

COMMONWEALTH CONCILIATION AND ARBITRATION.

No. 31 of 1920.

An Act to amend the *Commonwealth Conciliation and Arbitration Act 1904-1918.*

[Assented to 11th October, 1920.]

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 1920.*

(2.) The *Commonwealth Conciliation and Arbitration Act 1904-1918* 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 1904-1920.*

Interpretation.

2. Section four of the Principal Act is amended—

- (a) by inserting in the definition of "Employer", after the word "industry", the words "and includes a Club";
- (b) by inserting in the definition of "Industrial Matters", after the word "body", the words "and any matter as to the demarcation of functions of any employees or classes of employees,";
- (c) by inserting in the definition of "Lock-out", after the word "employment" (first occurring), the words "and the total or partial refusal of employers, acting in combination, to give work, if the refusal is unreasonable"; and
- (d) by inserting in the definition of "Strike", after the word "employers", the words "and the total or partial refusal of employees, acting in combination, to accept work, if the refusal is unreasonable".

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

"6A. No person or organization bound by an award of the Court, or entitled to the benefit of an award of the Court, shall do anything in the nature of a lock-out or strike, or continue any lock-out or strike.
Penalty : One thousand pounds."

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

4. Section eight of the Principal Act is amended—

(a) by inserting, after the word "orders", the words "encourages, advises or incites"; and

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

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

(b) an officer or officers of the Committee of Management has or have ordered, encouraged, advised or incited members of the organization to refuse to offer or accept employment, unless the Court before which the proceedings are brought is satisfied that the Committee of Management was not cognisant of the matter."

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

5. Section nine of the Principal Act is amended—

(a) by inserting in sub-section (1.), after paragraph (c), the words " ; or

(d) being a member of an organization which is seeking better industrial conditions, is dissatisfied with his conditions."; and

(b) by inserting therein, after sub-section (1.), the following sub-section:—

"(1A.) An employer shall not threaten to dismiss an employee, or to injure him in his employment, or to alter his position to his prejudice—

(a) by reason of the circumstance that the employee is, or proposes to become, an officer or member of an organization, or of an association that has applied to be registered as an organization, or that the employee proposes to appear as a witness or to give evidence in a proceeding under this Act; or

(b) with the intent to dissuade or prevent the employee from becoming such officer or member or from so appearing or giving evidence.

Penalty: Fifty pounds."

Injuring employee.

6. Section eleven of the Principal Act is amended by adding at the end thereof "and such Deputy Presidents as are appointed in pursuance of this Act".

Constitution of Court.

7. Section fourteen of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the word "any" (first occurring), the words "person or persons holding the office of";

(b) by inserting in that sub-section, after the words "the deputy" (wherever occurring), the words "or deputies";

(c) by omitting from sub-section (2.) the word "The" (first occurring) and inserting in its stead the word "A";

Appointment of Deputy President

- (d) by omitting from sub-section (2.) the words "of office of the President for the time being", and inserting in their stead the words "for which the President holding office at the date of his appointment was appointed"; and
- (e) by inserting after sub-section (2.) the following sub-section :—

"(2A.) A Deputy may be appointed, notwithstanding that a vacancy exists in the office of President at the time of appointment of the Deputy, and any Deputy appointed while any such vacancy exists shall be entitled to hold office during good behaviour for seven years, and shall be eligible for re-appointment, and shall not be removed except by the Governor-General on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity."

8. Section sixteen A of the Principal Act is amended—

- (a) by inserting in sub-section (1.), after the word "himself", the words "or by such person as the President directs. The summons may be either in writing signed by the President or by telegram sent by him."; and
- (b) by inserting in sub-sections (2.) and (3.), after the word "President", the words "or presiding person".

9. After section eighteen of the Principal Act the following section is inserted in Division 2 of Part III. :—

"18A.—(1.) Subject to this Act the jurisdiction of the Court may be exercised by the President or a Deputy President.

"(2.) The President or a Deputy President may, in any case in which he thinks it desirable so to do, invite one or more Deputy Presidents to sit with him for the hearing and determination of any dispute or part of a dispute.

"(3.) Where the Court is constituted of the President and one or more Deputy Presidents, or of two or more Deputy Presidents, and the members of the Court are divided in opinion on any question relating to the prevention or settlement of an industrial dispute, the question shall be decided according to the decision of the majority, if there is a majority, but if the members of the Court are equally divided in opinion the question shall be decided according to the opinion of the President, or, in his absence, according to the opinion of the Senior Deputy President.

"(4.) Notwithstanding anything contained in this Act, the Court shall not have jurisdiction to make an award—

- (a) increasing the standard hours of work in any industry; or
- (b) reducing the standard hours of work in any industry to less than forty-eight hours per week, or, where the standard hours of work in any industry are less than forty-eight hours per week, reducing the standard hours of work in that industry,

Compulsory
conference.

Jurisdiction of
Court—how
exercised.

unless the question is heard by the President and not less than two Deputy Presidents, and the increase or reduction, as the case may be, is approved by a majority of the members of the Court by whom the question is heard:

Provided that this sub-section shall not apply to any case in which the hearing of the claim and the taking of evidence in the Court were commenced before the commencement of this section."

10. Section nineteen of the Principal Act is amended by omitting from paragraph (d) the word "held" and inserting in its stead the word "summoned".

Cognizance of disputes.

11. Section twenty-one AA of the Principal Act is amended by inserting in sub-section (4.), after the words "the decision of", the words "the High Court or".

Acceptance of dispute.

12. Section twenty-four of the Principal Act is amended by inserting at the end of sub-section (1.) the words "for all purposes including the purposes of section thirty-eight".

Agreement having effect of award.

13. Section twenty-eight of the Principal Act is amended by adding at the end of sub-section (2.) the following words:—

Form and continuance of award.

"Provided that where in pursuance of this sub-section an award has continued in force after the expiration of the period specified in the award, any award made by the Court for the settlement of a new industrial dispute between the parties may, if the Court so orders, be made retrospective to a date not earlier than the date upon which the Court first had cognizance of that dispute.

(3.) Notwithstanding anything contained in this Act, if the Court is satisfied that circumstances have arisen which affect the justice of any terms of an award, the Court may, in the same or another proceeding, set aside or vary any terms so affected."

14. Section twenty-nine of the Principal Act is amended by inserting in paragraph (b), after the word "summoned", the words "or notified".

On whom award binding.

15. Section thirty-seven of the Principal Act is amended by inserting after the word "behalf" the words "on such issues and with such limitations as the Court may direct".

Orders to take evidence.

16. Section thirty-eight of the Principal Act is amended by inserting at the end of paragraph (o) thereof the words "and to give an interpretation of any term of an existing award;".

Interpretation of award.

17. Section thirty-nine of the Principal Act is amended—

(a) by omitting the word "submission" and inserting in its stead the word "question"; and

(b) by adding at the end of the section the words "or of the Attorney-General".

Exercise of powers.

18. Section forty A of the Principal Act is amended by omitting from paragraph (b) the word "specified" (second occurring).

Board of Reference.

Power of
Inspection.

19. Section forty-one of the Principal Act is amended by omitting the words "or article" and inserting in their stead the words "articles, book or document".

Imposition and
recovery of
penalties.

20. Section forty-four of the Principal Act is amended by adding at the end of sub-section (2.) thereof the following paragraphs :—

- "; or
- (d) any party to the award or order ; or
(e) any officer of any organization which is affected, or any of whose members are affected, by the breach or non-observance, who is authorized under the rules of the organization to sue on behalf of the organization."

Power to make
orders to
observe award.

21. Section forty-eight of the Principal Act is amended—

- (a) by inserting before the words "A County, District or Local Court" the words "The High Court or a Justice thereof or" ;
(b) by inserting, after the word "breach", the words "or to enjoin any organization or person from committing or continuing any contravention of this Act or of the award" ; and
(c) by inserting, after the words "of any contravention of", the words "the Act or".

22. After section fifty-eight A of the Principal Act the following section is inserted :—

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

"58B. The rules of an organization registered under this Act and the officials of such organization shall not during the currency of an award in the industry concerned prevent or impede any members of such organization from entering into written agreements in accordance with such award at any time prior to the commencement of service."

23. After section ninety-one of the Principal Act the following section is inserted :—

Proceedings by
and against
clubs.

"91A.—(1.) For the purposes of this Act the treasurer of a club shall be deemed to be the employer of any person employed for the purposes or on behalf of the club, and any proceedings which under this Act may be taken by or against the club may be taken by or against the treasurer on behalf of the club.

"(2.) The treasurer is authorized to retain out of the funds of the club so much money as is sufficient to meet any payments made by him on behalf of the club in pursuance of this section.

"(3.) In this section 'the treasurer' includes any person having possession or control of any funds of the club."

Regulations.

24. Section ninety-two of the Principal Act is amended by adding at the end thereof the words "and in particular for providing for the exhibiting, on the premises of an employer bound by an award or order of the Court, of any of the terms of the award or order."