-
ment)
Act, 1951.

15

- (a) fix rates of wages for employees by reference to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but with the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment; or

20

25

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

30

(2) Every award or industrial agreement to which this section applies shall be deemed to be varied so as to provide that the basic wage for adult males and the basic wage for adult females which shall apply to that award or industrial agreement shall be the basic wage for adult males and the basic wage for adult females

35

Industrial Arbitration (Amendment).

5 females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

10 Such variation shall take effect as from the commencement of the first pay period to commence after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

15 (3) As soon as practicable after the commencement of the Industrial Arbitration (Amendment) Act, 1951, the registrar shall vary the terms of each award to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award as he may think necessary or desirable to enable full effect to be given to the provisions of this section.

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

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

(b) by omitting section 61c;

Sec. 61c.
(Uniformity
of basis of
awards with
basis of
Commonwealth
awards in
same industry.)

35 (c) by omitting section 61b;

Sec. 61b.
(Power to alter
basis of
awards.)

(d)

Industrial Arbitration (Amendment).

- (d) by omitting subsection one of section 61E and by inserting in lieu thereof the following subsection:—
- Sec. 61E.
(Future awards and industrial agreements.)

5 (1) (a) This subsection shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

10 (b) Subject to paragraph (d) of this subsection all awards and industrial agreements to which this subsection applies (other than awards or industrial agreements to which paragraph (c) of this subsection applies) shall in so far as they fix rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

25 (c) Subject to paragraph (d) of this subsection all awards or industrial agreements to which this subsection applies which fix rates of wages for employees within the County of Yancowinna (whether or not for such employees exclusively) shall—

30 (i) in so far as they fix rates of wages for employees within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Broken Hill contained in the Retail Price Index Numbers; and

(ii)

Industrial Arbitration (Amendment).

5 (ii) in so far as they fix rates of wages for
employees not within the County of
Yancowinna by reference or in relation
to the basic wage for adult males or the
basic wage for adult females be made
by reference or in relation to the basic
10 wage for adult males or the basic wage
for adult females assessed on the index
number for Sydney contained in the
Retail Price Index Numbers but with-
out the differentiation in the rates
for different districts approved and
adopted by the Commonwealth Court of
15 Conciliation and Arbitration in the
Commonwealth Judgment.

(d) Notwithstanding anything contained
in paragraph (b) or paragraph (c) of this sub-
section, the parties to any award or industrial
20 agreement to which this subsection applies and
which fixes rates of wages by reference or in
relation to the basic wage for adult males or the
basic wage for adult females, may by consent,
at the time the award or industrial agreement
is made or upon any application for variation
25 of the award or industrial agreement, adopt the
basic wage for adult males or the basic wage for
adult females assessed on the index number for
such place within New South Wales or such com-
bination of places (of which Sydney or some
30 other town in New South Wales is one) con-
tained in the Retail Price Index Numbers as
may be specified in the award or industrial
agreement.

35 (e) by inserting in subsection three of section 61f
after the word "section" the following new para-
graph:—

Sec. 61f.
(Automatic
adjustment
of awards.)

40 The terms of any award affecting rates of pay
may to the extent practicable be expressed by
the registrar in such a form as will render
unnecessary the variation of such award under
this

Industrial Arbitration (Amendment).

this subsection consequent upon subsequent variations in the rates of pay pursuant to the operation of this section.

6. The Principal Act is further amended—

Further
amendment
of Act No. 2,
1940.
Subst.
sec. 88A.

- 5 (a) by omitting section 88A and by inserting in lieu thereof the following section:—

88A. In respect of employees of the Crown the commission or a committee shall not—

Crown
employees.

- 10 (a) award any conditions less favourable than those awarded to employees (other than employees of the Crown) who are doing substantially the same class of work, or

- 15 (b) fix rates of wages or other payments at amounts less than the rates of wages or other payments fixed for employees (other than employees of the Crown) who are doing substantially the same class of work.

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

25 In this section the expression “employees of the Crown” includes employees of the Government or of any department of the Government or of any person or corporation employing persons on behalf of the Government and without limiting the generality of the foregoing includes
30 employees of any of the following corporations, that is to say—

The Commissioner for Railways,

The Commissioner for Road Transport and
35 Tramways,

The Commissioner for Main Roads,

The

Industrial Arbitration (Amendment).

- 5 The Metropolitan Meat Industry Board,
The Maritime Services Board of New South
Wales,
The Metropolitan Water Sewerage and
Drainage Board,
The Water Conservation and Irrigation
Commission,
The Forestry Commission of New South
Wales,
10 The Board of Fire Commissioners of
New South Wales,
The Hunter District Water Board, and
The Hospitals Commission of New South
Wales.
- 15 (b) by inserting next after section 88B the following New sec. 88c.
new section:—
- 20 88c. (1) The commission or a committee shall Long service
leave and
sick leave.
upon application therefor insert (by way of
variation or otherwise) in any award or indus-
trial agreement whether made before or after
the commencement of the Industrial Arbitration
(Amendment) Act, 1951, provisions entitling
employees to long service leave on full pay.
- 25 The amount of long service leave to which
employees shall be entitled pursuant to this sub-
section shall—
- 30 (a) (i) in the case of employees who have
whether before or after such com-
mencement completed at least
twenty years' service with an
employer, be three months; and
- 35 (ii) in the case of employees who have
whether before or after such com-
mencement completed at least ten
years' service but less than twenty
years' service with an employer
and

Industrial Arbitration (Amendment).

5

and whose services are terminated by the employer for any cause other than serious misconduct, be a proportionate amount on the basis of three months for twenty years' service; or

10

- (b) be such amount and in respect of such qualifying periods not less favourable than the foregoing as the commission or committee, as the case may be, determines.

15

(2) The commission, a committee or an apprenticeship council shall upon application made therefor insert (by way of variation or otherwise) in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions entitling every employee to one week's sick leave on full pay for each year of service with an employer.

20

25

(3) The commission, committee or apprenticeship council inserting provisions of the nature referred to in subsections one and two of this section in any award or industrial agreement may include such provisions as to the mode, terms and conditions under which long service leave or sick leave may be given and taken as it deems necessary or desirable and without limiting the generality of the foregoing may—

30

35

- (a) provide that any leave in the nature of long service leave taken by an employee before the insertion of any such provisions shall be deducted from the period of long service leave to which such employee may be entitled pursuant to such insertion;
- (b) impose limitations upon the amount of sick leave which may be accumulated by an employee.

(4)

Industrial Arbitration (Amendment).

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

15 (5) Nothing in this section relating to
long service leave or sick leave shall apply where
employees are by or under any Act other than
this Act entitled to leave in the nature of long
service leave or sick leave, as the case may be.

20 (6) For the purposes of subsection one
of this section any period during which a person
served as a member of the naval, military or air
forces of the Commonwealth or of the Civil
Construction Corps established under the
25 National Security Act 1939, as amended by
subsequent Acts, of the Parliament of the
Commonwealth, shall be deemed to be service
with the employer by whom such person was
last employed before he commenced to serve as
30 such member.

7. The Principal Act is further amended—

35 (a) by omitting from subsection two of section
ninety-two the words "six months" and by
inserting in lieu thereof the words "twelve
months";

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

(b)

Industrial Arbitration (Amendment).

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

New sec.
95A.

- 5 95A. On the payment, by an employer, of any wages to an employee covered by any award or industrial agreement such employer shall indicate either by noting on the pay envelope of the employee or by way of a statement in writing handed to the employee at the time of paying his wages how the payment is made up by including
10 in such noting or statement such particulars as may be prescribed as regards the date of payment, the period covered thereby, the rate of wages, the number of hours worked, overtime payments and details of any deductions and
15 other prescribed matters.

Particulars
of wages and
deductions
therefrom to
be given on
pay envelope
or in state-
ments.

9 Geo. VI,
No. 14,
(Qld.) s. 4.

Any employer refusing or failing to comply with the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

8. The Principal Act is further amended by inserting
20 next after section one hundred and eleven the following new sections:—

Further
amendment
of Act No. 2,
1940.

New secs. 111A-
111M.

- 25 111A. (1) Where a member of a trade union, or a person who, within the preceding period of twelve months, has been a member of a trade union, claims that there has been an irregularity in or in connection with an election for an office in the trade union, or in a branch of the trade union, he may lodge an application for an inquiry by the commission into the matter.

Applications
for inquiries
respecting
elections.

- 30 (2) An application under this section shall—
(a) be in writing in or to the effect of the form prescribed;
(b) be lodged with the registrar before the completion of the election or within such
35 time after the completion of the election as may be prescribed;

(c).

Industrial Arbitration (Amendment).

5 (c) specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state the facts relied on in support of the application; and

(d) be accompanied by a statutory declaration by the applicant declaring that the facts stated in the application are, to the best of the applicant's knowledge and belief, true.

10 111B. (1) Where any such application is lodged with the registrar, he shall— Action by registrar.

(a) if he is satisfied—

15 (i) that there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election, which may have affected or may affect the result of the election, and

20 (ii) that the circumstances of the matter justify an inquiry by the commission, grant the application and refer the matter to the commission; or

(b) if he is not so satisfied, refuse the application and inform the applicant accordingly.

25 (2) The registrar may exercise his powers under subsection one of this section upon the basis of the matters stated in the application but he may nevertheless take into account any relevant information coming to his knowledge.

30 (3) Any act or decision of the registrar under this section shall not be subject to appeal to the commission.

35 111c. Upon any reference by the registrar pursuant to section 111B of this Act the commission shall as soon as practicable proceed to inquire into the alleged irregularity. Inquiry by commission.

Industrial Arbitration (Amendment).

111b. (1) At any time after an inquiry in connection with an election has been instituted, the commission may make such orders as it deems just and necessary. Interim orders.

5 Without limiting the generality of the foregoing such orders may include—

- (a) an order that no further steps shall be taken in the conduct of the election or in carrying into effect the result of the election;
- 10 (b) an order that a person who has assumed an office, continued to act in an office, or claims to occupy an office, being an office to which the inquiry relates, shall not act in that office;
- 15 (c) an order that a person who holds, or who last held before the election, an office to which the inquiry relates may act or continue to act in that office;
- 20 (d) where the commission considers that an order under paragraph (c) of this subsection would not be practicable or would be prejudicial to the efficient conduct of the affairs of the trade union or a branch thereof or would be inappropriate having regard to
- 25 the nature of the inquiry, an order that a member of the trade union or branch or another person specified in the order may act in an office to which the inquiry relates;
- (e) an order for the recounting of votes; and
- 30 (f) an order varying or discharging an order under this subsection.

35 (2) Where the commission orders that a person may act, or continue to act, in an office, that person shall, while the order remains in force, and notwithstanding anything contained in the rules of the trade union or of a branch thereof, be deemed, for all purposes, to hold the office.

(3)

Industrial Arbitration (Amendment).

5 (3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of proceedings before the commission in connection with the election and of all matters ordered (otherwise than under this section) by the commission in those proceedings.

10 111E. (1) The commission shall allow to appear or be represented at an inquiry all persons who apply to the commission for leave to appear or be represented, being persons who appear to the commission to be justly entitled to be heard, and the commission may order any other person so to appear or be represented. Procedure at hearing.

15 (2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry shall be deemed to be parties to the proceedings.

20 111F. (1) At an inquiry the commission shall inquire into and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the commission thinks necessary. Functions and powers of commission.

25 (2) If the commission finds that an irregularity has occurred, the commission may, in its discretion, but subject to subsection three of this section, make such orders as it deems just and necessary.

30 Without limiting the generality of the foregoing such orders may include—

- (a) an order declaring the election, or any steps taken in or in connection with the election, to be void;
- 35 (b) an order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected;

(c)

Industrial Arbitration (Amendment).

5 (c) an order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under paragraph (d) of this subsection) with the rules of the trade union or branch; and

10 (d) an order directing, notwithstanding anything contained in the rules of the trade union or branch, the taking of such safeguards as the commission thinks necessary against irregularities in or in connection with—

15 (i) any such new election;
(ii) any such step so ordered to be taken again; or

(iii) any uncompleted steps in the election,

20 and, for the purposes of any such order, an order appointing and authorising a person to act as a returning officer in conjunction with the returning officer (if any) acting under the rules of the trade union or branch in connection with the election, and to exercise such powers as the commission directs.
25

30 (3) The commission shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the commission is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities.

35 111G. (1) Where the commission declares void the election of a person who has, since the election, purported to act in the office to which he purported to have

Validation
of certain
acts, etc.

Industrial Arbitration (Amendment).

have been elected, all acts done by him while so purporting to act and which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes.

5 (2) The commission may, if it considers it desirable so to do, declare any such act to have been void, and thereupon that act shall, for all purposes, be deemed not to have been validly done.

10 (3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the commission, that election or step shall not be invalidated by reason only of any departure from the rules of the trade union or branch involved in compliance with the order of the
15 commission.

111H. (1) The commission may make such order
as to the costs and expenses (including expenses of witnesses) of proceedings before the commission in or in connection with an inquiry under section 111c
20 of this Act as may be thought just and may assess the amount of such costs.

(2) Where upon any such inquiry the commission finds that an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorise payment
25 by the State to the person who applied for the inquiry of the whole or a part of his costs and expenses (including expenses of witnesses).

(3) Where, upon any such inquiry, the commission does not find that any irregularity has occurred, but certifies that the person who applied for the inquiry acted reasonably in so applying, the Attorney-General may authorise payment by the State to that person of the whole or a part of his
30 costs and expenses (including expenses of witnesses).

(4) Where the Attorney-General is satisfied that, having regard to the findings of the commission upon any such inquiry, it is not just that a person (not being the person who applied for the inquiry)
35 should

Industrial Arbitration (Amendment).

5 should be required to bear, or to bear in full, any expenses (including expenses of witnesses) incurred by him in connection with the inquiry, the Attorney-General may authorise payment by the State of the whole or a part of those expenses.

(5) Where the commission orders—

- (a) a new election to be held;
- (b) any step in or in connection with an election to be taken again; or
- 10 (c) any safeguards, not provided for in the rules of the trade union or branch, to be taken in or in connection with any uncompleted steps in an election,

15 the Attorney-General may, if he is satisfied that the nature of the irregularity found by the commission to have occurred is such that it would be unreasonable for the trade union to be required to bear, or to bear in full, the expenses involved in compliance with the order of the commission, authorise payment
20 by the State of the whole or part of those expenses.

111r. Notwithstanding anything contained in the rules of a trade union or of a branch of a trade union, a trade union and every officer of a trade union or
25 branch who is able to do so, shall take such steps as are necessary to ensure that all ballot papers, envelopes, lists and other documents used in connection with or relevant to an election for an office are preserved and kept at the registered office of the
30 union for a period of one year after the completion of the election.

The penalty for any breach of this section shall as against any trade union be a sum not exceeding one hundred pounds and as against any individual a sum not exceeding fifty pounds or imprisonment
35 for a period not exceeding twelve months or both.

111r. (1) A trade union or a branch of a trade union may request the registrar to conduct an election for an office in the trade union or in the branch
(as Registrar to conduct elections upon request.

Industrial Arbitration (Amendment).

(as the case may be) with a view to ensuring that no irregularity occurs in or in connection with the election.

5 (2) Upon the making of such a request, the registrar may, if he considers that it is practicable for him to do so, conduct the election, and may, notwithstanding anything contained in the rules of the trade union or branch, take such action and give such directions as he considers necessary with a view to
10 ensuring that no irregularities occur in or in connection with the election.

(3) A person shall not—

- 15 (a) refuse or fail to comply with a direction of the registrar under this section; or
(b) obstruct or hinder the registrar in the taking of any action under this section or any person in the carrying out of a direction of the registrar under this section.

20 Any person contravening or failing to comply with the provisions of this subsection shall be liable to a penalty not exceeding one hundred pounds or imprisonment for a period not exceeding twelve months, or both.

25 (4) Where the registrar is conducting, or has conducted, an election, the provisions of sections 111A to 111I of this Act shall not apply in relation to the election.

30 (5) An election shall not be invalidated by reason of any breach of the rules of the trade union or branch involved in any act, or in compliance with any direction, of the registrar under this section.

111K. (1) A person shall not, without lawful authority or excuse, in or in connection with an election for an office—

Offences in connection with elections.

35 (a) personate another person to secure a ballot-paper to which the personator is not entitled, or personate another person for the purpose of voting;

(b)

Industrial Arbitration (Amendment).

- (b) destroy, deface, alter, take or otherwise interfere with a nomination paper, ballot-paper or envelope;
- 5 (c) put or deliver a ballot-paper or other paper—
- (i) into a ballot-box or other ballot receptacle; or
- (ii) into the post; or
- 10 (iii) to a person receiving ballot-papers for the purposes of the election;
- (d) record a vote which he is not entitled to record;
- (e) record more than one vote;
- 15 (f) forge or utter, knowing the same to be forged, a nomination paper, ballot-paper or envelope;
- (g) supply a ballot-paper;
- (h) obtain, or have in his possession, a ballot-paper; or
- 20 (i) destroy, take, open or otherwise interfere with a ballot-box.
- (2) A person shall not, in or in connection with an election for an office—
- 25 (a) threaten, offer or suggest any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—
- (i) any candidature or withdrawal of candidature;
- 30 (ii) any vote or omission to vote;
- (iii) any support or opposition to any candidate; or
- (iv) any promise of any vote, omission, support or opposition; or
- 35 (b) use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support or opposition.

(3)

Industrial Arbitration (Amendment).

(3) Any person contravening or failing to comply with any provision of this section shall be liable to a penalty not exceeding one hundred pounds or imprisonment for twelve months, or both.

5 111L. For the purposes of sections 111A to 111K inclusive, of this Act—

Definitions
for purposes
of secs. 111A-
111K.

“Irregularity” in relation to an election for an office includes a breach of the rules of a trade union or of a branch of a trade union and any act, omission or other means whereby the full and free recording of votes by all persons entitled to record votes and by no other persons or a correct ascertainment or declaration of the results of the voting is or is attempted to be prevented or hindered.

“Office” in relation to a trade union or branch of a trade union means—

- 20 (a) the office of a member of the committee of management of the trade union or branch;
- (b) the office of a person holding, whether as trustee or otherwise, property of the trade union or branch or property in which the trade union or branch has any beneficial interest; and
- 25 (c) every office within the trade union or branch for the filling of which an election is conducted within the trade union or branch.

30 111M. Nothing contained in sections 111A to 111L, inclusive, of this Act shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission by any other provision of this Act.

Savings
as to
commission's
powers.

35 9. The Principal Act is further amended—

- (a) by inserting in subsection one of section one hundred and twenty after the words “of the penalty” the words “or remit the matter to the registrar,

Further
amendment of
Act No. 2,
1940.
Sec. 120.
(Appeal
from
registrar or
magistrate.)

Industrial Arbitration (Amendment).

registrar, magistrate or justices with the opinion of the commission thereon”;

- (b) by inserting in section one hundred and twenty-two next after the word “paid” where secondly occurring the words “to the registrar, and by him paid”;
- (c) (i) by inserting at the end of subsection one of section one hundred and twenty-three the following new subsection:—

Sec. 122.
(Penalties to be paid to Consolidated Revenue.)
Sec. 123.
(Orders for costs.)

(1A) Where an industrial or other magistrate or justices has or have ordered costs to be paid in any proceedings for a penalty or prosecution under this Act—

- (a) such costs shall be paid to the registrar and by him paid in accordance with the terms of the order;
- (b) the provisions of section eighty-two of the Justices Act, 1902-1947, shall, mutatis mutandis, apply to and in respect of such costs and the persons against whom the order is made.

- (ii) by omitting from subsection two of the same section the words “or the industrial magistrate” and by inserting in lieu thereof the words “and every order for the payment of costs other than costs referred to in subsection (1A) of this section made by the industrial magistrate.”

10. The Principal Act is further amended by inserting next after section one hundred and twenty-nine the following new section:—

Further amendment of Act No. 2, 1940.
New sec. 129A.

129A. (1) The commission or a conciliation committee shall upon application made therefor insert in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions providing that the secretary or a duly accredited representative of an industrial union of employees whose

Entry and inspection by accredited union representative.

Industrial Arbitration (Amendment).

whose members are engaged in an industry in respect of which the award or industrial agreement is in force may, subject to such conditions as the commission or committee may deem necessary or desirable in order to prevent any misuse of the powers referred to in paragraphs (a) and (b) of this subsection or any undue interference with work being carried out by or on behalf of any employer engaged in such industry,—

- 5
- 10 (a) enter the premises of any employer engaged in any such industry—
- 15 (i) during any lunch hour or non-working time for the purpose of interviewing employees on legitimate union business;
- 20 (ii) during working hours for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry;
- 25 (b) for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry require any employer engaged in such industry to produce for his inspection during the usual office hours at the employer's office or other convenient place any time and pay sheets kept by him in regard to employees in such industry and
- 30 to make copies of the entries in such time and pay sheets relating to any such suspected breach.

35 In this subsection "premises" includes any building, mine, mine working, ship, vessel, or place of any kind wherein or in respect of which any industry is carried on or any work is being or has been done or commenced.

Industrial Arbitration (Amendment).

5 (2) Nothing in this section shall authorise a secretary or duly accredited representative of an industrial union of employees to enter a private dwelling house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

10 (3) A duly accredited representative of an industrial union of employees for the purposes of this section means a person who for the time being is the holder of a certificate signed by the secretary of that industrial union and bearing the seal of that industrial union certifying that such person is a duly accredited representative of that industrial union.

15 (4) Any person who hinders or obstructs any secretary or duly accredited representative of an industrial union of employees in the exercise of any powers conferred on him by any provision inserted in an award or industrial agreement pursuant to subsection one of this section shall be
20 deemed guilty of a breach of an award or industrial agreement, as the case may be.

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

Further amendment of Act No. 2, 1940.
Sec. 131.
(Employees in rural industries.)

No. , 1951

A BILL

To amend the Industrial Arbitration Act, 1940-1950, in certain respects; and for purposes connected therewith.

[MR. FINNAN;—15 MAY, 1951.]

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

1. (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1951."

Short title,
citation and
commence-
ment.

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

Industrial Arbitration (Amendment).

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1951.

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

2. The Principal Act is amended—

Amendment of
Act No. 2,
1940.
Sec. 5.

(a) (i) by inserting in subsection one of section five at the end of the definition of "Industrial matters" the following new paragraph:—

(h) the mode, terms and conditions of employment of any persons employed in any industry as staff employees and the rights of employers to require such employees to cease to be or to refrain from becoming members of a trade union or to perform work of the nature usually performed by any such members.

(ii) by inserting in subsection two of the same section after the words "delivery of goods" the words "or in the transportation of passengers";

(b) by omitting from subsection three of section eight the words "which has not since the twenty-second day of March, one thousand nine hundred and eighteen, taken part in, aided, or abetted an illegal strike";

Sec. 8.
(Registra-
tion of
industrial
union of
employees.)

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

New sec. 10A

10A. (1) Where it is necessary in any proceedings in any court to prove—

Proof of
registration
of
industrial
union, etc.

(a) the registration of an industrial union, or

(b)

Industrial Arbitration (Amendment).

(b) that a specified person is, or was at any specified time, the secretary of any specified industrial union, a certificate under the hand of the registrar stating any such facts shall be prima facie evidence of such facts without proof of the registrar's signature.

(2) (a) Any certificate under paragraph (b) of subsection one of this section may be issued by the registrar upon proof to his satisfaction that such person has been duly elected or appointed as the secretary of the industrial union and that the requirements of the rules of the industrial union relating to such election or appointment have been duly complied with.

(b) The person to whom any certificate has been issued under this section stating that such person is the secretary of an industrial union shall upon ceasing to hold office as such secretary or upon request so to do by the registrar forthwith return the certificate to the registrar for cancellation. Any person failing to comply with the provisions of this paragraph shall be liable to a penalty not exceeding one hundred pounds.

3. The Principal Act is further amended by inserting at the end of paragraph (b) of subsection eight of section fourteen the following new paragraph:—

Further amendment of Act No. 2, 1940.

On any such appeal the commission shall have full discretionary power to receive further evidence upon questions of fact. Such evidence shall be admitted on special grounds only and not without special leave of the commission.

Sec. 14. (Industrial commission.)

4. The Principal Act is further amended—

Further amendment of Act No. 2, 1940.

(a) (i) by omitting from paragraph (a) of subsection one of section twenty the words "twenty pounds" and by inserting in lieu thereof the words "thirty-five pounds";

Sec. 20. (Original jurisdiction of committees.)

(ii)

Industrial Arbitration (Amendment).

- (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "one thousand seven hundred and fifty pounds";
- 5 (iii) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 10 (g) prescribing that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award;
- (iv) by omitting subsection two of the same section;
- 15 (b) (i) by inserting in subsection seven of section twenty-four after the words "award of a committee" the words "or of a conciliation commissioner"; Sec. 24. (Appeal from committees.)
- 20 (ii) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—
- 25 (8) Any party, employer or industrial union affected by an order, award or decision of a committee or of a conciliation commissioner may, within the prescribed time and in the prescribed manner,—
- (a) appeal to the commission from the order, award or decision;
- 30 (b) apply to the commission for a suspension of the order, award or decision.
- (c) by inserting next after section twenty-eight the following new section:— New sec. 28A
- 35 28A. The apprenticeship commissioner may summon any person before him for the purpose of conference or of giving evidence. Apprenticeship commissioner may summon witnesses.
- (ii) Every

Industrial Arbitration (Amendment).

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

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

- (a) by inserting next after section 61B the following new section:—

Further amendment of Act No. 2, 1940.
New sec.
61 BA.

10 61BA. (1) This section shall apply to and in respect of all awards and industrial agreements made or deemed to have been made under this Act which were in force at the commencement of the Industrial Arbitration (Amendment) Act, 1951, and which—

Awards and agreements existing at commencement of Industrial Arbitration (Amendment) Act, 1951.

15 (a) fix rates of wages for employees by reference to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but with the
20 differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment; or

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

30 (2) Every award or industrial agreement to which this section applies shall be deemed to be varied so as to provide that the basic wage for adult males and the basic wage for adult females which shall apply to that award
35 or industrial agreement shall be the basic wage for adult males and the basic wage for adult females

Industrial Arbitration (Amendment).

females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

Such variation shall take effect as from the commencement of the first pay period to commence after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

(3) As soon as practicable after the commencement of the Industrial Arbitration (Amendment) Act, 1951, the registrar shall vary the terms of each award to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award as he may think necessary or desirable to enable full effect to be given to the provisions of this section.

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

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

(b) by omitting section 61c;

Sec. 61c.
(Uniformity of basis of awards with basis of Commonwealth awards in same industry.)

(c) by omitting section 61d;

Sec. 61d.
(Power to alter basis of awards.)

(d)

Industrial Arbitration (Amendment).

- (d) by omitting subsection one of section 61E and by inserting in lieu thereof the following subsection:—
- Sec. 61E.
(Future awards and industrial agreements.)

5 (1) (a) This subsection shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

10 (b) Subject to paragraph (d) of this subsection all awards and industrial agreements to which this subsection applies (other than awards or industrial agreements to which paragraph (c) of this subsection applies) shall in so far as they fix rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

20 (c) Subject to paragraph (d) of this subsection all awards or industrial agreements to which this subsection applies which fix rates of wages for employees within the County of Yancowinna (whether or not for such employees exclusively) shall—

30 (i) in so far as they fix rates of wages for employees within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Broken Hill contained in the Retail Price Index Numbers; and

(ii)

Industrial Arbitration (Amendment).

5 (ii) in so far as they fix rates of wages for
employees not within the County of
Yancowinna by reference or in relation
to the basic wage for adult males or the
basic wage for adult females be made
by reference or in relation to the basic
10 wage for adult males or the basic wage
for adult females assessed on the index
number for Sydney contained in the
Retail Price Index Numbers but with-
out the differentiation in the rates
for different districts approved and
adopted by the Commonwealth Court of
15 Conciliation and Arbitration in the
Commonwealth Judgment.

(d) Notwithstanding anything contained
in paragraph (b) or paragraph (c) of this sub-
section, the parties to any award or industrial
20 agreement to which this subsection applies and
which fixes rates of wages by reference or in
relation to the basic wage for adult males or the
basic wage for adult females, may by consent,
at the time the award or industrial agreement
is made or upon any application for variation
25 of the award or industrial agreement, adopt the
basic wage for adult males or the basic wage for
adult females assessed on the index number for
such place within New South Wales or such com-
bination of places (of which Sydney or some
30 other town in New South Wales is one) con-
tained in the Retail Price Index Numbers as
may be specified in the award or industrial
agreement.

(e) by inserting in subsection three of section 61F after the word "section" the following new para-
35 graph:—

Sec. 61F.
(Automatic
adjustment
of awards.)

The terms of any award affecting rates of pay
may to the extent practicable be expressed by
the registrar in such a form as will render
40 unnecessary the variation of such award under
this

Industrial Arbitration (Amendment).

this subsection consequent upon subsequent variations in the rates of pay pursuant to the operation of this section.

6. The Principal Act is further amended—

Further
amendment
of Act No. 2,
1940.

- 5 (a) by omitting section 88A and by inserting in lieu thereof the following section:—

Subst.
sec. 88A.

88A. In respect of employees of the Crown the commission or a committee shall not—

Crown
employees.

- 10 (a) award any conditions less favourable than those awarded to employees (other than employees of the Crown) who are doing substantially the same class of work, or

- 15 (b) fix rates of wages or other payments at amounts less than the rates of wages or other payments fixed for employees (other than employees of the Crown) who are doing substantially the same class of work.

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

- 25 In this section the expression "employees of the Crown" includes employees of the Government or of any department of the Government or of any person or corporation employing persons on behalf of the Government and without limiting the generality of the foregoing includes
30 employees of any of the following corporations, that is to say—

- 35 The Commissioner for Railways,
The Commissioner for Road Transport and Tramways,
The Commissioner for Main Roads,

The

Industrial Arbitration (Amendment).

- The Metropolitan Meat Industry Board,
 The Maritime Services Board of New South
 Wales,
 The Metropolitan Water Sewerage and
 Drainage Board,
 The Water Conservation and Irrigation
 Commission,
 The Forestry Commission of New South
 Wales,
 The Board of Fire Commissioners of
 New South Wales,
 The Hunter District Water Board, and
 The Hospitals Commission of New South
 Wales.
- (b) by inserting next after section 88B the following New sec. 88c.
 new section:—
- 88c. (1) The commission or a committee shall Long service
leave and
sick leave.
 upon application therefor insert (by way of
 variation or otherwise) in any award or indus-
 trial agreement whether made before or after
 the commencement of the Industrial Arbitration
 (Amendment) Act, 1951, provisions entitling
 employees to long service leave on full pay.
- The amount of long service leave to which
 employees shall be entitled pursuant to this sub-
 section shall—
- (a) (i) in the case of employees who have
 whether before or after such com-
 mencement completed at least
 twenty years' service with an
 employer, be three months; and
- (ii) in the case of employees who have
 whether before or after such com-
 mencement completed at least ten
 years' service but less than twenty
 years' service with an employer
 and

Industrial Arbitration (Amendment).

5 and whose services are terminated by the employer for any cause other than serious misconduct, be a proportionate amount on the basis of three months for twenty years' service; or

10 (b) be such amount and in respect of such qualifying periods not less favourable than the foregoing as the commission or committee, as the case may be, determines.

15 (2) The commission, a committee or an apprenticeship council shall upon application made therefor insert (by way of variation or otherwise) in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions entitling every employee to one week's sick leave on full pay for each year of service with an employer.

20 (3) The commission, committee or apprenticeship council inserting provisions of the nature referred to in subsections one and two of this section in any award or industrial agreement may include such provisions as to the mode, terms and conditions under which long service leave or sick leave may be given and taken as it deems necessary or desirable and without limiting the generality of the foregoing may—

25 (a) provide that any leave in the nature of long service leave taken by an employee before the insertion of any such provisions shall be deducted from the period of long service leave to which such employee may be entitled pursuant to such insertion;

30 (b) impose limitations upon the amount of sick leave which may be accumulated by an employee.

(4).

Industrial Arbitration (Amendment).

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

15 (5) Nothing in this section relating to
long service leave or sick leave shall apply where
employees are by or under any Act other than
this Act entitled to leave in the nature of long
service leave or sick leave, as the case may be.

20 7. The Principal Act is further amended—

(a) by omitting from subsection two of section
ninety-two the words "six months" and by
inserting in lieu thereof the words "twelve
months";

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

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

New sec.
95A.

30 95A. On the payment, by an employer, of any
wages to an employee covered by any award or
industrial agreement such employer shall indi-
cate either by noting on the pay envelope of the
employee or by way of a statement in writing
handed to the employee at the time of paying his
wages how the payment is made up by including
in such noting or statement such particulars as
35 may be prescribed as regards the date of pay-
ment, the period covered thereby, the rate of
wages, the number of hours worked, overtime
payments and details of any deductions and
other prescribed matters.

Particulars
of wages and
deductions
therefrom to
be given on
pay envelope
or in state-
ments.
9 Geo. VI,
No. 14,
(Qld.) s. 4.

Any

Industrial Arbitration (Amendment).

Any employer refusing or failing to comply with the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

8. The Principal Act is further amended by inserting
5 next after section one hundred and eleven the following
new sections:—

Further
amendment
of Act No. 2,
1940.
New secs. 111A-
111M.
Applications
for inquiries
respecting
elections.

10 111A. (1) Where a member of a trade union, or a person who, within the preceding period of twelve months, has been a member of a trade union, claims that there has been an irregularity in or in connection with an election for an office in the trade union, or in a branch of the trade union, he may lodge an application for an inquiry by the commission into the matter.

15 (2) An application under this section shall—

- (a) be in writing in or to the effect of the form prescribed;
- (b) be lodged with the registrar before the completion of the election or within such
20 time after the completion of the election as may be prescribed;
- (c) specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state
25 the facts relied on in support of the application; and
- (d) be accompanied by a statutory declaration by the applicant declaring that the facts stated in the application are, to the best of
30 the applicant's knowledge and belief, true.

111B. (1) Where any such application is lodged with the registrar, he shall— Action by registrar.

- (a) if he is satisfied—
- 35 (i) that there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election, which may have affected or may affect the result of the election, and

(b)

(ii)

Industrial Arbitration (Amendment).

- (ii) that the circumstances of the matter justify an inquiry by the commission, grant the application and refer the matter to the commission; or
- 5 (b) if he is not so satisfied, refuse the application and inform the applicant accordingly.
- (2) The registrar may exercise his powers under subsection one of this section upon the basis of the matters stated in the application but he may
- 10 nevertheless take into account any relevant information coming to his knowledge.
- (3) Any act or decision of the registrar under this section shall not be subject to appeal to the commission.
- 15 111c. Upon any reference by the registrar pursuant to section 111b of this Act the commission shall as soon as practicable proceed to inquire into the alleged irregularity. Inquiry by commission.
- 20 111d. (1) At any time after an inquiry in connection with an election has been instituted, the commission may make such orders as it deems just and necessary. Interim orders.
- Without limiting the generality of the foregoing such orders may include—
- 25 (a) an order that no further steps shall be taken in the conduct of the election or in carrying into effect the result of the election;
- (b) an order that a person who has assumed an office, continued to act in an office, or claims
- 30 to occupy an office, being an office to which the inquiry relates, shall not act in that office;
- (c) an order that a person who holds, or who last held before the election, an office to which
- 35 the inquiry relates may act or continue to act in that office;
- (d)

Industrial Arbitration (Amendment).

- 5 (d) where the commission considers that an order under paragraph (c) of this subsection would not be practicable or would be prejudicial to the efficient conduct of the affairs of the trade union or a branch thereof or would be inappropriate having regard to the nature of the inquiry, an order that a member of the trade union or branch or another person specified in the order may
10 act in an office to which the inquiry relates;
- (e) an order for the recounting of votes; and
- (f) an order varying or discharging an order under this subsection.

15 (2) Where the commission orders that a person may act, or continue to act, in an office, that person shall, while the order remains in force, and notwithstanding anything contained in the rules of the trade union or of a branch thereof, be deemed, for all purposes, to hold the office.

20 (3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of proceedings before the commission in connection with the election and of all matters
25 ordered (otherwise than under this section) by the commission in those proceedings.

30 111E. (1) The commission shall allow to appear or be represented at an inquiry all persons who apply to the commission for leave to appear or be represented, being persons who appear to the commission to be justly entitled to be heard, and the commission may order any other person so to appear or be represented.

Procedure
at hearing.

35 (2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry shall be deemed to be parties to the proceedings.

111F.

Industrial Arbitration (Amendment).

111F. (1) At an inquiry the commission shall inquire into and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the commission thinks necessary.

Functions
and powers
of
commission.

(2) If the commission finds that an irregularity has occurred, the commission may, in its discretion, but subject to subsection three of this section, make such orders as it deems just and necessary.

Without limiting the generality of the foregoing such orders may include—

(a) an order declaring the election, or any steps taken in or in connection with the election, to be void;

(b) an order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected;

(c) an order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under paragraph (d) of this subsection) with the rules of the trade union or branch; and

(d) an order directing, notwithstanding anything contained in the rules of the trade union or branch, the taking of such safeguards as the commission thinks necessary against irregularities in or in connection with—

(i) any such new election;

(ii) any such step so ordered to be taken again; or

(iii) any uncompleted steps in the election,

and,

Industrial Arbitration (Amendment).

and, for the purposes of any such order, an order appointing and authorising a person to act as a returning officer in conjunction with the returning officer (if any) acting under the rules of the trade union or branch in connection with the election, and to exercise such powers as the commission directs.

(3) The commission shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the commission is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities.

111G. (1) Where the commission declares void the election of a person who has, since the election, purported to act in the office to which he purported to have been elected, all acts done by him while so purporting to act and which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes.

Validation
of certain
acts, etc.

(2) The commission may, if it considers it desirable so to do, declare any such act to have been void, and thereupon that act shall, for all purposes, be deemed not to have been validly done.

(3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the commission, that election or step shall not be invalidated by reason only of any departure from the rules of the trade union or branch involved in compliance with the order of the commission.

111H. (1) The commission may make such order as to the costs and expenses (including expenses of witnesses) of proceedings before the commission in or in connection with an inquiry under section 111C of this Act as may be thought just and may assess the amount of such costs.

Costs.

Industrial Arbitration (Amendment).

5 (2) Where upon any such inquiry the commission finds that an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorise payment by the State to the person who applied for the inquiry of the whole or a part of his costs and expenses (including expenses of witnesses).

10 (3) Where, upon any such inquiry, the commission does not find that any irregularity has occurred, but certifies that the person who applied for the inquiry acted reasonably in so applying, the Attorney-General may authorise payment by the State to that person of the whole or a part of his costs and expenses (including expenses of witnesses).

15 (4) Where the Attorney-General is satisfied that, having regard to the findings of the commission upon any such inquiry, it is not just that a person (not being the person who applied for the inquiry) should be required to bear, or to bear in full, any
20 expenses (including expenses of witnesses) incurred by him in connection with the inquiry, the Attorney-General may authorise payment by the State of the whole or a part of those expenses.

(5) Where the commission orders—
25 (a) a new election to be held;
(b) any step in or in connection with an election to be taken again; or
(c) any safeguards, not provided for in the
30 rules of the trade union or branch, to be taken in or in connection with any uncompleted steps in an election,

the Attorney-General may, if he is satisfied that the nature of the irregularity found by the commission to have occurred is such that it would be unreasonable for the trade union to be required to bear, or to
35 bear in full, the expenses involved in compliance with the order of the commission, authorise payment by the State of the whole or part of those expenses.

Industrial Arbitration (Amendment).

111i. Notwithstanding anything contained in the rules of a trade union or of a branch of a trade union, a trade union and every officer of a trade union or branch who is able to do so, shall take such steps as are necessary to ensure that all ballot papers, envelopes, lists and other documents used in connection with or relevant to an election for an office are preserved and kept at the registered office of the union for a period of one year after the completion of the election.

Ballot papers, etc., to be preserved.

The penalty for any breach of this section shall as against any trade union be a sum not exceeding one hundred pounds and as against any individual a sum not exceeding fifty pounds or imprisonment for a period not exceeding twelve months or both.

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

Registrar to conduct elections upon request.

(2) Upon the making of such a request, the registrar may, if he considers that it is practicable for him to do so, conduct the election, and may, notwithstanding anything contained in the rules of the trade union or branch, take such action and give such directions as he considers necessary with a view to ensuring that no irregularities occur in or in connection with the election.

(3) A person shall not—

- (a) refuse or fail to comply with a direction of the registrar under this section; or
- (b) obstruct or hinder the registrar in the taking of any action under this section or any person in the carrying out of a direction of the registrar under this section.

Any person contravening or failing to comply with the provisions of this subsection shall be liable to a penalty

Industrial Arbitration (Amendment).

penalty not exceeding one hundred pounds or imprisonment for a period not exceeding twelve months, or both.

5 (4) Where the registrar is conducting, or has conducted, an election, the provisions of sections 111A to 111I of this Act shall not apply in relation to the election.

10 (5) An election shall not be invalidated by reason of any breach of the rules of the trade union or branch involved in any act, or in compliance with any direction, of the registrar under this section.

111K. (1) A person shall not, without lawful authority or excuse, in or in connection with an election for an office—

Offences in connection with elections.

15 (a) personate another person to secure a ballot-paper to which the personator is not entitled, or personate another person for the purpose of voting;

20 (b) destroy, deface, alter, take or otherwise interfere with a nomination paper, ballot-paper or envelope;

(c) put or deliver a ballot-paper or other paper—

25 (i) into a ballot-box or other ballot receptacle; or

(ii) into the post; or

(iii) to a person receiving ballot-papers for the purposes of the election;

30 (d) record a vote which he is not entitled to record;

(e) record more than one vote;

(f) forge or utter, knowing the same to be forged, a nomination paper, ballot-paper or envelope;

35 (g) supply a ballot-paper;

(h) obtain, or have in his possession, a ballot-paper; or

(i) destroy, take, open or otherwise interfere with a ballot-box.

(2)

Industrial Arbitration (Amendment).

(2) A person shall not, in or in connection with an election for an office—

(a) threaten, offer or suggest any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—

(i) any candidature or withdrawal of candidature;

(ii) any vote or omission to vote;

(iii) any support or opposition to any candidate; or

(iv) any promise of any vote, omission, support or opposition; or

(b) use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support or opposition.

(3) Any person contravening or failing to comply with any provision of this section shall be liable to a penalty not exceeding one hundred pounds or imprisonment for twelve months, or both.

111L. For the purposes of sections 111A to 111K inclusive, of this Act—

Definitions
for purposes
of secs. 111A-
111K.

“Irregularity” in relation to an election for an office includes a breach of the rules of a trade union or of a branch of a trade union and any act, omission or other means whereby the full and free recording of votes by all persons entitled to record votes and by no other persons or a correct ascertainment or declaration of the results of the voting is or is attempted to be prevented or hindered.

“Office” in relation to a trade union or branch of a trade union means—

(a) the office of a member of the committee of management of the trade union or branch;

(b)

Industrial Arbitration (Amendment).

- 5 (b) the office of a person holding, whether as trustee or otherwise, property of the trade union or branch or property in which the trade union or branch has any beneficial interest; and
- (c) every office within the trade union or branch for the filling of which an election is conducted within the trade union or branch.

10 111M. Nothing contained in sections 111A to 111L, Savings as to commission's powers.
inclusive, of this Act shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission by any other provision of this Act.

15 9. The Principal Act is further amended—

- (a) by inserting in subsection one of section one hundred and twenty after the words "of the penalty" the words "or remit the matter to the registrar, magistrate or justices with the opinion of the commission thereon";
- 20 (b) by inserting in section one hundred and twenty-two next after the word "paid" where secondly occurring the words "to the registrar, and by him paid";
- 25 (c) (i) by inserting at the end of subsection one of section one hundred and twenty-three the following new subsection:—
- (1A) Where an industrial or other magistrate or justices has or have ordered costs to be paid in any proceedings for a penalty or prosecution under this Act—
- 30 (a) such costs shall be paid to the registrar and by him paid in accordance with the terms of the order;
- 35 (b) the provisions of section eighty-two of the Justices Act, 1902-1947, shall, mutatis mutandis, apply to and in respect of such costs and the persons against whom the order is made.
- (ii)

Further amendment of Act No. 2, 1940.

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

Sec. 122. (Penalties to be paid to Consolidated Revenue.)

Sec. 123. (Orders for costs.)

Industrial Arbitration (Amendment).

- 5 (ii) by omitting from subsection two of the same section the words "or the industrial magistrate" and by inserting in lieu thereof the words "and every order for the payment of costs other than costs referred to in subsection (1A) of this section made by the industrial magistrate."

10 **10.** The Principal Act is further amended by inserting next after section one hundred and twenty-nine the following new section:—

Further amendment of Act No. 2, 1940.

New sec. 129A.

- 15 129A. (1) The commission or a conciliation committee shall upon application made therefor insert in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions providing that the secretary or a duly accredited representative of an industrial union of employees whose members are engaged in an industry in respect of which the award or industrial agreement is in force may, subject to such conditions as the commission or committee may deem necessary or desirable in order to prevent any misuse of the powers referred to in paragraphs (a) and (b) of this subsection or any undue interference with work being carried out by or on behalf of any employer engaged in such industry,—

Entry and inspection by accredited union representative.

- 25 (a) enter the premises of any employer engaged in any such industry—

- 30 (i) during any lunch hour or non-working time for the purpose of interviewing employees on legitimate union business;

- 35 (ii) during working hours for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry;

(b)

Industrial Arbitration (Amendment).

- 5 (b) for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry require any employer engaged in such industry to produce for his inspection during the usual office hours at the employer's office or other convenient place any time and pay sheets kept by him in regard to employees in such industry and
10 to make copies of the entries in such time and pay sheets relating to any such suspected breach.

15 In this subsection "premises" includes any building, mine, mine working, ship, vessel, or place of any kind wherein or in respect of which any industry is carried on or any work is being or has been done or commenced.

- 20 (2) Nothing in this section shall authorise a secretary or duly accredited representative of an industrial union of employees to enter a private dwelling house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

- 25 (3) A duly accredited representative of an industrial union of employees for the purposes of this section means a person who for the time being is the holder of a certificate signed by the secretary of that industrial union and bearing the seal of that industrial union certifying that such person is a
30 duly accredited representative of that industrial union.

- 35 (4) Any person who hinders or obstructs any secretary or duly accredited representative of an industrial union of employees in the exercise of any powers conferred on him by any provision inserted in an award or industrial agreement pursuant to subsection one of this section shall be deemed guilty of a breach of an award or industrial agreement, as the case may be.

Industrial Arbitration (Amendment).

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

Further
amendment
of Act No. 2,
1940.

Sec. 131.

(Employees
in rural
industries.)

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[2s. 3d.]

0-70-2

INDUSTRIAL ARBITRATION (AMENDMENT) BILL, 1951.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to provide that wage rates of employees, including Crown employees, shall (except in the cases specifically mentioned in the Bill) be assessed on the Sydney Index Number and that such rates shall be applicable throughout the State;
- (b) to require the insertion, upon application, of provisions in awards and industrial agreements entitling employees to long service leave and sick leave;
- (c) to remove certain restrictions imposed by the Industrial Arbitration (Amendment) Act, 1943, upon the making of awards for rural workers;
- (d) to enable awards to be made for the payment of wages or remuneration up to £35 per week or £1,750 per annum;
- (e) to provide that wages at the full award rates may be recovered within twelve months (not six months as at present) of the date of termination of employment;
- (f) to provide that deductions from employees' wages are to be shown on pay envelopes;
- (g) to enable the commission or a conciliation committee to prescribe that preference of employment shall be given to members of an industrial union or unions of employees specified in the award;
- (h) to empower the commission to hold inquiries in respect of alleged irregularities in union elections and to ensure that no irregularities occur in connection with such elections;
- (i) to include in awards upon application therefor provision empowering (subject to certain safeguards) secretaries and duly accredited union representatives to enter premises of an employer for purposes of interviewing workers and investigating certain matters;
- (j) to remove doubts as to the jurisdiction of industrial tribunals to deal with disputes affecting "staff employees";
- (k) to make further provision in respect of certain appeals to the commission;
- (l) to make provision in relation to the power of the Industrial Registrar to refuse registration as an industrial union to a trade union of employees;
- (m) to effect other amendments of a machinery and ancillary character.

No. , 1951

A BILL

To amend the Industrial Arbitration Act, 1940-1950, in certain respects; and for purposes connected therewith.

[MR. FINNAN;—15 MAY, 1951.]

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
5 the same, as follows:—

1. (1) This Act may be cited as the "Industrial Arbitration (Amendment) Act, 1951."

Short title,
citation and
commence-
ment.

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

Industrial Arbitration (Amendment).

(3) The Industrial Arbitration Act, 1940, as amended by subsequent Acts and by this Act, may be cited as the Industrial Arbitration Act, 1940-1951.

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

2. The Principal Act is amended—

Amendment of
Act No. 2,
1940.
Sec. 5.
(Interpreta-
tion.)

(a) (i) by inserting in subsection one of section five at the end of the definition of "Industrial matters" the following new paragraph:—

(h) the mode, terms and conditions of employment of any persons employed in any industry as staff employees and the rights of employers to require such employees to cease to be or to refrain from becoming members of a trade union or to perform work of the nature usually performed by any such members.

(ii) by inserting in subsection two of the same section after the words "delivery of goods" the words "or in the transportation of passengers";

(b) by omitting from subsection three of section eight the words "which has not since the twenty-second day of March, one thousand nine hundred and eighteen, taken part in, aided, or abetted an illegal strike";

Sec. 8.
(Registra-
tion of
industrial
union of
employees.)

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

New sec. 10A

10A. (1) Where it is necessary in any proceedings in any court to prove—

Proof of
registration
of
industrial
union, etc.

(a) the registration of an industrial union, or

(b)

Industrial Arbitration (Amendment).

(b) that a specified person is, or was at any specified time, the secretary of any specified industrial union, a certificate under the hand of the registrar stating any such facts shall be prima facie evidence of such facts without proof of the registrar's signature.

(2) (a) Any certificate under paragraph (b) of subsection one of this section may be issued by the registrar upon proof to his satisfaction that such person has been duly elected or appointed as the secretary of the industrial union and that the requirements of the rules of the industrial union relating to such election or appointment have been duly complied with.

(b) The person to whom any certificate has been issued under this section stating that such person is the secretary of an industrial union shall upon ceasing to hold office as such secretary or upon request so to do by the registrar forthwith return the certificate to the registrar for cancellation. Any person failing to comply with the provisions of this paragraph shall be liable to a penalty not exceeding one hundred pounds.

3. The Principal Act is further amended by inserting at the end of paragraph (b) of subsection eight of section fourteen the following new paragraph:—

30 On any such appeal the commission shall have full discretionary power to receive further evidence upon questions of fact. Such evidence shall be admitted on special grounds only and not without special leave of the commission.

35 **4.** The Principal Act is further amended—

(a) (i) by omitting from paragraph (a) of subsection one of section twenty the words "twenty pounds" and by inserting in lieu thereof the words "thirty-five pounds";

(ii)

Further amendment of Act No. 2, 1940.

Sec. 14. (Industrial commission.)

Further amendment of Act No. 2, 1940.

Sec. 20. (Original jurisdiction of committees.)

Industrial Arbitration (Amendment).

- (ii) by omitting from the same paragraph the words "one thousand pounds" and by inserting in lieu thereof the words "one thousand seven hundred and fifty pounds";
- 5 (iii) by omitting paragraph (g) of the same subsection and by inserting in lieu thereof the following paragraph:—
- 10 (g) prescribing that preference of employment shall be given to the members of any industrial union or unions of employees specified in the award;
- (iv) by omitting subsection two of the same section;
- 15 (b) (i) by inserting in subsection seven of section twenty-four after the words "award of a committee" the words "or of a conciliation commissioner"; Sec. 24. (Appeal from committees.)
- 20 (ii) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—
- 25 (8) Any party, employer or industrial union affected by an order, award or decision of a committee or of a conciliation commissioner may, within the prescribed time and in the prescribed manner,—
- (a) appeal to the commission from the order, award or decision;
- 30 (b) apply to the commission for a suspension of the order, award or decision.
- (c) by inserting next after section twenty-eight the following new section:— New sec. 28A
- 35 28A. The apprenticeship commissioner may summon any person before him for the purpose of conference or of giving evidence. Apprenticeship commissioner may summon witnesses.
- Every

Industrial Arbitration (Amendment).

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

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

- (a) by inserting next after section 61B the following new section:—

Further amendment of Act No. 2, 1940.
New sec.
61 BA.

10 61BA. (1) This section shall apply to and in respect of all awards and industrial agreements made or deemed to have been made under this Act which were in force at the commencement of the Industrial Arbitration (Amendment) Act, 1951, and which—

Awards and agreements existing at commencement of Industrial Arbitration (Amendment) Act, 1951.

15 (a) fix rates of wages for employees by reference to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but with the
20 differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment; or

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

30 (2) Every award or industrial agreement to which this section applies shall be deemed to be varied so as to provide that the basic wage for adult males and the basic wage for adult females which shall apply to that award
35 or industrial agreement shall be the basic wage for adult males and the basic wage for adult females

Industrial Arbitration (Amendment).

females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

Such variation shall take effect as from the commencement of the first pay period to commence after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

(3) As soon as practicable after the commencement of the Industrial Arbitration (Amendment) Act, 1951, the registrar shall vary the terms of each award to which this section applies, affecting rates of pay, to the extent necessary to give effect to the provisions of this section and may make such alterations in the form of any such award as he may think necessary or desirable to enable full effect to be given to the provisions of this section.

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

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

(b) by omitting section 61c;

Sec. 61c.
(Uniformity
of basis of
awards with
basis of
Commonwealth
awards in
same industry.)

(c) by omitting section 61d;

Sec. 61d.
(Power to alter
basis of
awards.)

(d)

Industrial Arbitration (Amendment).

(d) by omitting subsection one of section 61E and by inserting in lieu thereof the following subsection:—

Sec. 61E.
(Future
awards and
industrial
agreements.)

5 (1) (a) This subsection shall apply to and in respect of all awards and industrial agreements made after the commencement of the Industrial Arbitration (Amendment) Act, 1951.

10 (b) Subject to paragraph (d) of this subsection all awards and industrial agreements to which this subsection applies (other than awards or industrial agreements to which paragraph (c) of this subsection applies) shall in so far as they fix rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

25 (c) Subject to paragraph (d) of this subsection all awards or industrial agreements to which this subsection applies which fix rates of wages for employees within the County of Yancowinna (whether or not for such employees exclusively) shall—

30 (i) in so far as they fix rates of wages for employees within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Broken Hill contained in the Retail Price Index Numbers; and

(ii).

Industrial Arbitration (Amendment).

(ii) in so far as they fix rates of wages for employees not within the County of Yancowinna by reference or in relation to the basic wage for adult males or the basic wage for adult females be made by reference or in relation to the basic wage for adult males or the basic wage for adult females assessed on the index number for Sydney contained in the Retail Price Index Numbers but without the differentiation in the rates for different districts approved and adopted by the Commonwealth Court of Conciliation and Arbitration in the Commonwealth Judgment.

(d) Notwithstanding anything contained in paragraph (b) or paragraph (c) of this subsection, the parties to any award or industrial agreement to which this subsection applies and which fixes rates of wages by reference or in relation to the basic wage for adult males or the basic wage for adult females, may by consent, at the time the award or industrial agreement is made or upon any application for variation of the award or industrial agreement, adopt the basic wage for adult males or the basic wage for adult females assessed on the index number for such place within New South Wales or such combination of places (of which Sydney or some other town in New South Wales is one) contained in the Retail Price Index Numbers as may be specified in the award or industrial agreement.

(e) by inserting in subsection three of section 61F after the word "section" the following new paragraph:—

Sec. 61F.
(Automatic
adjustment
of awards.)

The terms of any award affecting rates of pay may to the extent practicable be expressed by the registrar in such a form as will render unnecessary the variation of such award under this

Industrial Arbitration (Amendment).

this subsection consequent upon subsequent variations in the rates of pay pursuant to the operation of this section.

6. The Principal Act is further amended—

Further
amendment
of Act No. 2,
1940.
Subst.
sec. 88A.

- 5 (a) by omitting section 88A and by inserting in lieu thereof the following section:—

88A. In respect of employees of the Crown the commission or a committee shall not—

Crown
employees.

- 10 (a) award any conditions less favourable than those awarded to employees (other than employees of the Crown) who are doing substantially the same class of work, or

- 15 (b) fix rates of wages or other payments at amounts less than the rates of wages or other payments fixed for employees (other than employees of the Crown) who are doing substantially the same class of work.

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

25 In this section the expression “employees of the Crown” includes employees of the Government or of any department of the Government or of any person or corporation employing persons on behalf of the Government and without limiting the generality of the foregoing includes
30 employees of any of the following corporations, that is to say—

The Commissioner for Railways,

The Commissioner for Road Transport and
35 Tramways,

The Commissioner for Main Roads,

The

Industrial Arbitration (Amendment).

- 5 The Metropolitan Meat Industry Board,
The Maritime Services Board of New South
Wales,
The Metropolitan Water Sewerage and
Drainage Board,
The Water Conservation and Irrigation
Commission,
The Forestry Commission of New South
Wales,
10 The Board of Fire Commissioners of
New South Wales,
The Hunter District Water Board, and
The Hospitals Commission of New South
Wales.
- 15 (b) by inserting next after section 88B the following New sec. 88c.
new section:—
- 20 88c. (1) The commission or a committee shall Long service
upon application therefor insert (by way of leave and
variation or otherwise) in any award or indus- sick leave.
trial agreement whether made before or after
the commencement of the Industrial Arbitration
(Amendment) Act, 1951, provisions entitling
employees to long service leave on full pay.
- 25 The amount of long service leave to which
employees shall be entitled pursuant to this sub-
section shall—
- 30 (a) (i) in the case of employees who have
whether before or after such com-
mencement completed at least
twenty years' service with an
employer, be three months; and
- 35 (ii) in the case of employees who have
whether before or after such com-
mencement completed at least ten
years' service but less than twenty
years' service with an employer
and

Industrial Arbitration (Amendment).

5 and whose services are terminated
by the employer for any cause
other than serious misconduct, be a
proportionate amount on the basis
of three months for twenty years'
service; or

10 (b) be such amount and in respect of such
qualifying periods not less favourable
than the foregoing as the commission
or committee, as the case may be,
determines.

15 (2) The commission, a committee or an
apprenticeship council shall upon application
made therefor insert (by way of variation or
otherwise) in any award or industrial agreement
whether made before or after the commencement
of the Industrial Arbitration (Amendment) Act,
1951, provisions entitling every employee to one
week's sick leave on full pay for each year of
20 service with an employer.

25 (3) The commission, committee or
apprenticeship council inserting provisions of
the nature referred to in subsections one and two
of this section in any award or industrial agree-
ment may include such provisions as to the mode,
terms and conditions under which long service
leave or sick leave may be given and taken as it
deems necessary or desirable and without limit-
ing the generality of the foregoing may—

30 (a) provide that any leave in the nature
of long service leave taken by an
employee before the insertion of any
such provisions shall be deducted from
the period of long service leave to which
35 such employee may be entitled pursuant
to such insertion;

(b) impose limitations upon the amount of
sick leave which may be accumulated by
an employee.

(4)

Industrial Arbitration (Amendment).

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

(5) Nothing in this section relating to long service leave or sick leave shall apply where employees are by or under any Act other than this Act entitled to leave in the nature of long service leave or sick leave, as the case may be.

7. The Principal Act is further amended—

(a) by omitting from subsection two of section ninety-two the words “six months” and by inserting in lieu thereof the words “twelve months”;

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

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

New sec. 95A.

95A. On the payment, by an employer, of any wages to an employee covered by any award or industrial agreement such employer shall indicate either by noting on the pay envelope of the employee or by way of a statement in writing handed to the employee at the time of paying his wages how the payment is made up by including in such noting or statement such particulars as may be prescribed as regards the date of payment, the period covered thereby, the rate of wages, the number of hours worked, overtime payments and details of any deductions and other prescribed matters.

Particulars of wages and deductions therefrom to be given on pay envelope or in statements. 9 Geo. VI, No. 14, (Qld.) s. 4.

Any

Industrial Arbitration (Amendment).

Any employer refusing or failing to comply with the provisions of this section shall be liable to a penalty not exceeding fifty pounds.

8. The Principal Act is further amended by inserting
5 next after section one hundred and eleven the following
new sections:—

Further
amendment
of Act No. 2,
1940.
New secs. 111A-
111M.
Applications
for inquiries
respecting
elections.

10 111A. (1) Where a member of a trade union, or a person who, within the preceding period of twelve months, has been a member of a trade union, claims that there has been an irregularity in or in connection with an election for an office in the trade union, or in a branch of the trade union, he may lodge an application for an inquiry by the commission into the matter.

- 15 (2) An application under this section shall—
(a) be in writing in or to the effect of the form prescribed;
(b) be lodged with the registrar before the completion of the election or within such
20 time after the completion of the election as may be prescribed;
(c) specify the election in respect of which the application is made and the irregularity which is claimed to have occurred, and state
25 the facts relied on in support of the application; and
(d) be accompanied by a statutory declaration by the applicant declaring that the facts stated in the application are, to the best of
30 the applicant's knowledge and belief, true.

111B. (1) Where any such application is lodged with the registrar, he shall—

Action by
registrar.

- (a) if he is satisfied—
35 (i) that there are reasonable grounds for an inquiry into the question whether there has been an irregularity in or in connection with the election, which may have affected or may affect the result of the election, and

(ii)

Industrial Arbitration (Amendment).

(ii) that the circumstances of the matter justify an inquiry by the commission,

grant the application and refer the matter to the commission; or

5 (b) if he is not so satisfied, refuse the application and inform the applicant accordingly.

(2) The registrar may exercise his powers under subsection one of this section upon the basis of the matters stated in the application but he may
10 nevertheless take into account any relevant information coming to his knowledge.

(3) Any act or decision of the registrar under this section shall not be subject to appeal to the commission.

15 111c. Upon any reference by the registrar pursuant to section 111b of this Act the commission shall as soon as practicable proceed to inquire into the alleged irregularity. Inquiry by commission.

20 111d. (1) At any time after an inquiry in connection with an election has been instituted, the commission may make such orders as it deems just and necessary. Interim orders.

Without limiting the generality of the foregoing such orders may include—

25 (a) an order that no further steps shall be taken in the conduct of the election or in carrying into effect the result of the election;

30 (b) an order that a person who has assumed an office, continued to act in an office, or claims to occupy an office, being an office to which the inquiry relates, shall not act in that office;

35 (c) an order that a person who holds, or who last held before the election, an office to which the inquiry relates may act or continue to act in that office;

(d)

Industrial Arbitration (Amendment).

5 (d) where the commission considers that an order under paragraph (c) of this subsection would not be practicable or would be prejudicial to the efficient conduct of the affairs of the trade union or a branch thereof or would be inappropriate having regard to the nature of the inquiry, an order that a member of the trade union or branch or another person specified in the order may
10 act in an office to which the inquiry relates;

(e) an order for the recounting of votes; and

(f) an order varying or discharging an order under this subsection.

15 (2) Where the commission orders that a person may act, or continue to act, in an office, that person shall, while the order remains in force, and notwithstanding anything contained in the rules of the trade union or of a branch thereof, be deemed, for all purposes, to hold the office.

20 (3) An order under this section shall continue in force, unless expressed to operate for a shorter period or unless sooner discharged, until the completion of proceedings before the commission in connection with the election and of all matters
25 ordered (otherwise than under this section) by the commission in those proceedings.

111E. (1) The commission shall allow to appear or be represented at an inquiry all persons who apply to the commission for leave to appear or be represented, being persons who appear to the commission to be justly entitled to be heard, and the commission may order any other person so to appear or be represented.
30

35 (2) The persons appearing or represented, or ordered to appear or be represented, at an inquiry shall be deemed to be parties to the proceedings.

111F.

Industrial Arbitration (Amendment).

111F. (1) At an inquiry the commission shall inquire into and determine the question whether any irregularity has occurred in or in connection with the election, and such further questions concerning the conduct and results of the election as the commission thinks necessary.

Functions
and powers
of
commission.

(2) If the commission finds that an irregularity has occurred, the commission may, in its discretion, but subject to subsection three of this section, make such orders as it deems just and necessary.

Without limiting the generality of the foregoing such orders may include—

- (a) an order declaring the election, or any steps taken in or in connection with the election, to be void;
- (b) an order declaring a person purporting to have been elected not to have been elected, and declaring another person to have been elected;
- (c) an order directing a new election to be held, or any step in or in connection with the election (including the submission of nominations) to be taken again, in accordance (subject to any order under paragraph (d) of this subsection) with the rules of the trade union or branch; and
- (d) an order directing, notwithstanding anything contained in the rules of the trade union or branch, the taking of such safeguards as the commission thinks necessary against irregularities in or in connection with—
 - (i) any such new election;
 - (ii) any such step so ordered to be taken again; or
 - (iii) any uncompleted steps in the election,

and,

Industrial Arbitration (Amendment).

and, for the purposes of any such order, an order appointing and authorising a person to act as a returning officer in conjunction with the returning officer (if any) acting under the rules of the trade union or branch in connection with the election, and to exercise such powers as the commission directs.

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(3) The commission shall not declare an election, or any step taken in or in connection with an election, to be void, or declare that a person was not elected, unless the commission is of opinion that, having regard to the irregularity found, and any circumstances giving rise to a likelihood that similar irregularities may have occurred or may occur, the result of the election may have been affected, or may be affected, by irregularities.

20

111G. (1) Where the commission declares void the election of a person who has, since the election, purported to act in the office to which he purported to have been elected, all acts done by him while so purporting to act and which could validly have been done by him if he had been duly elected shall, subject to this section, be valid and effectual for all purposes.

Validation
of certain
acts, etc.

25

(2) The commission may, if it considers it desirable so to do, declare any such act to have been void, and thereupon that act shall, for all purposes, be deemed not to have been validly done.

30

(3) Where an election is held, or any step in or in connection with an election is taken, in pursuance of an order of the commission, that election or step shall not be invalidated by reason only of any departure from the rules of the trade union or branch involved in compliance with the order of the commission.

35

111H. (1) The commission may make such order as to the costs and expenses (including expenses of witnesses) of proceedings before the commission in or in connection with an inquiry under section 111C of this Act as may be thought just and may assess the amount of such costs.

Costs.

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Industrial Arbitration (Amendment).

5 (2) Where upon any such inquiry the commission finds that an irregularity has occurred, the Attorney-General may, if he considers the circumstances to justify him in so doing, authorise payment by the State to the person who applied for the inquiry of the whole or a part of his costs and expenses (including expenses of witnesses).

10 (3) Where, upon any such inquiry, the commission does not find that any irregularity has occurred, but certifies that the person who applied for the inquiry acted reasonably in so applying, the Attorney-General may authorise payment by the State to that person of the whole or a part of his costs and expenses (including expenses of witnesses).

15 (4) Where the Attorney-General is satisfied that, having regard to the findings of the commission upon any such inquiry, it is not just that a person (not being the person who applied for the inquiry) should be required to bear, or to bear in full, any
20 expenses (including expenses of witnesses) incurred by him in connection with the inquiry, the Attorney-General may authorise payment by the State of the whole or a part of those expenses.

(5) Where the commission orders—
25 (a) a new election to be held;
(b) any step in or in connection with an election to be taken again; or
(c) any safeguards, not provided for in the
30 rules of the trade union or branch, to be taken in or in connection with any uncompleted steps in an election,

the Attorney-General may, if he is satisfied that the nature of the irregularity found by the commission to have occurred is such that it would be unreasonable for the trade union to be required to bear, or to
35 bear in full, the expenses involved in compliance with the order of the commission, authorise payment by the State of the whole or part of those expenses.

Industrial Arbitration (Amendment).

111i. Notwithstanding anything contained in the rules of a trade union or of a branch of a trade union, a trade union and every officer of a trade union or branch who is able to do so, shall take such steps as are necessary to ensure that all ballot papers, envelopes, lists and other documents used in connection with or relevant to an election for an office are preserved and kept at the registered office of the union for a period of one year after the completion of the election.

Ballot
papers, etc.,
to be
preserved.

The penalty for any breach of this section shall as against any trade union be a sum not exceeding one hundred pounds and as against any individual a sum not exceeding fifty pounds or imprisonment for a period not exceeding twelve months or both.

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

Registrar
to conduct
elections
upon
request.

(2) Upon the making of such a request, the registrar may, if he considers that it is practicable for him to do so, conduct the election, and may, notwithstanding anything contained in the rules of the trade union or branch, take such action and give such directions as he considers necessary with a view to ensuring that no irregularities occur in or in connection with the election.

(3) A person shall not—

- (a) refuse or fail to comply with a direction of the registrar under this section; or
- (b) obstruct or hinder the registrar in the taking of any action under this section or any person in the carrying out of a direction of the registrar under this section.

Any person contravening or failing to comply with the provisions of this subsection shall be liable to a penalty

Industrial Arbitration (Amendment).

penalty not exceeding one hundred pounds or imprisonment for a period not exceeding twelve months, or both.

5 (4) Where the registrar is conducting, or has conducted, an election, the provisions of sections 111A to 111r of this Act shall not apply in relation to the election.

10 (5) An election shall not be invalidated by reason of any breach of the rules of the trade union or branch involved in any act, or in compliance with any direction, of the registrar under this section.

111K. (1) A person shall not, without lawful authority or excuse, in or in connection with an election for an office—

Offences in connection with elections.

15 (a) personate another person to secure a ballot-paper to which the personator is not entitled, or personate another person for the purpose of voting;

20 (b) destroy, deface, alter, take or otherwise interfere with a nomination paper, ballot-paper or envelope;

(c) put or deliver a ballot-paper or other paper—

25 (i) into a ballot-box or other ballot receptacle; or

(ii) into the post; or

(iii) to a person receiving ballot-papers for the purposes of the election;

30 (d) record a vote which he is not entitled to record;

(e) record more than one vote;

(f) forge or utter, knowing the same to be forged, a nomination paper, ballot-paper or envelope;

35 (g) supply a ballot-paper;

(h) obtain, or have in his possession, a ballot-paper; or

(i) destroy, take, open or otherwise interfere with a ballot-box. (2)

Industrial Arbitration (Amendment).

(2) A person shall not, in or in connection with an election for an office—

5 (a) threaten, offer or suggest any violence, injury, punishment, damage, loss or disadvantage for or on account of, or to induce—

(i) any candidature or withdrawal of candidature;
(ii) any vote or omission to vote;
10 (iii) any support or opposition to any candidate; or
(iv) any promise of any vote, omission, support or opposition; or

15 (b) use, cause, inflict or procure any violence, punishment, damage, loss or disadvantage for or on account of any such candidature, withdrawal, vote, omission, support or opposition.

20 (3) Any person contravening or failing to comply with any provision of this section shall be liable to a penalty not exceeding one hundred pounds or imprisonment for twelve months, or both.

111L. For the purposes of sections 111A to 111K inclusive, of this Act—

Definitions
for purposes
of secs. 111A-
111K.

25 “Irregularity” in relation to an election for an office includes a breach of the rules of a trade union or of a branch of a trade union and any act, omission or other means whereby the full and free recording of votes
30 by all persons entitled to record votes and by no other persons or a correct ascertainment or declaration of the results of the voting is or is attempted to be prevented or hindered.

35 “Office” in relation to a trade union or branch of a trade union means—

(a) the office of a member of the committee of management of the trade union or branch;

(b)

Industrial Arbitration (Amendment).

- 5 (b) the office of a person holding, whether as trustee or otherwise, property of the trade union or branch or property in which the trade union or branch has any beneficial interest; and
- (c) every office within the trade union or branch for the filling of which an election is conducted within the trade union or branch.
- 10 111M. Nothing contained in sections 111A to 111L, Savings as to commission's powers.
inclusive, of this Act shall limit or in any way affect the powers, authorities, duties and functions conferred or imposed on the commission by any other provision of this Act.
- 15 9. The Principal Act is further amended— Further amendment of Act No. 2, 1940.
- (a) by inserting in subsection one of section one hundred and twenty after the words "of the penalty" the words "or remit the matter to the registrar, magistrate or justices with the opinion of the commission thereon"; Sec. 120. (Appeal from registrar or magistrate.)
- 20 (b) by inserting in section one hundred and twenty-two next after the word "paid" where secondly occurring the words "to the registrar, and by him paid"; Sec. 122. (Penalties to be paid to Consolidated Revenue.)
- 25 (c) (i) by inserting at the end of subsection one of section one hundred and twenty-three the following new subsection:— Sec. 123. (Orders for costs.)
- (1A) Where an industrial or other magistrate or justices has or have ordered costs to be paid in any proceedings for a penalty or prosecution under this Act—
- 30 (a) such costs shall be paid to the registrar and by him paid in accordance with the terms of the order;
- 35 (b) the provisions of section eighty-two of the Justices Act, 1902-1947, shall, mutatis mutandis, apply to and in respect of such costs and the persons against whom the order is made.

(ii)

Industrial Arbitration (Amendment).

(ii) by omitting from subsection two of the same section the words "or the industrial magistrate" and by inserting in lieu thereof the words "and every order for the payment of costs other than costs referred to in subsection (1A) of this section made by the industrial magistrate."

10. The Principal Act is further amended by inserting next after section one hundred and twenty-nine the following new section:—

Further amendment of Act No. 2, 1940.

New sec. 129A.

Entry and inspection by accredited union representative.

129A. (1) The commission or a conciliation committee shall upon application made therefor insert in any award or industrial agreement whether made before or after the commencement of the Industrial Arbitration (Amendment) Act, 1951, provisions providing that the secretary or a duly accredited representative of an industrial union of employees whose members are engaged in an industry in respect of which the award or industrial agreement is in force may, subject to such conditions as the commission or committee may deem necessary or desirable in order to prevent any misuse of the powers referred to in paragraphs (a) and (b) of this subsection or any undue interference with work being carried out by or on behalf of any employer engaged in such industry,—

(a) enter the premises of any employer engaged in any such industry—

(i) during any lunch hour or non-working time for the purpose of interviewing employees on legitimate union business;

(ii) during working hours for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry;

(b)

Industrial Arbitration (Amendment).

5 (b) for the purpose of investigating any suspected breach of this Act or of any award or industrial agreement in force in relation to such industry require any employer engaged in such industry to produce for his inspection during the usual office hours at the employer's office or other convenient place any time and pay sheets kept by him in regard to employees in such industry and
10 to make copies of the entries in such time and pay sheets relating to any such suspected breach.

15 In this subsection "premises" includes any building, mine, mine working, ship, vessel, or place of any kind wherein or in respect of which any industry is carried on or any work is being or has been done or commenced.

20 (2) Nothing in this section shall authorise a secretary or duly accredited representative of an industrial union of employees to enter a private dwelling house, or the land used in connection therewith, unless some manufacture or trade in which labour is employed is carried on therein.

25 (3) A duly accredited representative of an industrial union of employees for the purposes of this section means a person who for the time being is the holder of a certificate signed by the secretary of that industrial union and bearing the seal of that industrial union certifying that such person is a
30 duly accredited representative of that industrial union.

35 (4) Any person who hinders or obstructs any secretary or duly accredited representative of an industrial union of employees in the exercise of any powers conferred on him by any provision inserted in an award or industrial agreement pursuant to subsection one of this section shall be deemed guilty of a breach of an award or industrial agreement, as the case may be.

Industrial Arbitration (Amendment).

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

Further
amendment
of Act No. 2,
1940.

Sec. 131.

(Employees
in rural
industries.)

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[2s. 3d.]

