

COMMONWEALTH CONCILIATION AND ARBITRATION.

No. 18 of 1928.

An Act to amend the *Commonwealth Conciliation and Arbitration Act 1904-1927.*

[Assented to 22nd June, 1928.]

BE it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows :—

Short title and
citation.

1.—(1.) This Act may be cited as the *Commonwealth Conciliation and Arbitration Act 1928.*

(2.) The *Commonwealth Conciliation and Arbitration Act 1904-1927** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Conciliation and Arbitration Act 1904-1928.*

Commencement.

2. This Act shall commence on a date to be fixed by Proclamation.

Amendments
of the
Principal Act.

3. The Principal Act is amended as set out in the Schedule to this Act.

Penalty for
lock-out or
strike

4. Section six of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the word "Penalty :", the words "In the case of an organization or employer—"; and

(b) by inserting in sub-section (1.), after the word "pounds", the words "; in the case of any other person—Fifty pounds.".

Penalty for
lock-outs and
strikes by
persons or
organizations
affected by
awards.

5. Section six A of the Principal Act is amended—

(a) by inserting, after the word "Penalty :", the words "In the case of an organization or employer—"; and

(b) by inserting, after the word "pounds", the words "; in the case of any other person—Fifty pounds.".

*Act No. 13, 1904, as amended by No. 28, 1909; No. 7, 1910; No. 6, 1911; No. 5, 1914; No. 18, 1914; No. 35, 1915; No. 39, 1918; No. 31, 1920; No. 29, 1921; No. 22, 1926; and by No. 8, 1927.

6. After section six A of the Principal Act the following section is inserted :—

“ 6B. Where an organization has been found guilty of any offence against section six or section six A of this Act the Court before which it has been found guilty shall, in fixing the penalty to be imposed in respect of the offence, take into account any *bona fide* efforts which the organization satisfies the Court have been made by members of its committee of management or by any of its officers to prevent the commission of an offence against this Part of this Act.”.

Mitigation of penalties.

7. Section seven of the Principal Act is repealed and the following section inserted in its stead :—

“ 7.—(1.) Any person or organization bound by or entitled to the benefit of an award may apply to the Court for an order declaring that a lock-out or strike exists in an industry or in some section or part of an industry employers or employees in which are subject to the award.

Declaration as to existence of lock-out or strike.

“ (2.) The Court may require notice of any application made under this section to be served upon such persons as it directs.

“ (3.) Where an application is made under this section the Court may, if it thinks fit in all the circumstances of the case, make an order declaring that a lock-out or strike exists in the industry or in some section or part of the industry.

“ (4.) The Court may at any time, upon such notice, to such persons, as it thinks fit, revoke a declaration made under the last preceding sub-section.

“ (5.) Upon an order being made under this section declaring that a lock-out exists in the industry or a section or part of the industry, anything in the nature of a strike done in that industry or in any section or part of that industry shall not, while the order remains in force, be a breach of the Act or of any award or order of the Court.

“ (6.) Upon an order being made under this section declaring that a strike exists in the industry or a section or part of the industry, anything in the nature of a lock-out done in that industry or in any section or part of that industry shall not, while the order remains in force, be a breach of the Act or of any award or order of the Court.”.

8. Section eight of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the words “ guilty of ” the words “ doing something in the nature of ”; and

(b) by omitting sub-section (2.) and inserting in its stead the following sub-sections :—

Organization ordering its members to refuse to offer or accept employment.

“ (2.) For the purposes of this section an organization shall be deemed to have ordered, encouraged, advised or incited its members to refuse to offer or accept employment if—

(a) the committee of management of the organization or of a branch of the organization ;

- (b) a member of the committee of management of the organization or of the committee of management of a branch of the organization ;
- (c) any body of persons controlling the organization or a branch of the organization ; or
- (d) an officer of the organization or of a branch of the organization,

has ordered, encouraged, advised or incited members of the organization to refuse to offer or accept employment.

“(3.) Where the Court dealing with the matter is satisfied that, after the commission of an offence to which this section applies, the organization or branch has *bona fide* removed from any office or position held by them and, where they are members of the organization, has expelled from the organization the persons by reason of whose acts the organization has been found guilty of the offence, the maximum penalty which may be imposed on the organization in respect of that offence shall be One hundred pounds.

“(4.) Where the Court dealing with the matter has been satisfied that an organization found guilty of an offence to which this section applies has, as specified in the last preceding sub-section removed from any office or position and (where they were members of the organization) expelled the persons by reason of whose acts the organization has been found guilty and has imposed a penalty in accordance with that sub-section and, within twelve months of the conviction any of those persons are appointed to any office in the organization or any branch thereof or admitted to membership of a committee of management or of the organization the organization shall be guilty of an offence. Penalty : One thousand pounds.”.

9. Section nine of the Principal Act is amended by omitting sub-section (3.).

10. After section nine of the Principal Act the following section is inserted :—

“10.—(1.) Where a penalty is imposed on a person under this Part and it appears that he was, at the time he committed the offence, an officer, or a member of the committee of management of an organization or of a branch of an organization, the Court, in addition to making any other order, may order the organization, or the trustees thereof, to pay out of the funds thereof any amount of the penalty not exceeding Fifty pounds, if the offence is doing anything in the nature of a lock-out or continuing any lock-out, and Ten pounds, if the offence is doing anything in the nature of a strike or continuing any strike.

“(2.) The Court dealing with the matter, before making the order, shall give the organization or the trustees or secretary thereof an opportunity of being heard.”.

11. Section fifteen of the Principal Act is amended by inserting after the word “State” the words “an oath or affirmation of allegiance in the form in the Schedule to the Constitution and also”.

Injuring
employee or
employer on
account of
industrial
action.

Penalties
payable out of
organization
funds.

Oath
or affirmation
of allegiance.

12. Section seventeen of the Principal Act is repealed and the following section inserted in its stead :—

“ 17.—(1.) The Registrar may refer any matter before him to the Court for decision.

Review of
decisions of
Registrar.

“ (2.) The Court may review, annul, rescind or vary any act or decision of the Registrar in any manner which it thinks fit.”.

13. Section eighteen A of the Principal Act is amended by omitting from sub-section (2.) the words “ dispute or part of a dispute ” and inserting in their stead the word “ matter ”.

Jurisdiction
of Court—
how exercised.

14. After section eighteen A of the Principal Act the following section is inserted :—

“ 18AA. Notwithstanding anything contained in this Act, where—

Interpretations
affecting
standard hours.

(a) an interpretation is given of any term of an award which interpretation declares that the standard hours of work fixed by the award in an industry or in a section of an industry are more or less than those theretofore in fact observed in that industry or section as being the standard hours of work fixed by that award ; or

(b) a variation of an award is made affecting the standard hours of work fixed by that award in an industry or in a section of an industry,

the interpretation or variation shall have no force or effect unless it is considered by the Court constituted by the Chief Judge and not less than two other Judges and is approved by a majority of the members of the Court.”.

15. After section eighteen C of the Principal Act the following section is inserted :—

“ 18D. Where an officer of the Public Service is appointed a Conciliation Commissioner he shall, while he holds that office, be deemed to be an employee within the meaning of the *Superannuation Act 1922-1924*, and be entitled to have his service as Conciliation Commissioner reckoned, for the purposes of sections seventy and seventy-three of the *Commonwealth Public Service Act 1922-1924*, and shall upon the termination of his appointment—

Public servant
becoming
Commissioner.

(a) be entitled, if he has not attained the age of sixty-five years, to re-appointment to a position in the Commonwealth Public Service with such advancement in status and remuneration beyond those held and received by him in that service immediately prior to his appointment as Conciliation Commissioner, as the Commonwealth Public Service Board in the circumstances thinks just ; and

(b) be entitled, upon re-appointment to the Public Service of the Commonwealth, to have his service as Conciliation Commissioner reckoned as service in the Public Service of the Commonwealth.”.

16. After section nineteen A of the Principal Act the following section is inserted :—

Representative
orders.

"19B.—(1.) Where it appears to the Court that there are numerous persons having the same interest in any matter before the Court (in this section referred to as 'the interested persons') it may make an order (in this section referred to as 'a representative order') appointing representative respondents in that matter and specifying the names and addresses of all the interested persons.

"(2.) The representative respondents shall be organizations or persons which or who appear to the Court to be adequately representative of the interested persons.

"(3.) Any representative order made under this section shall be published forthwith in the *Gazette*.

"(4.) All complaints, summonses, orders or other documents served upon the representative respondents appointed by a representative order shall be deemed to have been served upon all the interested persons specified in that order and the representative respondents shall, in the matter in relation to which they are appointed, represent all the interested persons specified in the representative order and any award or order of the Court made in the matter shall be binding upon all those interested persons :

Provided that the making of a representative order shall not prevent any person from appearing separately, if he so desires, in any proceedings relating to the matter before the Court."

17. Section twenty of the Principal Act is repealed and the following section inserted in its stead :—

State authority
to cease dealing
with dispute
on order
by Court.

"20.—(1.) If it appears to the Court that any State Industrial Authority is dealing or about to deal with an industrial dispute, with part of an industrial dispute or with a matter which is provided for in an award of the Court or is the subject of proceedings before the Court, the Court may make such order restraining the State Industrial Authority from dealing with that dispute or any part thereof, or with that matter, as the Court thinks fit, and thereupon the Authority shall, in accordance with that order, cease to proceed in the dispute or part thereof or in that matter.

"(2.) Any award, order or determination of a State Industrial Authority made in contravention of an order made under this section shall, to the extent of the contravention, be void."

Certificates as
to membership
of organization.

18. Section twenty-one A of the Principal Act is amended—

- (a) by inserting after the word "members" the words "or officers";
- (b) by inserting after the word "organization" the words "or of any specified branch of an organization"; and
- (c) by inserting after the word "be" the words "in all Courts and proceedings."

List of members
and officers to
be evidence.

19. Section twenty-one B of the Principal Act is amended—

- (a) by inserting after the word "association" (first occurring) the words "or of a branch of an organization or association";

- (b) by inserting after the word "association" (second occurring) the words ", or a copy of any such list certified by the Registrar or a Deputy Industrial Registrar"; and
- (c) by inserting after the word "association" (last occurring) the words "or of the branch".

20. After section twenty-one B of the Principal Act the following section is inserted :—

" 21BA. In all proceedings under this Act a copy of the rules of an organization certified by the Registrar to be a true and correct copy shall be *prima facie* evidence of the rules of an organization."

Rules to be evidence.

21. Section twenty-four of the Principal Act is amended by adding at the end of sub-section (1.) the following proviso :—

" Provided that a Judge may refuse to certify any such memorandum if he is of opinion that the agreement is not in settlement of an industrial dispute or contains clauses which the Court has no power to insert in awards, or that it is not in the public interest that it should be certified."

Agreement to have effect of award.

22. After section twenty-five of the Principal Act the following sections are inserted :—

" 25A. The Court shall in making its awards provide so far as possible and so far as the Court thinks proper for uniformity throughout an industry carried on by employers in relation to hours of work, holidays and general conditions in that industry."

Uniformity in relation to hours, holidays, &c.

" 25B. Copies of every award and of every variation of an award shall be sent to each Registry as soon as possible after the making thereof and shall be open for inspection upon payment of the prescribed fee."

Awards to be available at Registries.

" 25C. In determining any industrial dispute under this Act in which the rates of pay, or conditions of employment, applying to apprentices in any industry are in question, the Court shall take into consideration any scheme of apprenticeship provided by or under any State law."

Schemes of apprenticeship.

" 25D. The Court shall, before making any award or certifying any agreement, and in proceedings for the variation or cancellation of an award or agreement, take into consideration the probable economic effect of the agreement or award in relation to the community in general and the probable economic effect thereof upon the industry or industries concerned :

Economic effect of awards.

Provided that this section shall not affect the practice of the Court in fixing the basic wage."

23. Section twenty-seven of the Principal Act is amended by inserting after the words "except by" the words "leave of the Court or by".

Representation of parties at hearing.

Form and
continuance
of award.

24. Section twenty-eight of the Principal Act is amended by adding at the end of sub-section (3.) the words "The powers conferred on the Court by this sub-section shall not be construed as limiting in any manner any power conferred on the Court by any other provision of this Act."

Awards and
orders to
prevail over
State awards
and orders.

25. Section thirty of the Principal Act is amended—

- (a) by inserting after the words "inconsistent with" the words " , or deals with any matter dealt with in, " ; and
- (b) by inserting after the word "inconsistency" the words " , or in relation to the matter dealt with " .

26. After section thirty of the Principal Act the following section is inserted :—

Validity of State
awards and
orders.

"30A.—(1.) Any person interested may apply to the Court for a declaration that a State law dealing with an industrial matter or an award, order or determination of a State Industrial Authority, is invalid under section thirty of this Act.

"(2.) At least twenty-eight days' notice of the application shall be given by the applicant to the Attorney-General of the State concerned who shall have the right to appear upon the application.

"(3.) The Court shall hear and determine the application and may make such declaration as it thinks just."

27. Section thirty-three of the Principal Act is repealed and the following section inserted in its stead :—

Security on
reference.

"33.—(1.) A Judge may, at any time and from time to time, make an order requiring any organization submitting any industrial dispute to the Court, to give security to his satisfaction or to the satisfaction of the Registrar for the performance and observance of the award, or the observance of any order made by the Court in relation to the dispute.

"(2.) Any security given under this section shall—

- (a) be in the form of a bond by the organization with a surety approved by the Judge or the Registrar ;
- (b) contain such conditions in relation to the performance or observance of the award or order as the Judge thinks proper ; and
- (c) not exceed Five hundred pounds :

Provided that an organization may, if it so desires, deposit with the Registrar the amount of the required security in cash instead of giving a bond.

"(3.) An action on the bond or for forfeiture of the security may be brought in the Court and the Court may make such order in relation thereto as it thinks just, or such action may be brought in any District, County, or Local Court or Court of summary jurisdiction

which is constituted by a Judge or a Police, Stipendiary or Special Magistrate, or in any State Court specified in that behalf by Proclamation.

“(4.) If the organization has made application to the Court under section seventy of this Act for an order that the members of the organization who have been guilty of the breach or non-observance of the order or award alleged as a breach of the condition of the bond or security, shall cease to be members of the organization, or has, under section seventy A of this Act, expelled those members from membership, the Court may order that the bond or security be not enforced against the organization in respect of that breach and thereupon the bond shall not be so enforceable in any Court.

“(5.) Where an organization fails to give the security required of it under this section, a Judge may by order direct that the organization and its members shall not, for such time as the Judge directs, be entitled to the benefits of any award which otherwise would apply to that organization.”.

28. Section thirty-four of the Principal Act is repealed and the following section inserted in its stead :—

“34.—(1.) In order to prevent or settle industrial disputes the Chief Judge may appoint, for such period as he thinks proper, Conciliation Committees consisting of such persons as he thinks proper, and of a Chairman appointed by him.

Conciliation
Committees.

“(2.) An application for the appointment of a Conciliation Committee by the Chief Judge may be made in the prescribed manner to the Industrial Registrar by any party to an industrial dispute.

“(3.) A Conciliation Committee may be appointed in relation to industrial disputes in an industry, or in a branch or section of an industry defined by reference to locality or otherwise.

“(4.) The Chief Judge, if he thinks proper, may appoint a Conciliation Commissioner as Chairman of any Conciliation Committee appointed under this section :

Provided that if the other members of the Committee concur in nominating any other person as Chairman the Chief Judge shall appoint that person as Chairman.

“(5.) The Chairman of a Conciliation Committee shall preside over meetings of the Committee but shall not be entitled to vote on any question before the Committee.

“(6.) Of the members, other than the Chairman, one-half shall be representative of employers and one-half shall be representative of organizations of employees.

“(7.) Before appointing the members representative of employers or of organizations of employees, the Chief Judge shall take into consideration any recommendations made by employers or by organizations of employees in relation to such appointments.

“(8.) Meetings of a Conciliation Committee may be summoned by the Industrial Registrar, or by a Deputy Industrial Registrar authorized by the Chief Judge in that behalf.

“(9.) If an agreement between all or any of the parties as to the whole or any part of the dispute is arrived at, the provisions of sub-section (1.) of section twenty-four of this Act shall apply to that agreement.

“(10.) If a Conciliation Committee, or a majority thereof, recommends to the Court the terms of a proposed award for the prevention or settlement of a dispute, the Registrar may issue a summons directed to such persons or organizations as he thinks proper, calling upon them to show cause to the Court why an award should not be made in the terms recommended, with such variations (if any) as are suggested by the Court and notified to the parties summoned.

“(11.) Subject to this section a summons issued under the last preceding sub-section shall, as far as possible, be directed to, and served upon—

- (a) where the recommendations of the Committee relate to an existing dispute which it is sought to settle—all the persons or organizations who or which are parties to the dispute; and
- (b) where the recommendations of the Committee relate to a dispute which it is sought to prevent—all the persons or organizations who or which would, in the opinion of a Judge, be parties to the dispute.

“(12.) Where it appears to a Conciliation Committee or a majority thereof that there are numerous persons having the same interest in the subject-matter of any dispute (in this section referred to as ‘the interested persons’) which it is sought to settle or prevent, the Committee may recommend to the Court that an order be made appointing representatives (in this section referred to as ‘the representative respondents’) of the interested persons in relation to that subject-matter and specifying the names and addresses of those interested persons.

“(13.) The Court may, upon receipt of a recommendation under the last preceding sub-section, make an order accordingly, and any order so made shall be published forthwith in the *Gazette*.

“(14.) All complaints, summonses, orders or other documents served upon all the representative respondents appointed by an order under the last preceding sub-section shall be deemed to have been served upon all the interested persons specified in the order and the representative respondents shall, in the matter in relation to which they are appointed, represent all the interested persons so specified:

Provided that the making of an order under the last preceding sub-section shall not prevent any person from appearing separately, if he so desires, in any proceedings relating to the dispute.

“(15.) Upon the return of any such summons, the Court may make such award (if any) as it thinks proper for the prevention or settlement of the dispute and the provisions of section twenty-nine of this Act shall apply to any award so made.

"(16.) The Chairman of a Conciliation Committee shall receive such remuneration and expenses as are prescribed."

29. After section thirty-five of the Principal Act the following section is inserted :—

"35A. Where it appears to the Chief Judge that it is desirable that, in relation to any industrial matter, a conference be held with a State Industrial Authority, he or any other Judge of the Court designated by the Chief Judge may, if that Authority is willing, confer with that Authority with a view to securing co-ordination between any orders or awards made or to be made under this Act and any orders, awards, decisions or determinations made or given or to be made or given by that Authority."

Judges may
confer with
State
Authority.

30. Section thirty-six of the Principal Act is amended—

- (a) by inserting in sub-section (1.), after the word "refer", the words "the whole or part of";
- (b) by inserting in sub-section (1.), after the word "desirable", the words "and may at any time revoke such reference"; and
- (c) by omitting from paragraph (b) of sub-section (1.) the words "a Justice of the High Court or a Judge of the Supreme Court of a State" and inserting in their stead the words "appointed by the Court".

Court may
refer dispute
to a Local
Board, for
report.

31. Section thirty-eight of the Principal Act is amended—

- (a) by inserting in paragraph (b), after the word "award", the words "(including any provisional or interim order or award relating to any or all of the matters in dispute)"; and
- (b) by omitting from paragraph (n) the words "technical matters or matters of account" and inserting in their stead the word "matters".

Powers of
Court.

32. After section thirty-eight B of the Principal Act the following sections are inserted :—

"38C. The Court shall, in the case of every industrial dispute, consider in the course of the hearing and as promptly as possible if there is anything in the nature or circumstances of the industry, or any other reason, which makes it more desirable that the dispute or any part of it should be dealt with by the Court than by any State Industrial Authority or by State Industrial Authorities in the several States, and, unless the Court so declares, it shall dismiss, or refrain from further hearing or determining, the dispute or part.

Court to
consider
propriety of
dealing with
dispute.

"38D.—(1.) If it appears to the Court on the application of any organization or person interested or of the Registrar—

Cancellation
of award.

- (a) that an organization entitled to the benefit of an order or award—

- (i) has done anything in the nature of a lock-out or strike; or

- (ii) has committed any other breach or non-observance of the Act or of an order or award;

(b) that any number of members of an organization, sufficiently large to form a substantial part of the organization, refuses to accept employment either at all or in accordance with existing orders or awards; or

(c) that for any other reason an order or award ought to be suspended or cancelled in whole or in part,

the Court may, by order, subject to such conditions as it thinks fit, suspend or cancel for such period as it thinks fit, all or any of the terms of any order or award in force so far as the order or award applies to, or is in favour of, the organization or its members.

“(2.) During the period of suspension or cancellation, no person affected as a present or past member of the organization by the suspension or cancellation shall be entitled to the benefit of any other order or award in force, and every such order or award shall cease to apply to the employment of those persons.

“(3.) The order for suspension or cancellation may be limited to persons named therein, to classes of persons, to any branch of the organization, or to particular localities.”.

33. Section thirty-nine of the Principal Act is amended by omitting the words “; but no order or award shall be varied and no question shall be re-opened except on the application of an organization or person affected or aggrieved by the order or award or of the Attorney-General” and inserting in their stead the following proviso :—

“Provided that no order or award shall be varied and no question shall be re-opened except—

(a) on the application of an organization or person affected or aggrieved by the order or award or of the Attorney-General; and

(b) upon notice being given in such manner and to such persons as the Court directs.”.

34. Section forty A of the Principal Act is amended by adding at the end of paragraph (b) the words “or which may affect the amicable relations of the parties with reference to the award”.

35.—(1.) Section forty-three of the Principal Act is amended by omitting from sub-section (1.) the words “The Chief Judge may, subject to the approval of the Governor-General,” and inserting in their stead the words “The Judges of the Court or a majority of them may”.

(2.) Any rules in force under section forty-three of the *Commonwealth Conciliation and Arbitration Act 1904-1921* at the date of the commencement of the *Commonwealth Conciliation and Arbitration Act 1926* shall be, and be deemed to have been, in force subsequent to that date, subject to any alteration or substitution duly made under the Principal Act or under that Act as amended by this or any later Act.

Powers may
be exercised
by Court
on its
own motion.

Board
of Reference.

Rules
of Court.

36. Section forty-four of the Principal Act is amended by inserting in sub-section (2.), after paragraph (a), the following paragraph :—
 “(aa) an Inspector appointed under this Act; or”.

Imposition
and recovery
of penalties:

37. Section forty-five of the Principal Act is amended by inserting after the word “section,” the words “or in pursuance of section forty-nine of this Act,”.

Application
of penalties.

38. Section forty-six of the Principal Act is amended by omitting the words “imposed a penalty” and inserting in their stead the words “made an order in a proceeding on any bond for securing the observance of any order or award or imposed a penalty for an offence against this Act or the regulations thereunder or”.

Enforcement
of bonds or
of penalties
imposed by
Court.

39. Section forty-seven of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the word “award”, the words “(including any order imposing a penalty)”;

(b) by inserting in sub-section (3.), after the word “any” (second occurring), the word “such”; and

(c) by inserting at the end of sub-section (3.) the words “and that liability may be enforced by proceedings on summons in the Court”.

Process
against
property of
organization.

40. After section forty-nine of the Principal Act the following section is inserted :—

“49A. An employee entitled to the benefit of an award may at any time within six months from any payment by way of wages in accordance with the award becoming due to him, but not later, sue for the same in any court of competent jurisdiction.”.

Recovery of
wages.

41. Section fifty of the Principal Act is amended—

(a) by inserting after the words “compliance with any” the words “order or”; and

(b) by inserting after the words “so orders,” the words “after giving the person an opportunity to be heard,”.

Disability upon
contravention
of Part II.
or wilful
non-compliance
with award.

42. After section fifty of the Principal Act the following sections are inserted in Part IV. :—

“50A.—(1.) Inspectors may, subject to this section, be appointed in accordance with the *Commonwealth Public Service Act* 1922–1924 for the purpose of securing the observance of this Act and of awards and orders made under this Act.

Inspectors.

“(2.) Inspectors shall be appointed for such periods as the Minister determines.

“(3.) Arrangements may be made in accordance with section seventy-eight of the *Commonwealth Public Service Act* 1922–1924 for the performance by officers of the Public Service of a State of the duties of inspectors under this section.

“(4.) An Inspector shall have such duties, and shall make such investigations and reports in relation to the observance of this Act and the regulations thereunder and of any award or order of the Court, as the Minister directs.

"(5.) For the purpose of carrying out his duty under this section, an Inspector may, at any time during working hours, enter any building, mine, mine working, ship, vessel, place or premises of any kind wherein or in respect of which any industry is carried on or any work is being or has been done or commenced or any matter or thing is taking or has taken place in relation to which any industrial dispute is pending, or any award has been made or any offence against this Act is suspected, and may inspect any work, material, machinery, appliances, articles, book, or document therein.

"(6.) An Inspector shall report to the Court or to the Registrar any breach of this Act or of any award, order or industrial agreement which comes to his knowledge.

"(7.) Any person who hinders or obstructs an Inspector in the exercise of his duties shall be guilty of an offence.

Penalty: Fifty pounds.

Power of Court
to award costs.

"50B. In any proceedings before the Court for the enforcement of any order or award the Court may make such order as to the costs of the proceedings as it thinks just."

Charge of
Registries.

43. Section fifty-three of the Principal Act is amended by inserting after the word "shall" (second occurring) the words "subject to the general control of the Industrial Registrar,".

Registration of
organizations.

44. Section fifty-five of the Principal Act is amended—

(a) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

"(2.) The conditions to be complied with by associations so applying for registration and by organizations shall be as set out in Schedule B or as prescribed."; and

(b) by adding at the end thereof the following sub-section:—

"(4.) Every organization registered at the commencement of this sub-section shall, within the prescribed time, alter its rules, so far as is necessary to comply with the conditions set out in Schedule B or as prescribed."

45. After section fifty-six of the Principal Act the following sections are inserted:—

Members of
organization
may demand
secret ballot.

"56A. Any ten members of an organization or a branch thereof may, when any vote is taken or about to be taken in any election of the committee or officers of the organization or of the branch or in respect of any resolution proposed for adoption by the organization or the branch, as the case may be, demand, either verbally or in writing, that the vote be taken by secret ballot.

Failure to hold
ballot after
demand by
members.

"56B.—(1.) If, after a demand made under section fifty-six A of this Act for a vote to be taken by an organization or branch by secret ballot, the organization or branch fails to hold the secret ballot accordingly, the Court may, if satisfied that the demand for a secret ballot is *bona fide* and relates to a matter of substantial importance, upon application made to the Court, give directions for the conduct of a secret ballot under the control of an officer of the Court with or without provision for absent voting.

“(2.) Applications under this section for directions for the conduct of a secret ballot shall take precedence over all other business in the Court.

“(3.) Where the Court gives directions under this section for the holding of a secret ballot by any organization or branch of an organization and the organization or branch fails to hold a secret ballot accordingly, the organization shall be guilty of an offence.

Penalty : Five hundred pounds.

“56c.—(1.) Any number of members of an organization not less than ten may apply in writing to the Registrar for directions that a secret ballot shall be taken by the organization or a branch thereof upon any question affecting the organization or branch.

Application for
secret ballot.

“(2.) Applications made by any number of members less than ten shall be received by the Registrar and if, during any one period of twenty-one days, the number of members making applications relating to the same question amounts to not less than ten, the applications shall be treated as together constituting a single application for the purposes of sub-section (6.) of this section.

“(3.) Applications may be made by letter enclosed in an envelope marked ‘Secret Ballot’ which envelope is enclosed in another envelope addressed to the Registrar.

“(4.) If any person other than the Registrar opens or causes to be opened an envelope marked as aforesaid, he shall be guilty of an offence.

Penalty : One hundred pounds.

“(5.) The Registrar shall not disclose to any person other than a Judge the names of the members so applying.

“(6.) If a Judge is satisfied that ten of the persons so applying are members of the organization and that the application is *bona fide* and relates to a matter of substantial importance the Judge may give directions for a secret ballot to be taken by the organization or the branch upon the question with or without provision for absent voting or may give directions for the conduct of a secret ballot (with or without such provision) under the control of an officer of the Court.

“56d. The Court may order, at any stage of the proceedings in relation to a dispute, that any matter upon which the Court thinks fit to ascertain the views of the members of an organization or of a branch of an organization which is a party to the dispute be submitted to a vote of the members of the organization or of the branch thereof taken by secret ballot (with or without provision for absent voting) in accordance with directions given by the Court.

Court may
order secret
ballot.

“56e. If, upon complaint made to the Court, and after such investigation as the Court thinks proper, the Court is of opinion that any secret ballot of an organization or of a branch has not been fairly and properly held, the Court may declare the ballot void and give directions for the conduct of a secret ballot under the control of an officer of the Court with or without provision for absent voting.

Action where
secret ballot
unfairly taken.

Orders for
secret ballot
provisional in
first instance.

"56F.—(1.) Any order or directions made or given by the Court or a Judge under section fifty-six B, fifty-six C, fifty-six D, or fifty-six E of this Act for the taking of a secret ballot of an organization or of a branch of an organization shall, in the first instance, be provisional, and notice thereof shall be given by the Registrar by registered letter to the secretary of the organization or branch concerned.

"(2.) The secretary of the organization or branch may thereupon forward a statement in writing upon the matter to the Registrar for submission to the Judge dealing with the matter, and, in particular, may state whether the organization or branch will itself take, within any and what period, a secret ballot upon the question, or will take any other action in relation thereto.

"(3.) Upon the expiration of fourteen days from the date of the provisional order the Judge shall make the order final or set aside the order :

Provided, however, that the Judge may adjourn the matter for such period as he thinks proper.

Offences in
relation to
ballots.

"56G. Any person who—

- (a) obstructs the taking of the ballot under this Act ;
- (b) uses any form of intimidation to prevent from voting any person entitled to vote at a ballot under this Act ; or
- (c) being an officer of an organization, refuses to assist in the taking of any ballot by providing for the use of the Returning Officer or his assistants such register and lists of the members of the organization as the Returning Officer requires ; or
- (d) falsely represents in any application made under this Act that he is a member of an organization,

shall be guilty of an offence.

Penalty : Fifty pounds or imprisonment for six months."

Power of
organization
to change its
name, &c.

46. Section fifty-eight A of the Principal Act is amended by omitting the words "change the constitution of the organization including" and inserting in their stead the words "the conditions of eligibility for membership or".

Rules, &c., of
organization
not to prevent
agreements.

47. Section fifty-eight B of the Principal Act is amended by omitting the words "at any time prior to the commencement of service".

48. After section fifty-eight B of the Principal Act the following sections are inserted :—

Alterations of
rules to be
registered.

"58C.—(1.) No alteration of a rule of an organization shall be valid until registered.

"(2.) Every such alteration shall be registered within fourteen days of the date upon which it is made or within such extended time as is allowed by the Registrar.

“(3.) It shall be the duty of the Registrar, before registering any alteration, to satisfy himself that the alteration is not in conflict with this Act or the Regulations or with any order or award of the Court.

“58D.—(1.) The Court may, upon its own motion or upon application made under this section, disallow any rule of an organization which, in the opinion of the Court—

Disallowance
of rules

(a) is contrary to law, or to an order or award ;

(b) is tyrannical or oppressive ;

(c) prevents or hinders members of the organization from observing the law or the provisions of an order or award ;
or

(d) imposes unreasonable conditions upon the membership of any member or upon any applicant for membership,

and any rule so disallowed shall be void.

“(2.) Any member of an organization may apply to the Court for the disallowance of any rule of the organization on any of the grounds specified in the last preceding sub-section.

“58E.—(1.) The Court may, upon complaint by any member of an organization and after giving any person against whom an order is sought an opportunity of being heard, make an order giving directions for the performance or observance of any of the rules of an organization by any person who is under an obligation to perform or observe those rules.

Direction for
performance
of rules.

“(2.) Any person who fails to comply with such directions shall be guilty of an offence.

Penalty : Fifty pounds.”.

49. Section sixty of the Principal Act is amended—

(a) by omitting from paragraph (c) of sub-section (1.) the words “ have been altered so as to no longer ” and inserting in their stead the words “ do not ” ;

(b) by inserting in paragraph (c) of sub-section (1.) after the word “ observed ” the words “ or are contrary to the terms of an order or award ” ;

(c) by omitting from paragraph (f) of sub-section (1.) the words “ audited in pursuance of the rules ” and inserting in their stead the words “ duly audited ” ;

(d) by inserting in that sub-section, after paragraph (h), the following paragraphs :—

“ or (i) that the proper authority of an organization or branch of an organization has neglected to exercise its powers over its members or branches doing anything in the nature of a lock-out or strike, or committing any non-observance or breach of any order or award ; or

Application
for cancellation
of registration.

“(j) that an organization or branch of an organization has made or given any domestic rule or order or direction contrary to the terms of an order or award, or requiring or instructing or advising the members, or any of them, to refuse to offer or accept employment in accordance with an order or award, or that its members or a substantial number of them observe any informal understanding contrary to any law or award; or

“(k) that the members or a substantial number of the members of an organization or branch have repeatedly or systematically committed offences against this Act, or failed to comply with an order or award; or

“(l) that the organization or branch has not altered its rules as required by sub-section (4.) of section fifty-five of this Act,”;

(e) by omitting from sub-section (4.) the words “from the obligation to comply with any award, or ”; and

(f) by adding at the end thereof the following sub-sections :—

“(5.) Upon cancellation of the registration of an organization, the organization and its members shall cease to be entitled to the benefits of any award made under the Act and, subject to any order to the contrary made by the Court, the award shall in all other respects cease to have any force or effect.

“(6.) Upon cancellation of the registration of an organization, the organization shall cease to be an organization and a corporation under this Act, but shall not by reason of the cancellation cease to be an association. The property of the organization shall, subject to any order which the Court may make with respect to the satisfaction of the debts and obligations of the organization out of that property, be the property of the association and shall be held and applied for the purposes of the association in accordance with the constitution and rules of the organization in so far as they can be carried out or observed notwithstanding the deregistration of the organization.”.

50. Section sixty-one of the Principal Act is repealed.

51. After section seventy of the Principal Act the following sections are inserted :—

“70A.—(1.) The committee of management of an organization or of a branch of the organization may, after seven days' notice in writing delivered to the member, and after giving him a fair and reasonable opportunity of being heard, suspend or expel from membership of the organization any member of the organization or of the branch respectively who commits any breach of this Act or of an order or award to which the organization is a party, or who does any act which renders

No resignation,
&c., of member
while dispute
pending.

Suspension or
expulsion of
member of
organization.

the organization liable to penalty or forfeiture under this Act or which is a ground for the cancellation of the registration of the organization or the suspension or cancellation of an order or award to which the organization is a party.

“(2.) Any member of an organization who is an officer thereof, and who is suspended or expelled under this section from membership of the organization, shall thereupon cease to hold, and shall become incapable of holding, office in that organization :

Provided that the Court may, upon the application of the member at any time, make an order removing the incapacity and thereupon the member shall become capable of holding office in the organization.

“70B. Any person who is suspended or expelled from membership of an organization otherwise than by virtue of an order of the Court may, within fourteen days of the suspension or expulsion, or within such further time as is allowed by the Court in special circumstances, appeal to the Court, and the Court may make such order as in the circumstances it thinks just.”.

Appeal against suspension or expulsion from membership.

52. Section seventy-two of the Principal Act is repealed and the following sections inserted in its stead :—

“72.—(1.) Every organization and every branch of an organization shall keep the following records :—

Records to be kept by organization.

- (a) a list of its members showing their names and postal addresses ;
- (b) a list of the names, postal addresses and occupations of the members of its committee of management, of its officers and of every person holding, whether as trustee or otherwise, property of the organization or of any branch of the organization, or property in which the organization or branch has any beneficial interest ;
- (c) an account, in proper form, of its receipts and payments and of all its funds and effects ; and
- (d) such other records as are prescribed.

“(2.) Every organization and every branch of an organization shall file with the Registrar in the month of March in each year, or at such other time as is prescribed, a copy of the records required to be kept under this section, certified by statutory declaration by the secretary or other prescribed officer of the organization or branch to be a correct statement of the information contained therein.

Penalty : In the case of an organization or branch—One hundred pounds ; in the case of a secretary or other prescribed officer—Two pounds for each week in default.

“(3.) All documents which an organization is required by this Act to furnish to the Registrar shall be open to inspection by any person as prescribed.

“72A.—(1.) Every organization and every branch of an organization shall appoint annually a qualified person as its auditor, and shall make provision for that auditor to have full and complete access to all its books and documents.

Appointment of auditors of organizations, and provision for special audits

Penalty : Fifty pounds.

"(2.) If an organization or branch does not duly appoint a qualified person as its auditor, the Court may appoint a qualified person as the auditor of that organization or branch and the Court may make such order as it thinks fit for the payment of the auditor out of the funds of the organization.

"(3.) The auditor shall audit the accounts of the organization or branch of which he has been appointed auditor, shall present a report thereon to that organization or branch, and shall file his report with the Registrar.

Penalty : Fifty pounds.

"(4.) The Registrar may at any time require a special audit of the accounts of any organization or branch, and may appoint a qualified person as a special auditor, who shall have such powers and duties, and shall receive from the Commonwealth such remuneration, as are prescribed.

"(5.) Any question arising as to whether any person is a qualified auditor for the purposes of this section shall be determined by the Registrar."

53. Section eighty-two of the Principal Act is repealed.

54. Section eighty-three of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section :—

"(2.) The Court shall have the power of a superior Court of Record to punish by attachment and committal any person whom it finds to have been guilty of contempt of the Court."

55. After section eighty-three of the Principal Act the following section is inserted :—

"83A. Any person creating a disturbance or taking any part in creating or continuing a disturbance in or near any place in which the Court is sitting shall be guilty of an offence.

Penalty : One hundred pounds or imprisonment for six months or both."

56. Sections eighty-five and eighty-six of the Principal Act are repealed and the following sections inserted in their stead :—

"85.—(1.) If, in any proceedings before the Court, objection is taken that any information tendered as evidence relates to any trade secret or to the profits or financial position of any witness or party, that witness or party, or the person entitled to the trade secret, may object that the information so relates and thereupon information so relating shall not be given as evidence except in pursuance of the direction of the Court, and, if given, shall not be published in any newspaper or otherwise without an order of the Court permitting such publication.

"(2.) Where the Court directs that information relating to a trade secret or to the financial position of any witness or party shall be given in evidence that evidence shall, if the witness or party or the person entitled to the trade secret so requests, be taken in private.

Judge not
bound to accept
appointment
under Act.
Contempt
of Court.

Creating
disturbance
near Court.

Trade secrets,
&c., tendered
as evidence.

"(3.) The Court may direct that any evidence given in proceedings before it or the contents of any book, paper or document produced for inspection shall not be published.

"(4.) Any person who gives as evidence, or publishes, any information in contravention of this section or of any direction or order given or made thereunder shall be guilty of an offence.

Penalty : Five hundred pounds or imprisonment for six months."

"86. All books, papers and documents produced in evidence before the Court may be inspected by the Court and by such of the parties as the Court allows.

Inspection of books, &c.

"86A. No person shall—

(a) by violence to the person or property of another person ;

(b) by any threats ;

(c) by any pecuniary penalty or injury ;

(d) by intimidation of any kind to whomsoever directed ;

(e) by abusive or insulting language ;

(f) by declaring or joining with other persons in declaring goods or places or persons or undertakings or positions ' black ' ;
or

Boycott of persons, goods or premises.

(g) by any other form of boycott or threat of boycott, prevent, or endeavour to prevent, any person from offering or accepting employment or working in accordance with the terms of an award or order of the Court.

Penalty : Twenty pounds, or, in the case of an officer of a registered organization, One hundred pounds.

"86B. If any organization or if the committee or a branch of an organization, or the committee of a branch of an organization, imposes or declares that it imposes, or that it intends to impose, a penalty, forfeiture or disability of any kind upon a member of the organization by reason of the fact that the member has worked, is working or intends to work in accordance with the terms of an award or order of the Court, the organization shall be guilty of an offence.

Penalties imposed by organizations upon workmen observing awards.

Penalty : Five hundred pounds.

"86C. Any person who at any meeting of an organization or of a branch of an organization or of the committee of management of any organization or of a branch of such committee or at any public meeting, moves, seconds or puts to the meeting any resolution the terms of which are abusive of, or insulting to, the Court or any Judge or officer thereof or which is in contempt of the Court, shall be guilty of an offence.

Resolutions of organizations.

Penalty : Twenty pounds.

"86D. Any person who prints or publishes any report or other matter containing any order, encouragement, advice or incitement to commit any breach or non-observance of this Act or of any order or award or any report or other matter containing language which is insulting to or abusive of the Court, shall be guilty of an offence.

Publication of incitements to breaches of Act or awards.

Penalty : One hundred pounds."

57. After section eighty-nine of the Principal Act the following sections are inserted :—

Meaning
of expressions
in awards.

“ 89A. Expressions used in any award made under this Act shall, unless the contrary intention appears in the award, have the same meaning as is applied to those expressions by the *Acts Interpretation Act 1901-1918*.

Court may
impose penalties
for certain
offences.

“ 89B. Any person who has committed an offence against section forty-two, fifty-six G, fifty-eight E, seventy-two, seventy-two A, eighty-three, eighty-three A, eighty-four, eighty-five or eighty-six D, of this Act may be charged accordingly before the Court and the Court may impose the penalty provided by this Act in respect of that offence.”.

Rules of
organizations.

58. Schedule B of the Principal Act is amended—

(a) by adding at the end of the Heading to Schedule B the words
“ AND BY ORGANIZATIONS ”;

(b) by omitting paragraph (a) of clause 1 and inserting in its
stead the following paragraph :—

“ (a) The election of a committee of management of the
organization and of its branches and of officers
of the organization and of its branches under a
system of voting which makes adequate provision
for absent voting ; ”;

(c) by inserting, after paragraph (b) of clause 1, the following
paragraph :—

“ (ba) The manner of summoning meetings of members
and of the committees ; ”; and

(d) by omitting paragraph (d) of clause 1 and inserting in its
stead the following paragraph :—

“ (d) The control of committees of organizations by
the members of the organizations and the control
of committees of branches by the members of the
branches ; ”.

Continuance
of Deputy
President.

59.—(1.) Section eleven of the *Commonwealth Conciliation and Arbitration Act 1926* is amended by omitting from sub-section
(2.) all words after the word “ necessary ” and inserting in their
stead the words—

“ —(a) for the completion of any matter upon the hearing
of which the Court as constituted under the Principal Act
by that Deputy President was engaged prior to that
commencement ; or

“ (b) for the purpose of dealing with any matter before the
Court as constituted under the Principal Act as amended
by this or any subsequent Act which is specified from time
to time by the Governor-General.”.

(2.) Where a direction has been given under sub-section (1.) of
section eleven of the *Commonwealth Conciliation and Arbitration Act 1926* as amended by this section in relation to any matter referred to

in paragraph (a) or paragraph (b) of that sub-section, the Deputy President shall have and may exercise, in relation to that matter, such power and jurisdiction as a Judge has under the Principal Act as amended by this Act.

(3.) Where, in pursuance of section eleven of the *Commonwealth Conciliation and Arbitration Act 1926* the Governor-General directs that a Deputy President shall continue in his office after the commencement of that section that Deputy President shall continue to receive remuneration at the same rate as that which he was receiving immediately prior to the commencement of that section and the Consolidated Revenue Fund is, to the necessary extent, hereby appropriated accordingly.

(4.) Sub-section (3.) of this section shall be deemed to have commenced upon the date of the commencement of the *Commonwealth Conciliation and Arbitration Act 1926*.

THE SCHEDULE.

CONSEQUENTIAL AMENDMENTS IN THE PRINCIPAL ACT.

Heading or Section amended.	Extent of Amendment.
Section 3	Omit "Chief Judge" insert "Judges".
Section 16	Omit "The Chief Judge" insert "Each Judge".
Section 16A	Omit "the Chief Judge" (wherever occurring) insert "a Judge".
Section 17A	Omit "or Chief Judge". Omit "or he".
Section 18C	Omit "the Chief Judge" insert "a Judge".
Section 19	Omit "the Chief Judge" (wherever occurring) insert "a Judge".
Section 21A	Omit "Chief Judge" insert "Court".
Section 22	Omit "the Chief Judge" insert "a Judge".
Section 24	Omit "the Chief Judge" insert "a Judge".
Section 25	Omit "or the Chief Judge". Omit "or his". Omit "or he".
Section 31	Omit "Chief Judge" (wherever occurring) insert "Court". Omit "he" (wherever occurring) insert "it". Omit "the Court" insert "it". Omit "his opinion" insert "the opinion of the Court".
Heading of Division 4 of Part III.	Omit "Chief Judge" insert "Judges".
Section 32	Omit "the Chief Judge" (wherever occurring) insert "a Judge".
Section 38	Omit "Chief Judge" insert "Court".
Section 41	Omit "the Chief Judge" (wherever occurring) insert "a Judge".
Section 42	Omit "the Chief Judge" insert "a Judge".
Section 56	Omit "the Chief Judge" insert "a Judge".