



ANNO VICESIMO SEXTO

GEORGII V REGIS.

A.D. 1935.

No. 2251.

An Act to amend the Industrial Code, 1920, and for purposes incidental thereto.

[*Assented to, 21st December, 1935.*]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Industrial Code Amendment Act, 1935". Short title.

(2) The Industrial Acts, 1920 to 1925, and this Act may be cited together as the "Industrial Acts, 1920 to 1935".

(3) The Industrial Code, 1920, is hereinafter called "the principal Act". 1453, 1926.

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation.

3. (1) This Act shall have effect as if it had been in force at the time when the determination of the living wage for adult male employees in the metropolitan area made on the eighteenth day of October, nineteen hundred and thirty-five, came into force. Operation of Act.

(2) If the Court or any industrial board, whether before or after the commencement of this Act, for the purpose of giving effect to the increase made in the living wage by the said

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determination has varied or varies any award, order, or determination, or has made or makes a new award, order, or determination, then that variation or new award, order, or determination shall, to the extent to which it gives effect to that increase in the living wage, be in substitution for any alteration which would be effected by the operation of this Act in relation to that increase, but shall take effect as from the seventh day of November, nineteen hundred and thirty-five.

Saving of
certain rights.

4. Nothing in this Act shall affect the right of an employee to receive any increase of wages which if this Act had not been passed, he would have been entitled to receive under section 45 or 194 of the principal Act, consequent on the declaration of the living wage made on the eighteenth day of October, nineteen hundred and thirty-five.

Amendment of
principal Act,
ss. 45 and 46—

5. Sections 45 and 46 of the principal Act are repealed, and the following sections are hereby enacted and substituted in lieu thereof:—

Variation of
awards and
orders of Court
in accordance
with variations
in living wage.

45. (1) Notwithstanding any other provision of this Act, when the Board of Industry, by a determination, increases or decreases the living wage for adult male employees, and that determination applies in the whole or a substantial part of any area in which an award or order of the Court based on such living wage as last previously declared, is in force, the following consequences shall ensue:—

- I. Every weekly wages price or rate prescribed by or pursuant to that award or order shall be increased or decreased by an amount equal to six times the increase or decrease in the living wage per day; and every wages price or rate so prescribed for any other period shall be increased or decreased proportionately, according to the ratio borne by that other period to the normal working week in the particular industry or calling: Provided that every annual salary so prescribed shall be increased or decreased by three hundred and three times the amount of the increase or decrease in the living wage per day:
- II. Every wages price or rate prescribed by or pursuant to that award or order for male apprentices, male improvers, or male juvenile workers, shall be increased or decreased as nearly as practicable by an amount bearing the same ratio to that price or rate as the amount of the increase or decrease in the living wage bears to the amount of the living wage prior to the increase or decrease:

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III. That award or order shall be read and construed for all purposes as if it had been altered by the Court in accordance with the last preceding paragraphs and the increased or decreased rates shall be payable as from the day when the determination of the Board of Industry comes into force until the Board declares a different living wage in lieu of the living wage fixed by that determination and that different living wage comes into force, or until the award or order is otherwise altered or ceases to operate.

(2) The principles of subsection (1) of this section shall, *mutatis mutandis*, apply to adult female employees and to female apprentices, female improvers, and female juvenile workers, upon any increase or decrease in the living wage for adult female employees in the same way as they apply in respect of adult male employees, male apprentices, male improvers, and male juvenile workers.

(3) The amount payable to an employee for a week's work at rates as altered under this section shall be computed to the nearest multiple of threepence.

46. (1) When the Board of Industry by a determination increases or decreases the living wage for adult male employees or adult female employees in the metropolitan area, the wages prices or rates and piecework prices or rates for adult male employees and adult female employees and for male or female apprentices, improvers, and juvenile workers prescribed by or pursuant to any award or order of the Court based on such living wage as last previously declared and then in force in an area for which the Board of Industry has not by its determination declared the living wage for adult male employees or adult female employees, as the case may be, shall be increased or decreased, as the case may be, in the same manner and to the same extent as the wages or piecework prices or rates prescribed by or pursuant to an award or order of the Court in force in the metropolitan area, are affected by the operation of section 45.

Provision as to awards and orders operating in areas for which living wage not declared.

(2) Nothing contained in this section shall be construed as in any way limiting the power or discretion of the Board of Industry by its determinations to declare different living wages for different defined areas or the power or discretion of the Industrial Court by its awards or orders to prescribe different rates of pay for different areas.

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Provision as to certain employees of the Crown.

46A. In so far as any award or order of the Court relates to—

- (a) public servants whose salaries are set out in any return of the Classification and Efficiency Board under the Public Service Acts, 1916 to 1933, or any variations of or additions to any such return; or
- (b) teachers or other persons whose salaries are set out in any regulation under the Education Acts, 1915 to 1929,

no increase of any rates of pay prescribed by or pursuant to that award or order shall take effect by virtue of either of the last two previous sections, unless and until Parliament has appropriated money expressly for the purpose of paying those increased rates.

Publication of amended awards.

46B. (1) The Court shall as soon as practicable after any alteration in the living wage is made, publish in the *Gazette* a copy of every award or order affected by that alteration showing in that award or order the rates of pay as altered by the operation of section 45 or 46 of this Act.

(2) A copy of the *Gazette* containing an award or order published under this section shall be *prima facie* evidence of the terms of the award or order as so altered.

Interpretation of term "based on".

46C. For the purposes of sections 45 and 46 an award or order shall be taken to be based on the living wage as last previously declared if—

- (a) that award or order was made during the currency of that living wage or of a previous living wage of the same amount; or
- (b) that award or order has been varied as to wages, prices, or rates either by the Court or by the operation of this Act during the currency of that living wage.

Amendment of principal Act, ss. 194 and 195—

6. Sections 194 and 195 are repealed and the following sections inserted in lieu thereof:—

Variations of determinations in accordance with variations in living wage.

194. (1) Notwithstanding any other provision of this Act when the Board of Industry by a determination increases or decreases the living wage for adult male employees, and that determination applies in the whole or a substantial part of any area in which a determination of an industrial board based on such living wage as last previously declared is in force, the following consequences shall ensue:—

- I. Every weekly wages price or rate prescribed by or pursuant to that determination shall be

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increased or decreased by an amount equal to six times the increase or decrease in the living wage per day; and every wages price or rate so prescribed for any other period shall be increased or decreased proportionately according to the ratio borne by that other period to the normal working week in the particular industry or calling: Provided that every annual salary so prescribed shall be increased or decreased by three hundred and three times the amount of the increase or decrease in the living wage per day:

II. Every wages price or rate prescribed by or pursuant to that determination of an industrial board for male apprentices, male improvers, or male juvenile workers, as the case may be, shall be increased or decreased as nearly as practicable by an amount which bears the same ratio to the said price or rate as the amount of the increase or decrease in the living wage bears to the amount of the living wage prior to the increase or decrease:

III. That determination of an industrial board shall be read and construed for all purposes as if it had been altered by the industrial board in accordance with the last preceding paragraph and the increased or decreased rates shall thereafter be payable as from the day when the said determination of the Board of Industry comes into force until the Board of Industry declares a different living wage in lieu of the living wage fixed by that determination, and that living wage comes into force, or until the determination of the industrial board is otherwise altered, or ceases to operate.

(2) The principles of subsection (1) of this section shall apply to adult female employees and to female apprentices, female improvers, and female juvenile workers upon any increase or decrease in the living wage for adult female employees in the same way as they apply in respect of adult male employees and to male apprentices, improvers, and male juvenile workers.

(3) The amount payable to an employee for a week's work at rates as altered under this section shall be computed to the nearest multiple of threepence.

195. (1) When the Board of Industry by a determination increases or decreases the living wage for adult male employees or adult female employees in the metropolitan

Provision as to determinations operating in areas for which living wage not declared.

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area, the wages prices or rates and piecework prices or rates for adult male employees and adult female employees and for male or female apprentices and improvers and juvenile workers prescribed by or pursuant to any determination of an industrial board based on such living wage as last previously declared and then in force in an area for which the Board of Industry has not declared the living wage for adult male employees or adult female employees, as the case may be, shall be increased or decreased, as the case may be, in the same manner and to the same extent as the wages or piecework prices or rates prescribed by or pursuant to any determination of an industrial board in force in the metropolitan area are affected by the operation of section 194.

(2) Nothing herein contained shall be construed as in any way limiting the power or discretion of the Board of Industry to declare different living wages for different defined areas or the power or discretion of any industrial board by its determinations to prescribe different rates of pay for different areas.

Publication of altered determinations.

195A. (1) The Minister shall as soon as practicable after any alteration in the living wage is made publish in the *Gazette* a copy of every determination of an industrial board affected by such alteration showing therein the rates of pay as altered by the operation of section 194 or 195 of this Act.

(2) A copy of the *Gazette* containing a determination published under this section shall be *prima facie* evidence of the terms of the determination as so altered.

Interpretation of term "based on".

195B. For the purposes of sections 194 and 195 a determination shall be taken to be based on the living wage as last previously declared if—

- (a) that determination was made during the currency of that living wage or of a previous living wage of the same amount; or
- (b) that determination has been varied as to wages prices or rates either by the industrial board or the Court or by the operation of this Act during the currency of that living wage.

Enactment of s. 223A—

7. The following section is hereby enacted and inserted in the principal Act after section 223 thereof :—

Cancellation of apprenticeship in certain cases.

223A. (1) The Chief Inspector on the application of any employer may grant to him a certificate certifying that through lack of orders or financial difficulties the employer is unable to find employment and training for any apprentice or apprentices named in the certificate.

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(2) The Chief Inspector shall not grant such a certificate until he has satisfied himself by inquiry as to the facts mentioned therein.

(3) The Chief Inspector shall give notice to every apprentice named in the certificate and his parent or guardian being a party to the indentures of apprenticeship of the fact he has granted the certificate.

(4) Any aggrieved apprentice, parent, or guardian may appeal against the granting of a certificate, and any aggrieved employer may appeal against the refusal of the Chief Inspector to grant a certificate. Where the appellant is an apprentice or his parent or guardian, the appeal shall be instituted not later than fourteen days from receipt of the notice under subsection (3) and in any other case within fourteen days from the decision of the Chief Inspector.

(5) The appeal shall be instituted by delivering at the office of the Registrar a written request to the President to review the decision of the Chief Inspector.

(6) The appeal shall be to the President, and the President may on such appeal hear any witness or other persons whom he thinks it just to hear, and may cancel any certificate which has been granted or direct the Chief Inspector to grant a certificate and give such other directions as he considers just. No costs shall be payable by any party to the appeal to any other party.

(7) Any employer holding such a certificate shall be entitled to cancel or suspend any indentures of apprenticeship affecting the apprentices named in the certificate, and shall not be liable in damages or otherwise to any person for doing so.

(8) Any employer who has cancelled the indentures of any apprentice under this section shall, when engaging any apprentices within twelve months after the commencement of that cancellation give preference to any apprentice whose indentures have been so cancelled by him, and who is an applicant for employment and is eligible.

Penalty—Twenty pounds.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. DUGAN, Governor.