

TRADESMEN'S RIGHTS REGULATION.

No. 88 of 1952.

An Act to amend the *Tradesmen's Rights Regulation Act 1946-1947*.

[Assented to 18th November, 1952.]

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

1.—(1.) This Act may be cited as the *Tradesmen's Rights Regulation Act 1952*. Short title
and citation.

(2.) The *Tradesmen's Rights Regulation Act 1946-1947** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Tradesmen's Rights Regulation Act 1946-1952*.

2. This Act shall be deemed to have come into operation on the third day of September, One thousand nine hundred and fifty-two. Commencement.

* Act No. 41, 1946, as amended by Act No. 72, 1947.

Definitions.

3. Section six of the Principal Act is amended—

(a) by omitting from the definition of “ member of the Forces ” the words “ section four of the *Re-establishment and Employment Act 1945* ” and inserting in their stead the words “ section four or section one hundred and thirty-nine of the *Re-establishment and Employment Act 1945-1952* ” ; and

(b) by omitting from the definition of “ the war ” the words “ section four of the *Re-establishment and Employment Act 1945* ” and inserting in their stead the words “ section four or section one hundred and thirty-nine of the *Re-establishment and Employment Act 1945-1952* ” .

4. After section seven of the Principal Act the following section is inserted :—

Act not to apply to certain persons.

“ 7A.—(1.) This Act does not apply to or in relation to a member of the Forces as defined in section one hundred and thirty-nine of the *Re-establishment and Employment Act 1945-1952* who enlisted or enlists for a period exceeding three years and was not or is not discharged within a period of two years after he ceased or ceases to be engaged on war service.

“ (2.) For the purposes of the last preceding sub-section, a member of the Forces who, on the expiration of his original enlistment or subsequent re-engagement, re-engages to serve for a further period, shall, if the aggregate of the period of his original enlistment and the period or periods of his re-engagement exceeds three years, be deemed to have enlisted for a period exceeding three years.”.

Definition.

5. Section ten of the Principal Act is amended by omitting paragraph (c) of the definition of “ recognized tradesman ” and inserting in its stead the following paragraphs :—

“ (c) has completed his course of training as a trainee tradesman to the satisfaction of a Local Committee ;

“ (ca) has been employed in Australia for not less than seven years after the eighth day of May, One thousand nine hundred and forty, on work ordinarily performed by a tradesman and was so employed at any time within one month before the commencement of the *Tradesmen's Rights Regulation Act 1952* ; or ”.

Definition.

6. Section fifteen of the Principal Act is amended by omitting paragraph (c) of the definition of “ recognized tradesman ” and inserting in its stead the following paragraphs :—

“ (c) has completed his course of training as a trainee tradesman to the satisfaction of a Local Committee ;

“ (ca) has been employed in Australia for not less than seven years after the twenty-ninth day of November, One thousand nine hundred and forty, on work ordinarily

performed by a tradesman and was so employed at any time within one month before the commencement of the *Tradesmen's Rights Regulation Act 1952*; or”.

7. Section nineteen of the Principal Act is amended—

- (a) by omitting from sub-section (1.) all the words after the words “this Part applies,” and inserting in their stead the words “and the references in sub-sections (5.) and (7.) of that section to other sub-sections of that section shall, for the purposes of this Part, be read as references to the corresponding sub-sections of this section”;
- (b) by omitting from sub-section (2.) all the words “from and including the words ‘An employer’ to and including the words “engage or elevate” and inserting in their stead the words “In the engagement or elevation of a person to carry out work ordinarily performed by a recognized tradesman, an employer shall not, unless he has reasonable and substantial cause for so doing, engage or elevate”;
- (c) by omitting from sub-section (3.) the words “shall cease to employ a person other than a recognized tradesman” and inserting in their stead the words “who has engaged or elevated a person in contravention of the last preceding sub-section shall cease to employ that person”;
- (d) by omitting from sub-section (4.) the words “without the consent of a Local Committee” and inserting in their stead the words “unless he has reasonable and substantial cause for so doing”.

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tradesmen.

8. Section twenty of the Principal Act is amended by omitting paragraph (c) of the definition of “recognized tradesman” and inserting in its stead the following paragraphs:—

Definitions.

- “(c) has completed his course of training as a trainee tradesman to the satisfaction of a Local Committee;
- “(ca) has been employed in Australia for not less than seven years after the twenty-ninth day of November, One thousand nine hundred and forty, on work ordinarily performed by a tradesman and was so employed at any time within one month before the commencement of the *Tradesmen's Rights Regulation Act 1952*; or”.

9. After section twenty-eight of the Principal Act the following section is inserted:—

“28A. If a Local Committee is satisfied, upon application by any person, that that person—

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- (a) has been employed in Australia for not less than seven years after the thirtieth day of October, One thousand nine hundred and forty-one, on work ordinarily performed by a tradesman;

(b) was so employed at any time within one month before the commencement of the *Tradesmen's Rights Regulation Act 1952* or, but for special circumstances which prevented him, would have been so employed ; and

(c) has passed an examination approved by the Committee, at a standard approved by the Committee,

the Committee may, if it thinks fit, grant to that person a certificate of recognition as a recognized tradesman.”.

Definitions.

10. Section thirty of the Principal Act is amended by omitting paragraph (c) of the definition of “recognized tradesman” and inserting in its stead the following paragraphs :—

“ (c) has completed his course of training as a trainee tradesman to the satisfaction of a Local Committee ;

“ (ca) has been employed in Australia for not less than seven years after the thirtieth day of October, One thousand nine hundred and forty-one, on work ordinarily performed by a tradesman and was so employed at any time within one month before the commencement of the *Tradesmen's Rights Regulation Act 1952* ; or ”.

Definitions.

11. Section thirty-three A of the Principal Act is amended by omitting paragraph (b) of the definition of “recognized tradesman” and inserting in its stead the following paragraphs :—

“ (b) has qualified or qualifies by service as an apprentice for employment as a tradesman ;

(ba) has been employed in Australia for not less than seven years after the thirty-first day of October, One thousand nine hundred and thirty-nine, on work ordinarily performed by a tradesman and was so employed at any time within one month before the commencement of the *Tradesmen's Rights Regulation Act 1952* ; or ”.

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12. Section thirty-three E of the Principal Act is amended—

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

“ (2.) If a Local Committee is satisfied, upon application by any person, that—

(a) that person is a recognized tradesman within the meaning of paragraph (a), (b) or (ba) of the definition of recognized tradesman ;

(b) that person is a probationary tradesman who has satisfactorily completed a period of probationary employment, training or training in employment required by the Committee ; or

- (c) that person has qualified or qualifies in a country other than Australia, by training and employment, in accordance with the laws and customs of that country, for employment in that country as a tradesman in a trade, or in a trade substantially corresponding with a trade, to which this Part applies and his training and employment are such as to provide the skill necessary for the performance in Australia of work ordinarily performed by a recognized tradesman,

the Committee may, if it thinks fit, grant to that person a certificate of recognition as a recognized tradesman.

“(2A.) If a Local Committee is satisfied, upon application by any person, that that person would be a recognized tradesman within the meaning of paragraph (ba) of the definition of ‘recognized tradesman’ but for the fact that he was not employed as a tradesman within the period of one month before the commencement of the *Tradesmen's Rights Regulation Act 1952* and that, but for special circumstances which prevented him, he would have been so employed, the Committee may, if it thinks fit, grant to that person a certificate of recognition as a recognized tradesman.”; and

- (b) by omitting from sub-section (4.) the words “, or after the date of the commencement of this Part, whichever is the later”.

13. Section forty-one of the Principal Act is amended—

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-sections :—

“(1.) If a Local Committee is satisfied, upon application by any person, that—

- (a) that person is a recognized tradesman within the meaning of paragraph (a), (b), (c) or (ca) of the definition of recognized tradesman ;
- (b) that person is a member of the Forces who has, during the period of the war, acquired, by reason of his service in the Forces, the skill necessary for the performance of work ordinarily performed by a recognized tradesman ;
- (c) that person is a probationary tradesman or trainee tradesman who has satisfactorily completed any period of probationary employment, training or training in employment required by the Committee ; or

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- (d) that person has qualified or qualifies in a country other than Australia, by training and employment, in accordance with the laws and customs of that country, for employment in that country as a tradesman in a trade, or in a trade substantially corresponding with a trade, to which this Part applies and his training and employment are such as to provide the skill necessary for the performance in Australia of work ordinarily performed by a recognized tradesman,

the Committee may, if it thinks fit, grant to that person a certificate of recognition as a recognized tradesman.

“(1A.) If a Local Committee is satisfied, upon application by any person, that that person would be a recognized tradesman within the meaning of paragraph (ca) of the definition of recognized tradesman but for the fact that he was not employed as a tradesman within the period of one month before the commencement of the *Tradesmen's Rights Regulation Act 1952* and that, but for special circumstances which prevented him, he would have been so employed, the Committee may, if it thinks fit, grant to that person a certificate of recognition as a recognized tradesman.

“(1B.) Sub-section (1.) of this section, when incorporated and read as one with Part V. of this Act, shall be read as if the reference to paragraph (ca) of the definition of recognized tradesman were omitted, and the last preceding sub-section shall not be incorporated with that Part.”;

- (b) by omitting sub-section (4.) and inserting in its stead the following sub-sections:—

“(3A.) If a Local Committee is satisfied that a member of the Forces as defined in section one hundred and thirty-nine of the *Re-establishment and Employment Act 1945-1952* who has had experience in a trade to which this Part applies and is eligible for vocational training benefits under regulations made under the *Repatriation Act 1920-1951* could, within a reasonable period, acquire the skill necessary for the performance of work ordinarily performed by a recognized tradesman, the Committee may, upon the application of that member, authorize the training and, subject to the provisions of section forty-three of this Act, the employment of that member as a trainee tradesman for the purpose of undergoing training in an industrial establishment in a trade to which this Part applies.

“(4.) An application under sub-section (2.), (3.) or (3A.) of this section shall, unless a Local Committee in a particular case otherwise permits, be made within six months after the date of discharge of the member of the Forces.”;

- (c) by omitting from sub-section (5.) the word “issuing” and inserting in its stead the word “granting”; and
- (d) by adding at the end of sub-section (7.) the words “or under a scheme of vocational training established under regulations made under the *Repatriation Act 1920-1951*”.

14. Section forty-two of the Principal Act is amended—

- (a) by omitting the words “*Re-establishment and Employment Act 1945*” and inserting in their stead the words “*Re-establishment and Employment Act 1945-1952* or a scheme of vocational training established under regulations made under the *Repatriation Act 1920-1951*”; and
- (b) by adding at the end thereof the words “or law”.

Local
Committee to
be Industrial
Committee.

15. Section forty-three of the Principal Act is amended—

- (a) by omitting from sub-section (2.) all the words from and including the words “An employer” to and including the words “engage or elevate” and inserting in their stead the words “In the engagement or elevation of a person to carry out work ordinarily performed by a recognized tradesman of a particular classification, an employer shall not, unless he has reasonable and substantial cause for so doing, engage or elevate”;
- (b) by omitting from sub-section (3.) the words “shall cease to employ a person other than a recognized tradesman” and inserting in their stead the words “who has engaged or elevated a person in contravention of the last preceding sub-section shall cease to employ that person”; and
- (c) by omitting from sub-section (4.) the words “without the consent of a Local Committee” and inserting in their stead the words “unless he has reasonable and substantial cause for so doing”;
- (d) by inserting in sub-section (5.), after the word “malingering,” the word “inefficiency,”; and
- (e) by adding at the end thereof the following sub-section:—

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“(7.) For the purposes of sub-sections (2.) and (4.) of this section, the written consent of a Local Committee to an engagement, elevation or dismissal of a person shall be conclusive evidence that the employer had reasonable and substantial cause for the engagement, elevation or dismissal of that person.”.

16. Section fifty-two of the Principal Act is repealed and the following section inserted in its stead :—

Duration
of Act.

“ 52. This Act shall cease to be in force on the second day of September, One thousand nine hundred and fifty-five, and thereupon this Act shall be deemed to have been repealed.”.

Fourth
Schedule.

17. The Fourth Schedule to the Principal Act is amended by inserting after the word “Tradesman.” the words “Tradesman (radio).”.

Fifth Schedule.

18. The Fifth Schedule to the Principal Act is amended by omitting the word “Welder.” and inserting in its stead the words “First class welder.”.
