

VICTORIA.



ANNO UNDEVICESIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 8018.

An Act to amend the *Labour and Industry Act 1958*.

[26th November, 1970.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

Short title.

1. (1) This Act may be cited as the *Labour and Industry (Amendment) Act 1970*.

Principal Act
No. 6283.
Reprinted to
No. 7923.

(2) In this Act the *Labour and Industry Act 1958* is called the Principal Act.

Commence-
ment.

(3) The several provisions of this Act other than section 12 shall come into operation on a day or the respective days to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Amendment of
No. 6283 s. 3.
"Factory."

2. In sub-section (1) of section 3 of the Principal Act in the interpretation of "factory" sub-paragraph (iii) of paragraph (b) is hereby repealed.

Amendment of
No. 6283 s. 15.

3. Sub-section (2) of section 15 of the Principal Act shall be amended as follows :—

(a) After the words "police force" there shall be inserted the words "or any officer in the public service";

(b) For

(b) For the expression "office only (in which latter case" there shall be substituted the expression "or officer's office only (and where the reference is to the office only".

4. After sub-section (2) of section 20 of the Principal Act there shall be inserted the following sub-section :—

Amendment of
No. 6283 s. 20.

"(2A) Before an Order is made in respect of any matter set out in sub-section (2) the Minister may refer the matter to the Industrial Appeals Court for advice and a report."

Advice of
Industrial
Appeals Court
may be
sought.

5. After section 23 of the Principal Act there shall be inserted the following section :—

Amendment of
No. 6283
new s. 23A.

"23A. (1) Where the number of persons nominated to represent employers or employes exceeds the relevant number of vacancies or where a notice in writing of objection to the re-appointment of a member is given pursuant to sub-section (2) of section 25 the Minister may seek the advice of the Industrial Appeals Court as to the persons who should be appointed to fill those vacancies.

Industrial
Appeals Court
may advise
on suitability
of nominees.

(2) The Industrial Appeals Court may hear any evidence that it considers fit and shall make a report to the Minister recommending the appointment of the persons it considers most suitable.

(3) The Minister shall consider the recommendation of the Industrial Appeals Court before making the relevant appointments or re-appointments to fill the vacancies."

6. For sub-section (2) of section 39 of the Principal Act there shall be substituted the following sub-section :—

Amendment of
No. 6283 s. 39.

"(2) Where anything in a determination is inconsistent with any provision of this Act or any regulation or Order made under this Act that part of the determination which is so inconsistent shall not have and shall be deemed never to have had any force or effect."

Where
inconsistency
occurs.

7. After section 46 of the Principal Act there shall be inserted the following section :—

No. 6283
new s. 46A.

"46A. (1) Where the Minister or any person having a *bona fide* interest in the operation of a determination is uncertain as to its intent or effect, he may request the Industrial Appeals Court to consider the matters set out in the request on which clarification is sought and to declare what are the true intent and effect of the determination.

Minister or
interested
person may
seek
clarification of
determination
from Industrial
Appeals
Court.

(2) In addition to making a declaration under sub-section (1), the Court may exercise in respect of the determination all the powers which it has under this Division when hearing an appeal against a determination."

Amendment to
No. 6283
s. 80.

8. In section 80 of the Principal Act in the first proviso to sub-section (1) after the word "boats" there shall be inserted the words "or for spare parts and accessories for trailers or boats".

No. 6283.
Amendment of
ss. 80A and
80c.

9. In sections 80A and 80c of the Principal Act for the expressions "the Tourist Development Authority" or "the Authority" (wherever either expression occurs) there shall be substituted the expression "the Minister for Tourism".

Amendment of
No. 6283
s. 82.

10. After sub-section (7) of section 82 of the Principal Act there shall be inserted the following sub-section :—

"(8) A petrol shop shall not cease to be a petrol shop because briquettes are offered or exposed for sale or sold at the shop at any time when the shop is not required by this section to be closed and kept closed."

Amendment of
No. 6283
s. 151.

11. After sub-section (1) of section 151 of the Principal Act there shall be inserted the following sub-section :—

Employment
with related
corporations
deemed to be
one
employment.

"(1A) In respect of a worker employed by a corporation, any period of employment with a corporation which by virtue of sub-section (5) of section 6 of the *Companies Act* 1961 is deemed to be related to the first-mentioned corporation shall, for the purpose of calculating the period of continuous employment of that worker, be deemed to be employment with that first-mentioned corporation."

Amendment of
No. 6283
s. 175.

12. (1) Section 175 of the Principal Act shall be amended as follows :—

(a) After the words "chaff-cutting machine" (wherever occurring in the section) there shall be inserted the words "wheeled tractor";

(b) In sub-section (3) after the words "such a machine" there shall be inserted the word "tractor";

(c) In sub-section (4) after the words "second-hand machine" there shall be inserted the word "tractor".

(2) In sub-section (1) of section 3 of the Principal Act after the interpretation of "shopkeeper" there shall be inserted the following interpretation :—

"Tractor" includes any power transmission equipment attached to a tractor for the purpose of driving another machine, and the joint by which such equipment is linked to the other machine."

Commence-
ment.

(3) Sub-sections (1) and (2) shall come into operation on the 1st day of July, 1972.

Amendment of
No. 6283
s. 192.

13. After paragraph (g) of sub-section (1) of section 192 of the Principal Act there shall be inserted the following paragraph :—

"(ga) In proceedings against a person in respect of the failure of an employer to pay any amount required to be paid by virtue of section 155 to the personal representative

representative of a deceased worker, the onus of proof that a period alleged in the information as the period of continuous employment of the worker with the employer is not the correct period of such continuous employment shall in all cases be on the defendant."

14. After sub-section (1) of section 196 of the Principal Act there shall be inserted the following sub-section :—

Amendment of
No. 6283
s. 196.

"(1A) Where in paragraph (a) of sub-section (1) of section 192 there is a reference to an information being laid within a specified period of time after the commission of an offence, that reference shall, in the case of an information laid by an occupier of premises pursuant to sub-section (1), be deemed to be and be construed as a reference to the information being laid within the specified period of time after such occupier is charged with the offence."

15. In sub-section (1) of section 205 of the Principal Act the expression "by-law" is hereby repealed.

Amendment of
No. 6283
s. 205.

16. After sub-section (1) of section 206 of the Principal Act there shall be inserted the following sub-section :—

Amendment of
No. 6283
s. 206

"(1A) Any regulation may be limited in respect of time, place or circumstances, and in addition, in relation to any tractor—

- (i) a regulation may be limited to a class or kind of tractor ; and
- (ii) different regulations may be made in respect of different classes or kinds of tractors."

17. In the Second Schedule to the Principal Act for the expression "3. The *Boilers Inspection Act 1958.*" there shall be substituted the expression "3. The *Boilers and Pressure Vessels Act 1970.*"

Amendment of
No. 6283
Second
Schedule.