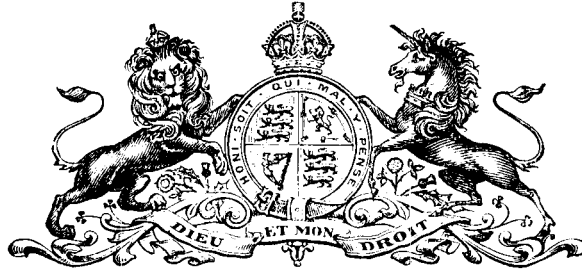


# New South Wales.



ANNO OCTAVO

## EDWARDI VII REGIS.

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### Act No. 3, 1908.

An Act to provide for the constitution of boards to determine the conditions of employment in industries; to define the powers, jurisdiction, and procedure of such boards, and to give effect to their awards and appoint a court; to prohibit lock-outs and strikes, and to regulate employment in industries; to preserve certain awards, orders, directions, and industrial agreements; and for purposes consequent thereon or incidental thereto. [24th April, 1908.]

INDUSTRIAL  
DISPUTES.  
—

**B**E 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:—

#### PART I. PRELIMINARY.

1. This Act may be cited as the "Industrial Disputes Act, 1908." Short title.
2. This Act shall commence on and from a date to be proclaimed by the Governor in the Gazette: Date of commencement.

A

Provided

*Industrial Disputes.*

Provided that the provisions of this Act relating to the registration of trade unions under this Act and the election of persons for members of boards and for assessors, and the constitution of the Industrial Court, and the appointment of the industrial registrar, and the exercise of their powers so far as is necessary for carrying out the above purposes, shall come into force on the passing of this Act.

Division of Act.

3. This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY—*ss.* 1-13.

PART II.—CONSTITUTION AND POWERS OF BOARDS—*ss.* 14-40.

PART III.—ENFORCEMENT OF AWARDS AND PENALTIES—*ss.* 41-54.

PART IV.—GENERAL AND SUPPLEMENTAL—*ss.* 55-61.

Definitions.

4. In this Act—

“Award or order of the court of arbitration” includes any determination under paragraph (a) of section thirty-six of the Industrial Arbitration Act, 1901, by a tribunal specified in the award or order.

“Board” means board constituted under this Act.

“Court of Arbitration” means court constituted by the Industrial Arbitration Act, 1901, or the Industrial Arbitration (Temporary Court) Act, 1905.

“Dispute” means dispute in relation to industrial matters originating between an employer or industrial union of employers on the one part, and an industrial union of employees or trade union or branch or not less than twenty employees on the other part, and includes any dispute originating out of an industrial agreement.

“Employer” means person, firm, company, or corporation employing persons working in any industry, and includes the Chief Railway Commissioner of New South Wales, the Sydney Harbour Trust Commissioners, the Metropolitan Board of Water Supply and Sewerage, and the Hunter District Water Supply and Sewerage Board, and includes for the purpose of constituting a board, a manager or superintendent of an employer as defined as aforesaid.

“Employee” means person employed in any industry, and the fact that a person is working under a contract for labour only, or substantially for labour only, shall not in itself prevent such person being held an employee within the meaning of this Act.

“Industrial agreement” means industrial agreement made and filed under the Industrial Arbitration Act, 1901, or under this Act.

“Industrial Court” means Industrial Court constituted by this Act.  
“Industry”

*Industrial Disputes.*

- “Industry” means any occupation specified in the second column of Schedule One, or any amendment of or addition to the Schedule, in which persons of either sex are employed for hire or reward.
- “Industrial Union” means industrial union whose registration is in force under the Industrial Arbitration Act, 1901, and this Act.
- “Industrial matters” means matters or things affecting or relating to work done or to be done, or the privileges, rights, or duties of employers or employees in any industry, not involving questions which are or may be the subject of proceedings for an indictable offence; and, without limiting the general nature of the above definition, includes all or any matters relating to—
- (a) the wages, allowances, or remuneration of any persons employed or to be employed in any industry, or the prices paid or to be paid therein in respect of such employment;
  - (b) the hours of employment, sex, age, qualification, or status of employees, and the mode, terms, and conditions of employment;
  - (c) the employment of children or young persons, or of any person or persons or class of persons in any industry, or the dismissal of or refusal to employ any particular person or persons or class of persons therein;
  - (d) any claim that as between members of a trade union and other persons offering labour at the same time, such members shall be employed in preference to such other persons, or that members of one trade union shall be employed in preference to members of another;
  - (e) any established custom or usage of any industry, either generally or in any particular locality;
  - (f) the interpretation of an industrial agreement.
- “Justice” means justice of the peace, and includes a stipendiary or police magistrate.
- “Lock-out” (without limiting the nature of its meaning), includes a closing of a place of employment, or a suspension of work, or a refusal by an employer to continue to employ any number of his employees in consequence of a dispute with a view to compel his employees, or to aid another employer in compelling his employees to accept terms of employment.
- “Minister” means Minister of the Crown administering this Act.
- “Prescribed” means prescribed by this Act, or by regulations made thereunder.
- “Registrar” means industrial registrar appointed under this Act.  
“Schedule”

## Act No. 3, 1908.

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“Schedule” means Schedule to this Act, and any amendment of or addition to such Schedule made in pursuance of this Act.

“To strike” or “to go on strike” (without limiting the nature of its meaning) includes the cessation of work by any number of employees acting in combination, or a concerted refusal or a refusal under a common understanding by any number of employees to continue to work for an employer in consequence of a dispute, with a view to compel their employer or to aid other employees in compelling their employer to accept terms of employment, or with a view to enforce compliance with demands made by them or other employees on employers.

“Trade union” means trade union registered under the Trade Union Act, 1881, and includes a branch so registered.

Explanation of  
Schedule One.

5. The words in the first column of Schedule One denote the boards to be constituted under this Act. The words in the second column denote the industry or group of industries in respect of which the board is to be constituted and the employees in such industries.

Power to amend  
Schedule One.

6. The Governor may, on resolution passed by both Houses of Parliament, amend Schedule One, or add thereto other boards and industries. Any such amendment or addition shall be published in the Gazette.

*Awards, &c., of Court of Arbitration.*

Awards, &c.

7. (1) All awards, orders, and directions of the Court of Arbitration, and all industrial agreements, current and in force at the commencement of this Act shall, until rescinded under this Act, be binding on the parties and on the employers and employees concerned,—

(a) for the period fixed by the said court, or by any such award, order, or agreement; or

(b) where no period is fixed, for one year from the first day of July, one thousand nine hundred and eight.

And the same may be enforced under the provisions of this Act.

(2) In construing any such award, order, direction, or industrial agreement, references to the registrar shall be read as references to the industrial registrar appointed under this Act, and for the purposes of any appeal from the registrar, references to the Court of Arbitration shall be read as references to the Industrial Court.

Undecided cases  
tried by Court of  
Arbitration  
determined by  
Industrial Court.

8. Where on the expiration of the Industrial Arbitration Act, 1901, any matter is pending in proceedings before the Court of Arbitration for a penalty for breach of an award of the said court or of an industrial agreement, such proceedings may be continued, and such matter shall be heard and determined by the Industrial Court. For the purpose of carrying out the above provisions, the enactments

of

*Industrial Disputes.*

of the first-mentioned Act shall continue in force, and shall, mutatis mutandis, apply to the hearing and determination of any such matter by the Industrial Court, and to the enforcement of any order or determination of such court.

All documents relating to any such matter or proceedings and filed or deposited with the Court of Arbitration shall be handed over to the Industrial Court and filed or deposited with such court. Documents, where filed.

*Registration of trade unions.*

9. (1) The registrar may, on application made as hereinafter provided, register under this Act any trade union or branch. Registration of trade unions.

(2) Such application shall be made in writing in the prescribed form by the committee of management of the trade union or branch, and shall be signed by a majority in number of the members of such committee. Notice of any such application shall be published as prescribed.

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

(3) Any such application may be refused by the registrar if it appears that another trade union or branch to which the members of the applicants' union might conveniently belong has already been registered under this Act.

(4) The registrar shall fix a day for considering any objections on the above ground to the granting of the application, and shall notify the same as prescribed.

(5) No branch shall be registered, unless it is a bona fide branch of sufficient importance to be registered separately.

(6) The registrar may for any reasons which appear to him to be good cancel any such registration.

(7) Any decision of the registrar under this section in respect of an objection taken as aforesaid, or on refusal or cancellation of registration, shall be subject to appeal to the Industrial Court in the prescribed manner, and subject to the prescribed conditions.

*Industrial unions.*

10. The expiration of the Industrial Arbitration Act, 1901, shall not affect the incorporation of industrial unions duly registered under the said Act at the time of such expiration. Saving of industrial unions duly registered.

11. The registrar may, for any reasons which appear to him to be good, cancel the registration of an industrial union, and thereupon the incorporation of the union shall be void: Cancellation of registration of industrial union.

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

*Industrial*

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*Industrial Disputes.*

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*Industrial agreements.*

Industrial  
agreements—how  
made and enforced.

**12.** Any trade union or branch registered under this Act may make an agreement in writing relating to any industrial matter with an employer.

Any such agreement if made for a term specified therein not exceeding three years from the making thereof, and if filed at the office of the industrial registrar, shall be an industrial agreement within the meaning of this Act, and shall be binding on the parties, and on every person while he is a member of the trade union or branch, but may be rescinded or varied in writing by the parties. Any variation of any such agreement, if filed as aforesaid, shall be binding as part of the agreement.

Any such industrial agreement may be enforced under this Act in the same manner as an award of a board.

*The Industrial Court.*

Appointment of  
judge.

**13.** (1) There shall be an Industrial Court, consisting of a judge appointed under this Act, sitting with or without assessors, who shall be elected by the parties to the dispute in the manner prescribed. Such court shall be a court of record, and shall have a seal, which shall be judicially noticed.

(2) The Governor may appoint a Supreme Court judge or a district court judge to be judge of the Industrial Court.

(3) Such judge shall hold such office for a period of seven years, but shall be liable to be removed from office in the same manner and upon such grounds only as a Supreme Court judge is by law liable to be removed from office.

(4) Where a district court judge is appointed to such office, his annual salary shall be one thousand pounds, in addition to his salary as district court judge.

(5) The Governor may appoint a Supreme Court judge or a district court judge to be deputy judge to act in the absence of the judge of the Industrial Court, who shall have the same salary and all the rights, powers, jurisdiction, and privileges of the judge of the Industrial Court.

*Industrial Disputes.*

PART II.

CONSTITUTION AND POWERS OF BOARDS.

*Constitution of boards.*

14. (1) On application to the Industrial Court by—

Board directed to be constituted.

- (a) an employer or employers of not less than twenty employees in the same industry ; or
- (b) a trade union registered under this Act having a membership of not less than twenty employees in the same industry ; or
- (c) an industrial union whose members are such employers or employees ; or
- (d) where there is no trade or industrial union of employees in an industry having membership and registered as aforesaid, or where such union fails to make an application as aforesaid, then not less than twenty employees in such industry,

the said court, if satisfied either by oral evidence or affidavit that the application is bona fide, may recommend to the Minister that a board be constituted for an industry or group of industries, and thereupon the Minister shall direct a board to be constituted accordingly.

(2) The Minister may also, on the recommendation of the Industrial Court, but without any such application, direct a board to be constituted as aforesaid.

15. Each board shall consist of a chairman, and not less than two nor more than ten other members, as determined by the Industrial Court, one half in number of whom shall be employers and the other half employees who respectively have been or are actually and bona fide engaged in any industry or group of industries for which the board has been constituted.

Constitution of boards.

16. Where the employers or the employees in the industry or group of industries consist largely of females, the Industrial Court, on the application of any person who in the opinion of such court represents a majority in number of employers or employees in such industry or group of industries, may order that all or any specified number of the members of a board to be elected or appointed by or on behalf of such employers or employees need not have the qualification aforesaid. Such order may be made to apply generally to all boards to be constituted for the said industry or group of industries, or to a particular board, and may be varied or rescinded on application made by the person and in the manner aforesaid.

Where industry consists largely of females.

*Industrial Disputes.*

Appointment of  
members on election.

**17.** The members of a board shall be appointed by the Governor. The appointment of the members, other than the chairman, shall be made on the recommendation of the Industrial Court from persons elected by the employers and employees respectively of the industry or group of industries, and the provisions of Schedule Two shall apply to such election :

Provided that—

- (a) in any case which the Industrial Court considers to be one of urgency ; or
- (b) for the determination of any dispute which has arisen or is impending in any industry ; or
- (c) if within the prescribed time—
  - (i) there is a failure to elect ; or
  - (ii) the required number of persons are not elected ; or
  - (iii) persons constituting, in the opinion of the Industrial Court, a majority in number of the employers or employees then engaged in the industry or group of industries consent,

any such appointment may be made by the Governor, on the recommendation of the said court, without election, in which case the person so appointed shall be the person recommended by the said court.

Appointment of  
chairman on nomination  
by other  
members.

**18.** (1) The members so appointed to a board shall, within the prescribed time, by an absolute majority, nominate some person not then a member of such board to be chairman. The person so nominated shall be appointed by the Governor. In default of such nomination the Governor may appoint to the office a Supreme Court judge or a judge of a district court, or some person nominated by the Industrial Court. On a chairman being appointed the board shall be deemed to be constituted.

Vacancy in office.

(2) The same procedure shall be followed in the case of a vacancy in the office of chairman.

Penalty for absence  
from meetings of  
board.

**19.** If any member of a board, without reasonable excuse, neglects—

- (a) to convene a meeting when duly required to do so ; or
- (b) on four successive occasions to attend meetings duly convened ; or
- (c) to vote when present at any meeting of the board,

he shall be liable to a penalty not exceeding five pounds, and the Governor may declare his office vacant.

Oath to be taken by  
members and  
assessors.

**20.** Each member of a board and each assessor shall, upon his appointment, take an oath not to disclose any matter or evidence before the board relating to—

- (a) trade secrets ;
- (b) the profits or losses or the receipts and outgoings of any employer ;
- (c) the books of an employer or witness produced before the board ;
- (d)



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(d) the financial position of any employer or of any witness; and if he violates his oath, he shall be liable to a penalty not exceeding five hundred pounds, and, on conviction of such offence, his office shall be vacant.

**21.** (1) The Governor, on the recommendation of the Industrial Court, may dissolve a board at any time after it has made an award. Dissolution of a board.

(2) Subject to the above provision, the members of a board other than the chairman shall hold office until the expiration of two years from their appointment as aforesaid. The chairman shall hold office until the expiration of the same period. At the expiration of their term the members of a board shall retire: Provided that a member may resign his office. Term of office of members of board.

(3) A new board may be elected and appointed under this Act to take the place of a board that has been dissolved, or to take the place of an existing board on its members retiring, or to take the place of a board the members of which have resigned. Election and appointment of new board.

Retiring members shall be eligible for election and appointment to the new board.

The provisions of sections fifteen, sixteen, and seventeen shall apply to the appointment of such board.

**22.** Where, from any cause, a vacancy occurs in the members of a board who are employers, the remaining employers on the board may nominate from those elected by the employers in the industry as aforesaid a duly qualified person to fill such vacancy for the remainder of the term of two years, and similarly where the vacancy occurs in the members of the board who are employees. The person so nominated shall be appointed by the Governor to be a member of the board. But if no person is nominated within seven days after the vacancy has occurred, the Governor, on the recommendation of the Industrial Court, may appoint a person without any such election. The filling of vacancies on a board.

But where, by resignation or otherwise, there are no employers or employees, as the case may be, on the board, the vacancies shall be filled under section seventeen.

**23.** (1) On a vacancy so occurring in a board, the remaining members may act, if no member of the board objects, and for the purpose of so acting, the board shall be deemed to be duly constituted. This provision shall apply to any part-heard case, but shall not apply if there are no employers or no employees, as the case may be, on the board, or where the vacancy is in the office of chairman. By consent, board may act although vacancy not filled.

(2) Where a person is appointed to any such vacancy, the board as newly constituted may, if no member of the board objects, continue and hear and determine any part-heard case.

**24.** Every appointment of a member or of a chairman or assessors of a board shall be published in the Gazette, and a copy of a Gazette containing a notice of such appointment purporting to have Validity of appointments may not be challenged.

*Industrial Disputes.*

have been published in pursuance of this Act shall be conclusive evidence that the person named in such notice was legally appointed and had power and jurisdiction to act as member or chairman or assessors of the board mentioned in the notice, and such appointment shall not be challenged for any cause.

Fees of board and of assessors.

**25.** The members of a board and assessors shall be paid such fees as may be fixed by the Governor.

*Jurisdiction of boards.*

Mode of commencing proceedings before board.

**26.** (1) Proceedings before a board shall be commenced by—  
 (a) reference to the board by the Industrial Court of any dispute ; or  
 (b) application to the board by employers or employees in the industry or group of industries for which the board has been constituted.

Form of application.

(2) Any such application shall be in the form, and shall contain the particulars prescribed, and shall be signed by—  
 (a) an employer or employers of not less than twenty employees in the same industry ; or  
 (b) not less than twenty employees in the same industry ; or  
 (c) the secretary of a trade union registered under this Act having a membership of not less than twenty employees in the same industry ; or  
 (d) an industrial union whose members are such employers or employees.

Powers of board.

**27.** A board with respect to the industry or group of industries for which it has been constituted may—  
 (1) decide all disputes ;  
 (2) rescind or vary any of its awards, and in carrying out any of the above purposes the said board may—  
 (a) fix the lowest prices for piece-work and the lowest rates of wages payable to employees ;  
 (b) fix the number of hours and the times to be worked in order to entitle employees to the wages so fixed ;  
 (c) fix the lowest rates for overtime and holidays and other special work, including allowances as compensation for overtime, holidays, or other special work.  
 (d) fix the number or proportionate number of apprentices and improvers and the lowest prices and rates payable to them. Such prices and rates may be according to age and experience ;  
 (e) grant or provide for the granting of permits allowing aged, infirm, or slow workers, who are unable to earn the lowest rate of wages fixed for other employees, to work at the lowest rate fixed for aged, infirm, or slow workers :

Provided

*Industrial Disputes.*

Provided that under this section it shall not in any case be obligatory to grant any preference of the kind mentioned in subsection (d) of the definition of "Industrial matters" in section four of this Act, and each claim under the said subsection shall be dealt with on its merits.

**28.** Subject to the right of appeal under this Act, and to such conditions and exemptions as the board may, and is hereby authorised to determine and direct, the award of a board shall be binding on all persons engaged in the industry or group of industries within the locality specified for the period fixed by the board, not being less than one nor greater than three years. Currency of determination of board.

**29.** The award of a board shall be signed by the chairman and forwarded to the Minister, and such award and any award or order of the Industrial Court made on appeal shall be published in the Gazette, and a copy of such award and order shall be exhibited and kept exhibited by every employer carrying on an industry to which it relates at the place where the industry is carried on, so as to be legible by his employees. If such employer fails to carry out the provisions of this section, he shall be liable to a penalty not exceeding twenty pounds. Determination of board signed and published.

**30.** A copy of a Gazette containing any such award or any order or award of the Industrial Court on appeal purporting to be published in pursuance of this Act shall be evidence of the award or order and of its terms, and the validity of any such award of a board shall not be challenged except as provided by this Act. Evidence of award.

*Procedure of boards.*

**31.** All meetings of a board shall be convened by the chairman by notice to each member served as prescribed. Convening of meetings.

**32.** In every case where an application or reference to a board is made, it shall be the duty of the chairman to endeavour to bring about a settlement of the dispute, and to this end the board shall, in such manner as it thinks fit, expeditiously and carefully inquire into the dispute and all matters affecting the merits and the right settlement thereof. Duties of boards.

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

**33.** If the board is of the opinion—

- (a) that the matter of any application is trivial, or
- (b) that it should be settled by the parties,

the board may dismiss the application, and may assess and award costs to be paid by the applicants to any parties in respect of whom the application was made. Such costs may be recovered by such parties in any court of competent jurisdiction as a debt due by the applicants. Where matter is trivial or should be settled.

**34.**

*Industrial Disputes.*

Inspection by board  
or members.

**34.** A board, or any two or more members thereof authorised by the board under the hand of its chairman, may enter and inspect any premises used in any industry the subject of a reference or application to the board and any work being carried on there.

If any person hinders or obstructs a board or any member thereof in the exercise of the powers conferred by this section, he shall be liable to a penalty not exceeding ten pounds.

Proceedings by  
board.

**35.** A board may—

- (a) conduct its proceedings in public or private as it may think fit;
- (b) adjourn the proceedings to any time or place;
- (c) exercise in respect of witnesses and documents and persons summoned or giving evidence before it, or on affidavit, the same powers as are by section one hundred and thirty-six of the Parliamentary Electorates and Elections Act, 1902, conferred on a committee of elections and qualifications, and the provisions of the said section shall apply in respect of the proceedings of the board: Provided that unless a person raises the objection that the profits of an industry are not sufficient to enable him to pay the wages or grant the conditions claimed, no person shall be required without his consent to produce his books, or to give evidence with regard to the trade secrets, profits, losses, receipts, and outgoings of his business, or his financial position.

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

- (d) admit and call for such evidence as in good conscience it thinks to be the best available whether strictly legal evidence or not: Provided that any question as to the admissibility of evidence shall be decided by the chairman alone, and his decision on such matters shall be final;
- (e) appoint two assessors to advise it on any technical matters. Such assessors shall take no part in the deliberations or in the decision of the board.

*Industrial Disputes.*

36. The chairman shall require any person, including a member of the board, to give his evidence on oath. Evidence on oath.

37. At any meeting of a board, unless otherwise provided in this Act,— Who may preside and who may vote at meetings of board.

- (a) the chairman shall preside;
- (b) the chairman shall put separately each item of a proposed determination of the board;
- (c) each such item and each question before the board shall be determined by a majority of votes of those present and entitled to vote;
- (d) the presence of the chairman and at least two other members of a board shall be necessary to constitute a meeting of the board;
- (e) each member except the chairman shall have one vote; and where the votes for and against any matter are equal, the chairman shall have a casting vote, but shall not give such vote unless satisfied that a majority of votes cannot otherwise be reasonably expected;
- (f) unless by consent of the chairman, no person shall appear as an advocate or agent before a board who is not actually and bona fide engaged in the industry or one of the industries for which the board has been constituted. Advocates and agents.

*Appeal from board.*

38. (1) At any time within one month after the publication in the Gazette of any award by a board, any trade or industrial union, or any person bound or intended to be bound by the award, may, in the prescribed manner, apply to the Industrial Court for leave to appeal to such court. Appeal from board.

(2) On such application the said court may grant leave to appeal accordingly on such conditions as to security for costs of the appeal and otherwise, and subject to such limitations and restrictions as the court thinks fit; or may, for any reason which it thinks sufficient, refuse such leave.

(3) The appeal may be on the ground of jurisdiction, or as to the locality within which the award of the board shall operate, or on the law, or on the facts, and if on the facts it may be by way of rehearing.

(4) Before granting leave to appeal the said court may call for a report from the chairman of the board whose award is the subject of the application; and the said chairman shall accordingly make such report to the said court.

(5) The provisions of this Act with respect to the procedure and power of the boards and the chairman of boards in the exercise of their jurisdiction, including power to appoint assessors, shall,

*Industrial Disputes.*

shall, with the necessary modifications, and subject to any regulations made under this Act, apply to the exercise by the court of the appellate jurisdiction conferred by this Act.

(6) On any such appeal the court may confirm or modify the award appealed from, or quash the award, or may make a new award, and may make such order as to the costs of the appeal as it thinks just.

Such costs may be recovered as a debt in any court of competent jurisdiction.

(7) The pendency of an appeal shall not suspend the operation of the award appealed from.

Varying award.

**39.** The Industrial Court only may rescind or vary any award or order made by it, or any award of a board which has been amended by such court, or any award, order, or direction of the Court of Arbitration.

Intervention.

**40.** The Crown may, where, in the opinion of the Minister, the public interests are or would be likely to be affected by the award, order, or direction of a board or of the Industrial Court—

- (a) intervene in any proceedings before such board or court, and make such representations as it thinks necessary in order to safeguard the public interests;
- (b) at any time after the making of an award by a board apply for leave to appeal, and appeal from such award to the Industrial Court.

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PART III.

ENFORCEMENT OF AWARDS AND PENALTIES.

Recovery of price or rate fixed.

- 41.** (1) Where an employer employs any person to do any work—
- (a) for which the price or rate has been fixed by a board or by the Industrial Court; or
  - (b) for which the price or rate has been fixed by an award, order, or direction of the Court of Arbitration, or by an industrial agreement,

he shall be liable to pay in full in money without any deduction to such person the price or rate so fixed.

(2) Such person may, within three months after such money has become due, apply to the Industrial Court for an order to recover from the employer the full amount of any balance due in respect of such price or rate, notwithstanding any smaller payment or any express or implied agreement to the contrary.

Such

*Industrial Disputes.*

Such order shall have the effect of, and shall be deemed to be, a judgment for the said amount in the district court named in such order at the suit of such person against the said employer; and the said amount may be recovered by process of such court as in pursuance of such judgment.

(3) Nothing in this section shall affect any remedy of the employee under the Masters and Servants Act, 1902.

**42.** If any person—

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

(b) instigates to or aids in any of the above-mentioned acts, he shall be liable to a penalty not exceeding one thousand pounds, or in default to imprisonment not exceeding two months:

Provided that nothing in this section shall prohibit the suspension or discontinuance of any industry or the working of any persons therein for any cause not constituting a lock-out or strike.

**43.** If any person commits a breach of an award of a board, or of an award or order of the Court of Arbitration, or of the Industrial Court, or a breach of an industrial agreement, whether by contravening or failing to observe the same, or otherwise, he shall be liable to a penalty not exceeding fifty pounds, and in default of payment of the penalty, to imprisonment for a period not exceeding three months, or, where the breach has been committed by the wilful act or default of the person charged, the court in its discretion may, in lieu of imposing such penalty, sentence the said person to imprisonment for any period not exceeding three months.

The above provisions of this section shall be read in lieu of, and shall supersede, any provisions in an award, order, or industrial agreement under the Industrial Arbitration Act, 1901, relating to penalties for any breach of such award, order, or agreement.

**44.** If an employer dismisses from his employment any employee by reason merely of the fact that the employee is a member of a board or of a trade union, or an industrial union, or has absented himself from work through being engaged in other duties as member of a board, or is entitled to the benefit of an award, or order of a board or of the Court of Arbitration, or of the Industrial Court, or of an industrial agreement, such employer shall be liable to a penalty not exceeding twenty pounds for each employee so dismissed, and in default of payment of the penalty to imprisonment for a period not exceeding three months.

In every case it shall lie on the employer to satisfy the judge that such employee was so dismissed by reason of some facts other than those above mentioned in this section.

**45.**

Prohibition of  
lock-outs or strikes.

Penalty for breach  
of award.

Penalty for unlawful  
dismissal of  
employee.

*Industrial Disputes.*

Proceedings for  
penalty.

**45.** Proceedings for any offence against the provisions of the three last preceding sections shall be taken before the Industrial Court, and the matter shall be heard and determined by such court in a summary manner according to the law for the time being regulating proceedings before justices; and for that purpose such court may do alone whatever may be done by two or more justices sitting in a court of petty sessions. Any information, summons, or warrant in any such proceedings may be taken and issued by any justice, and the provisions of the Justices Act, 1902, shall, subject to this Act, apply to such proceedings and to all matters relating thereto or consequent thereon.

Trade or industrial  
union liable in case  
of offence against  
s. 42.

**46.** (1) Where any person convicted of an offence against the provisions of section forty-two was, at the time of his committing such offence, a member of a trade or industrial union, the Industrial Court may order the trustees of the trade union, or of a branch thereof, or may order the industrial union to pay out of the funds of the union or branch any amount not exceeding twenty pounds of the penalty imposed.

(2) The said court shall, before making such order, hear the said trustees or the said union or their or its counsel or attorney, and shall not make such order if it is proved that the union has by means that are reasonable under the circumstances bona fide endeavoured to prevent its members from doing any act or thing in the nature of a lock-out or strike, or from taking part in a lock-out or strike, or from instigating or aiding a lock-out or strike.

Such order shall have the effect of and shall be deemed to be a judgment for the said amount in the district court named in such order, at the suit of the Crown against the said trustees or industrial union; and the said amount may be recovered by process of such court as in pursuance of such judgment.

(3) Any property of the union or branch, whether in the hands of trustees or not, shall be available to answer any order made as aforesaid.

Validity of award  
or order may be  
challenged.

**47.** In any proceedings for an offence against the provisions of sections forty-two, forty-three, or forty-four, the validity of an award or order may be challenged for want of jurisdiction in the board or court making such award or order, although in the case of an award by a board no steps may have been taken to appeal against such award to the Industrial Court.

Leave of the  
Industrial Court  
required for certain  
prosecutions.

**48.** No prosecution for an offence against the provisions of sections forty-two or forty-four shall be commenced except by leave of the Industrial Court.

Recovery of  
penalties.

**49.** Any penalty imposed by or under this Act may, except where otherwise provided, be recovered in a summary way before a stipendiary or police magistrate or any two justices in petty sessions.



*Industrial Disputes.*

50. (1) From any order of any justice imposing a penalty under this Act an appeal shall lie to the Industrial Court. Appeal to Industrial Court from penalties.

(2) On any such appeal the said court may either affirm the order appealed against or reverse the said order or reduce the penalty imposed thereby; and, in any case, the said court may make such order as to the costs of the appeal, and of the proceedings before the justice, as it thinks just.

(3) No other proceedings in the nature of an appeal from any such order or by prohibition shall be allowed.

51. The Industrial Court or a justice may in any prosecution under this Act make such order as to the payment of costs as may be thought just. Any costs so ordered to be paid shall be a debt recoverable in any court of competent jurisdiction. Award and recovery of costs.

52. Any decision of the Industrial Court shall be final, and shall not be removable to any other court by certiorari or otherwise; and no award, order, or proceeding of the court shall be vitiated by reason only of any informality or want of form or be liable to be challenged, appealed against, reviewed, quashed, or called in question by any court of judicature on any account whatsoever, and the validity of any decision shall not be challenged by prohibition or otherwise. Decision of an Industrial Court to be final.

53. The amount of any penalty imposed by or under this Act shall, when recovered, be paid into the Treasury and carried to the Consolidated Revenue Fund. Appropriation of penalties.

54. Whosoever, before a board or the Industrial Court, wilfully makes on oath any false statement knowing the same to be false shall be guilty of perjury. Perjury.

PART IV.

GENERAL AND SUPPLEMENTAL.

55. The Industrial Court may order the payment by any member of a trade union or branch registered under this Act of any fine, penalty, or subscription payable in pursuance of the rules of the union or branch. Order for payment—how made and recoverable.

Such order shall have the effect of, and shall be deemed to be, a judgment for the amount stated therein in the district court named in such order at the suit of such union or branch against the said member; and the said amount may be recovered by process of such court as in pursuance of such judgment.

56. The Governor may, subject to the Public Service Act, 1902, appoint an industrial registrar who shall have the prescribed powers and duties. Appointment of registrar.

57. Every employer in an industry in respect of which an award of a board or of the Court of Arbitration or an industrial agreement Time-sheets and pay-sheets to be kept.

*Industrial Disputes.*

agreement is in force shall keep, or cause to be kept, time-sheets and pay-sheets, correctly written up in ink, of the employees in such industry.

If he fails to carry out any of the requirements of this section he shall be liable to a penalty not exceeding five pounds.

The pay-sheets shall include deductions from wages of employees, but need not include costs of working to the employer.

Appointment and powers of inspectors.

**58.** (1) The Governor shall appoint inspectors who shall have the powers and duties prescribed.

Any such inspector may exercise the following powers and perform the following duties in respect of an industry as to which the award of a board or of the Court of Arbitration, or an award or order of the Industrial Court, is in force, if he has reasonable grounds to suspect that the employer in such industry is not complying with such award :—

- (a) He may at any reasonable times inspect any premises of such employer upon which any such industry as aforesaid is carried on, and any work being done therein.
- (b) He may require the employer in such industry to produce for his examination, and may examine, any time-sheets and pay-sheets of the employees in such industry.
- (c) He shall report to the Registrar the result of such inspection.

(2) If any person obstructs any inspector in the exercise of his powers under this section, or fails when duly required as aforesaid to produce any time-sheets or pay-sheets, he shall be liable to a penalty not exceeding ten pounds.

Security for performance of award.

**59.** The board or the Industrial Court may at any time after the conclusion of the evidence, and before or after the making of an award, require from any person or union making application to the board or the court in respect of any dispute security to its satisfaction for the performance of the award by the said person or union and its members, and may require from any such person or union security to its satisfaction to answer any amount for which such person or union might be liable under sections forty-two and forty-six in case of a lock-out or strike ; and in default of such security being given, may stay the operation of the award. Any such security shall be deposited with and held by the said court, and may be disposed of as prescribed.

Conditions of employment to remain unaltered during proceedings before board.

**60.** Employers and employees shall give at least twenty-one days' notice of an intended change affecting conditions of employment with respect to wages or hours. During any proceedings before a board, neither the employers nor the employees in the industry the subject of those proceedings shall alter the conditions of employment with respect to wages or hours, or the prices for piece-work, or do or be concerned in doing any act or thing in the nature of a lock-out or strike, or take part in a lock-out or strike, or a suspension or discontinuance

*Industrial Disputes.*

discontinuance of employment or work, but the relationship of employer and employee shall continue uninterrupted during such proceedings.

If any employer or employee uses this or any other provision of this Act for the purpose of unjustly maintaining a given condition of affairs, through delay, such employer or employee shall be guilty of an offence against this Act and shall be liable to the same penalty, and the same proceedings may be had as if he had been guilty of a breach of the award of a board.

**61.** The Judge of the Industrial Court may make regulations Regulations. for carrying out the provisions of this Act, and in particular—

- (a) regulating the election and nomination of members of boards other than the chairman, and regulating the election to vacancies on boards;
- (b) prescribing the qualifications of candidates at such election, and providing for a list of voters;
- (c) regulating the time and manner of election and nomination of the chairman and of assessors;
- (d) prescribing the forms of references and applications to a board and generally the forms to be used in carrying out this Act;
- (e) prescribing the form of oath to be taken by members of boards and of assessors;
- (f) regulating the exhibition by an employer of an award of a board;
- (g) prescribing the form and mode of service of notices of meetings of a board, and regulating the convening of such meetings;
- (h) prescribing the giving of notice of inspection by the board or its members of premises used in any industry, and prescribing the form and regulating the service of such notice;
- (i) regulating the procedure at meetings of boards;
- (j) providing for the payment of expenses of witnesses;
- (k) regulating the procedure to be followed in proceedings before the Industrial Court under this Act, and in enforcing judgments, convictions, and orders given and made by such court;
- (l) prescribing the duties of the registrar and of inspectors, and regulating the registration under this Act of trade unions;
- (m) regulating the giving of security under this Act, and the disposal, return, and forfeiture of security so given;
- (n) imposing any penalty not exceeding ten pounds for any breach of such regulations.

Such regulations shall be published in the Gazette, and shall be laid before both Houses of Parliament within thirty days after being made, if Parliament is sitting; but, if not, then within thirty days after the next sitting of Parliament.

## Act No. 3, 1908.

*Industrial Disputes.*

## SCHEDULES.

## SCHEDULE ONE.

Board.	Industries and employees in industries.
Baking... ..	Bakers, bread-carters.
Boot trade ... ..	Boot makers, boot clickers, operators, rough stuff cutters, boot and shoe machinists.
Brewery ... ..	Employees in or in connection with breweries, malthouses, distilleries, manufactories of table waters and other drinks, and bottling establishments.
Bricklayers ... ..	Bricklayers and bricklayers' labourers, gantry and crane men.
Brickmakers ... ..	Bricks, pipes, pots, and terra-cotta makers, and carters of the same.
Broken Hill mines ... ..	Miners, engine-drivers, and all persons engaged in and about silver and lead mines.
Butchering ... ..	Butchers employed in shops, factories, slaughter-houses and meat-preserving works, and carters.
Cigar trade ... ..	Cigar makers.
Clothing ... ..	Tailors, tailoresses, cutters and trimmers, pressers.
Coachmaking ... ..	Coachmakers in all branches, coachpainters and wheelwrights.
Cold storage ... ..	Persons employed in freezing chambers and works.
Confectioners ... ..	Confectioners.
Coopers ... ..	Coopers.
Copper, silver, and gold mines.	Miners and others employed in and about such mines.
Council of the City of Sydney.	The employees of the council.
Dressmaking and millinery	Dressmakers, shirt, blouse, and costume makers, milliners, hat-designers, trimmers and bonnet-makers, and makers of underclothing.
Electrical trades ... ..	Persons employed in manufacturing, fitting, overhauling, repairing, or installing electrical apparatus, or in the maintenance of electrical installations or running electrical plant, and assistants engaged in such industry.
Farriers ... ..	Persons employed by farriers.
Fellmongering ... ..	Fellmongers, wool and basil workers.
Furniture trade ... ..	Cabinet makers, chair and frame makers, carvers, pianoforte makers, French polishers, wood turners, wood working machinists, upholsterers, carpet planners, makers of mattresses (other than wire).
Gasworks employees ... ..	Gas or other employees of gas companies.
Glassworks ... ..	Persons employed in such works.
Government Railways and Tramways.	Employees of the Chief Railway Commissioner.
Hairdressers ... ..	Hairdressers and wigmakers.

*Industrial Disputes.*SCHEDULE ONE—*continued.*

Board.	Industries and employees in industries.
Hotels, club, and restaurant employees.	The employees in hotels, clubs, and restaurants.
Hunter River District Board of Water Supply and Sewerage.	The employees of the board.
Iron trades ... ..	Engineers, smiths, boilermakers, iron ship builders, angle-ironsmiths, fitters, turners, pattern-makers, ironmoulders, blacksmiths, coppersmiths, tinsmiths, sheet-iron workers, and all other persons engaged in the engineering, iron ship-building, and iron trades.
Jam industry ... ..	Fruit preparers, canners, labourers.
Laundries (public) ... ..	Laundrymen and laundrywomen
Maitland collieries ... ..	Coal-miners, engine-drivers, wheelers, surface hands, and other persons employed in and about coal-mines.
Metropolitan Water and Sewerage Board.	The employees of the board.
Milk Industry ... ..	Milk and ice carters, milk weighers, milk receivers, grooms and yardmen, and employees of milk vendors and dairymen in the county of Cumberland.
Musicians ... ..	Professional musicians.
Newcastle collieries ... ..	Coal-miners, engine-drivers, wheelers, surface hands, and other persons employed in and about coal-mines.
Painting trades ... ..	Painters, grainers, paperhangers, writers and decorators.
Printing ... ..	Compositors, linotype and monoline operators, letterpress machinists, book-binders, and paper-rulers, lithographic workers, and the like.
Pastrycooks ... ..	Pastrycooks.
Plasterers ... ..	Plasterers and assistants.
Plumbers and gasfitters... ..	Plumbers and gasfitters.
Saddlery ... ..	Saddle and harness makers.
Sawmill employees ... ..	Employees in sawmills and timber yards.
Shearers ... ..	Shearers, shed employees, cooks, and rouseabouts.
Shipping ... ..	Shipmasters, officers, marine engineers, sailors, lamp-trimmers, donkeymen, greasers, firemen, deck hands, stewards, cooks, and persons employed on ferry boats.
Shipbuilding ... ..	Shipwrights, joiners, ship painters, and dockers.
Southern collieries ... ..	Coal-miners, engine-drivers, wheelers, surfacehands, and other persons employed in and about coal-mines.
Shop assistants ... ..	Shop assistants and office assistants in shops.
Stonecutters ... ..	Stonemasons and monumental workers and assistants.
Storemen and packers ... ..	Storemen and packers.
Sydney Harbour Trust ... ..	The employees of the trust.
Tanning ... ..	Tanners, curriers, and leather-dressers.
Tip-carters ... ..	Tip-carters.
Tobacco industry ... ..	Persons employed in such industry.
Trolley draymen ... ..	Drivers of trolleys, drays, and carts.
Undertakers ... ..	Persons employed in undertakers' business.

## Act No. 3, 1908.

*Industrial Disputes.*SCHEDULE ONE—*continued.*

Board.	Industries and employees in industries.
Unskilled labourers ...	Builders' labourers, sewer miners, rock gutters, hammer and drill men, concrete workers, pick and shovel men, platelayers.
Waterside workers ...	Sydney and Newcastle wharf labourers, and coal lumpers and trimmers.
Western collieries and shale mines.	Coal miners, shale miners, engine-drivers, wheelers, surface hands, and other persons employed in and about coal and shale mines.
Wire mattress makers ...	Weavers, bench hands, and labourers.
Wire netting ...	Workers in that industry.
Woodworkers ...	Carpenters, joiners, and the like, and assistants.

## SCHEDULE TWO

*Election of persons for boards.*

1. The Industrial Court shall fix the number of persons to be elected by the employers and employees in the industry or group of industries to be represented on a board.
2. From the persons so elected, the said court shall choose the persons whom it recommends to the Governor for appointment to the Board.

*Election of persons for assessors.*

3. The Industrial Court shall from time to time, at its discretion, fix the number of persons to be elected for assessors to such court or to a board by the employers and employees in each industry.
4. From the persons so elected for any industry the said court or board may appoint the assessors in any matter relating to that industry.

*The register.*

5. Registers relating to employers and employees respectively shall be kept by the industrial registrar of persons entitled to vote for members of a board and for assessors.
6. Names shall be placed on any such register on application in the prescribed form.

*Election by employers.*

7. Each employer in an industry shall be entitled to vote if his name is on the register.
8. Employers shall have the number of votes appearing on the register according to the following scale :—
  - Employers of five hundred or more employees in the industry shall have three votes.
  - Employers of less than five hundred and more than two hundred such employees shall have two votes.
  - Other employers shall have one vote.

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*Industrial Disputes.*

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SCHEDULE TWO —*continued.*

*Election by employees.*

9. Where all the employees in an industry are members of some union, any such election for members of boards or for assessors shall be by the members of the unions only.

10. Where, with respect to the whole of an industry, an award which gives preference to unionists by consent, or an industrial agreement which gives such preference is in force, the election shall be by the employees who are members of the unions only.

11. Each member of an union, certified by the secretary thereof by statutory declaration to be financial, shall be entitled to be registered and to vote in respect of his industry.

12. Subject to paragraph ten of this Schedule, every person who is not a member of an union, on proof by statutory declaration that he has been engaged in the industry for twelve months within the previous two years, shall be entitled to be registered, and to vote in respect of his industry.

13. No person shall vote in respect of his membership of more than one union.

14. Each employee shall have one vote only.

*General provisions.*

15. Each vote must be given for the full number of persons to be elected, otherwise the vote will be void.

16. The mode of election shall be as prescribed by the regulations.

17. Any dispute as to the interpretation of this Schedule shall be determined by the Industrial Court, whose decision shall be final.